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HOUSE BILL 285

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Sarah Silva and Javier Martínez

AN ACT

RELATING TO CONSUMER PROTECTION; MAKING IT AN UNFAIR OR
DECEPTIVE TRADE PRACTICE TO USE DYNAMIC PRICING TO CHANGE THE
PRICE OF A GOOD OR SERVICE SOLD BY A GROCERY OR RETAIL STORE IN
CERTAIN CIRCUMSTANCES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Unfair Practices Act is
enacted to read:

"NEW MATERIAL] DIGITAL PRICING IN GROCERY AND RETAIL
STORES.--

A. As used in this section:

(1) "dynamic pricing" means a digital process
that uses a software program to determine or change the price
of a good or service displayed on an electronic shelving label
in a store;

underscoring material = new
~~[bracketed material] = delete~~

1 (2) "electronic shelving label" means a
2 digital label or price tag that displays the price of a good or
3 service offered for sale by a store; and

4 (3) "store" means a grocery or retail store.

5 B. It is an unfair or deceptive trade practice to
6 use dynamic pricing to change the price of a good or service
7 sold by a store:

8 (1) during holidays, weather events, natural
9 disasters, supply chain disruptions or other events that can
10 cause a sudden increased demand for goods and services; or

11 (2) from personal data or purchasing patterns
12 collected from customers or potential customers, whether by a
13 facial recognition system or other digital or electronic
14 process.

15 C. A person that uses dynamic pricing to determine
16 or change the price of goods and services sold in the person's
17 store shall inform its customers by use of conspicuous signage
18 inside the store:

19 (1) of the dynamic pricing process;

20 (2) of the factors used to change the price of
21 the goods and services;

22 (3) that it is an unfair or deceptive trade
23 practice to use dynamic pricing to change the price of a good
24 or service, as provided in Subsection B of this section;

25 (4) if personal data or purchasing patterns of

underscoring material = new
~~[bracketed material] = delete~~

1 customers are being collected by the store, that a customer has
2 the right to know how the customer's personal data is
3 collected, if and how it is used to determine or change the
4 price of goods and services sold by the store and with whom the
5 information is shared; and

6 (5) that a customer has the option to opt out
7 of the collection of personal data or purchasing patterns."

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