

NY Gendered Pricing Law May Have Limited Effect

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Article provides analysis of Article 26, Section 391-U of the General Business Laws of New York, a "gendered pricing law" that went into effect on September 30 and is part of Governor Cuomo's campaign to end the "pink tax." This new law will prohibit the pricing of goods and services on the basis of gender and create a civil penalty for manufacturers, wholesalers and retailers that charge different prices for any two goods or services that are "substantially similar" but marketed or intended for different genders.

The law defines the two goods as "substantially similar" if, and only if, there are no substantial differences in (1) the materials used in production; (2) the intended use; (3) the functional design and features; and (4) the brand. The prohibition on discriminatory pricing for services also is significantly limited. Services are only substantially similar if there are no substantial differences in (1) the amount of time to provide the service; (2) the difficulty in providing the service; and (3) the cost of providing the service. But perhaps the most significant limitation on the gendered pricing law's reach is the lack of a private right of action. Only the attorney general is granted a right of action to enforce the prohibition.

[Read "NY Gendered Pricing Law May Have Limited Effect" in its entirety here.](#)

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