

# SENATE, No. 2039

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

**Sponsored by:**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senators Addiego, Corrado, Cruz-Perez, Cunningham, Ruiz, Turner and Weinberg**

**SYNOPSIS**

Prohibits gender-based price discrimination.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/11/2021)**

1 AN ACT concerning gender-based price discrimination and  
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Prohibition  
8 Against Gender-Based Pricing Discrimination Act.”

9

10 2. a. A business shall not discriminate based on gender with  
11 regard to the price charged for a service offered by the business.

12 b. A business shall not charge different prices for any two  
13 consumer products from the same manufacturer that are  
14 substantially similar, if those products are priced differently solely  
15 based on the gender of the individuals for whom the products are  
16 intended or marketed. For purposes of this subsection, two products  
17 are substantially similar if there are no significant differences in the  
18 materials used in the products, the function of the products, and the  
19 functional design or features of the products. A difference in color  
20 or packaging among consumer products shall not, by itself, be  
21 construed as a substantial difference.

22 c. The provisions of subsection a. and b. of this section shall  
23 not be construed to prohibit price differences based upon labor,  
24 materials, tariffs, or any other gender-neutral reason, including  
25 when a retail establishment passes through a price to the consumer  
26 that is set by a manufacturer, distributor, or other entity that is  
27 beyond the retailer’s control.

28 d. (1) The following businesses shall clearly and  
29 conspicuously disclose to the customer in writing the pricing for  
30 each standard service provided: tailors or other businesses  
31 providing aftermarket clothing alterations; barbers or hair salons;  
32 and dry cleaners and laundries providing services to individuals.

33 (2) The pricing shall be posted in an area conspicuous to  
34 customers. Posted price lists shall be in no less than 14-point  
35 boldface type and clearly and completely display pricing for every  
36 standard service offered by the business as required by paragraph  
37 (1) of this subsection.

38 (3) A business shall provide a customer with a complete written  
39 price list upon request.

40 (4) The business shall display in a conspicuous place at least  
41 one clearly visible sign, printed in no less than 24-point boldface  
42 type, which reads: “NEW JERSEY LAW PROHIBITS ANY  
43 BUSINESS ESTABLISHMENT FROM DISCRIMINATING  
44 AGAINST A PERSON BECAUSE OF THE PERSON’S GENDER,  
45 WITH RESPECT TO THE PRICE CHARGED FOR SERVICES  
46 OF SIMILAR OR LIKE KIND. A COMPLETE PRICE LIST IS  
47 AVAILABLE UPON REQUEST.”

1 e. For the purposes of this section, "business" means a sole  
2 proprietorship, partnership, corporation, association, or other entity,  
3 however organized and whether or not organized to operate at a  
4 profit, that offers services and products to New Jersey consumers.

5  
6 3. A violation of the provisions of section 2 of P.L. ,  
7 c. (C. ) (pending before the Legislature as this bill) is an  
8 unlawful practice pursuant to P.L.1960, c.39 (C.56:8-1 et seq.).

9  
10 4. This act shall take effect on the first day of the fourth month  
11 next following the date of enactment.

12  
13  
14 STATEMENT

15  
16 This bill prohibits businesses in New Jersey from engaging in  
17 gender-based priced discrimination. Commonly referred to as the  
18 "pink tax" or "gender tax," gender-based discrimination occurs  
19 when products and services marketed and intended for use by girls  
20 and women are priced higher than comparable products and services  
21 for boys and men.

22 The bill provides that a business in the State is prohibited from:

23 (1) discriminating based on gender with regard to the price  
24 charged for a service offered by the business; and

25 (2) charging prices for any two consumer products from the same  
26 manufacturer that are substantially similar, if those products are  
27 priced differently solely based on the gender of the individuals for  
28 whom the products are intended or marketed. For the purposes of  
29 the bill, two products would be considered "substantially similar" if  
30 there are no significant differences in the materials used in the  
31 products, the function of the products, and the functional design or  
32 features of the products. A difference in color or packaging among  
33 consumer products would not, by itself, be construed as a  
34 substantial difference.

35 The bill specifies that its provisions would not be construed to  
36 prohibit price differences based upon labor, materials, tariffs, or any  
37 other gender-neutral reason, including when a retail establishment  
38 passes through a price to the consumer that is set by a manufacturer,  
39 distributor, or other entity that is beyond the retailer's control.

40 Under the bill, the following businesses would be required to  
41 clearly and conspicuously disclose to the customer in writing the  
42 pricing for each standard service provided:

43 (1) tailors or other businesses providing aftermarket clothing  
44 alterations;

45 (2) barbers or hair salons; and

46 (3) dry cleaners and laundries providing services to individuals.

47 The bill requires the pricing to be posted in an area conspicuous  
48 to customers. Posted price lists are required to be in no less than 14-

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1 point boldface type and clearly and completely display pricing for  
2 every standard service offered by the business. Additionally,  
3 business are required to provide a customer with a complete written  
4 price list upon request. The bill further requires businesses to  
5 display in a conspicuous place at least one clearly visible sign,  
6 printed in no less than 24-point boldface type, notifying customers  
7 that gender-based price discrimination is prohibited under New  
8 Jersey law.

9 A violation of the bill's provisions is an unlawful practice under  
10 the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). An  
11 unlawful practice is punishable by a monetary penalty of not more  
12 than \$10,000 for a first offense and not more than \$20,000 for any  
13 subsequent offense. In addition, a violation can result in cease and  
14 desist orders issued by the Attorney General, the assessment of  
15 punitive damages, and the awarding of treble damages and costs to  
16 the injured.