

SENATE BILL REPORT

SB 5171

As of January 12, 2023

Title: An act relating to consumer gender discrimination.

Brief Description: Addressing consumer gender discrimination.

Sponsors: Senators Dhingra, Trudeau, Hunt, Lovelett, Cleveland, Keiser, Wilson, C., Hasegawa, Saldaña, Conway, Frame, Kuderer, Nguyen, Nobles, Pedersen, Stanford, Valdez and Wellman.

Brief History:

Committee Activity: Law & Justice: 1/16/23.

Brief Summary of Bill

- Prohibits businesses from charging different prices for any two goods that are substantially similar based on the gender of the target market.
- Authorizes the attorney general to seek an injunction against businesses who participate in gender-based price discrimination.
- Authorizes a court to enjoin any violation without requiring proof that any person has been injured or damaged by the violation.
- Provides civil penalties.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

Background: Gender-related price differences occur when consumers are charged different prices for the same or similar goods and services because of factors related to gender. Businesses differentiate many consumer products to appeal separately to men and women by slightly altering product attributes like color or scent. A 2018 study by the

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federal Government Accountability Office (GAO) determined that of ten categories of personal care products studied, five categories showed significantly higher prices for women, and two showed higher prices for men.

According to a 2015 study produced by the New York City Department of Consumer Affairs, women's products carry a higher price tag 42 percent of the time and men's products carry a higher price tag 18 percent of the time. This study found that products marketed towards women were priced an average of 7 percent higher than substantially similar men's products.

Summary of Bill: Individuals, firms, partnerships, companies, and businesses are prohibited from charging different prices for any two goods that are substantially similar if those goods are priced differently based on the gender of the individuals for whom the goods are marketed and intended.

The prohibition against substantially similar product price differences does not apply if the price difference is based on any of the following:

- the amount of time it took to manufacture the goods;
- the difficulty in manufacturing those goods;
- the cost incurred in manufacturing those goods;
- the labor used in manufacturing those goods;
- the materials used in manufacturing those goods; or
- any other gender-neutral reason for charging different prices for those goods.

Whenever the attorney general has cause to believe a seller is selling any two goods that are substantially similar at a different price based on the gender of the intended market, the attorney general is authorized to petition the court for an order to enjoin and restrain such practices. A court may issue an injunction against such practices without requiring proof that any individual has been injured or damaged. A court may also order restitution be paid, if applicable.

Any individual, firm, partnership, company, or business found to have violated the prohibition against gender-based price differences will incur a civil penalty up to \$10,000 for a first violation and up to \$1,000 for each subsequent violation. Total civil penalties may not exceed \$100,000.

A court may impose civil penalties exceeding \$100,000 if an individual, firm, partnership, company, or business subsequently violates the prohibition against gender-based price differences with respect to the same good for which the maximum civil penalty has been previously imposed under a separate legal action, or for any good for which the attorney general has not brought civil action. Each instance of charging a different price for two substantially similar goods constitutes a single violation.

Appropriation: None.

Fiscal Note: Requested on January 12, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.