

A 8427-A Lasher Same as [S 8416](#) COMRIE
Attorney General # 2
General Business Law
TITLE....Enacts the "fostering affordability and
integrity through reasonable (FAIR) business practices
act"

05/15/25	referred to consumer affairs and protection
05/27/25	reported referred to codes
06/10/25	amend and recommit to codes
06/10/25	print number 8427a
06/13/25	reference changed to ways and means
06/16/25	reported referred to rules
06/16/25	reported
06/16/25	rules report cal.832
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06/16/25	substituted by s8416

S08416

COMRIE

06/09/25	REFERRED TO RULES
06/13/25	ORDERED TO THIRD READING CAL.2034
06/13/25	PASSED SENATE
06/13/25	DELIVERED TO ASSEMBLY
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06/16/25	ordered to third reading rules cal.832
06/17/25	passed assembly
06/17/25	returned to senate

S8416 COMRIE Same as [A 8427-A](#) Lasher
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STATE OF NEW YORK

8427--A

2025-2026 Regular Sessions

IN ASSEMBLY

May 15, 2025

Introduced by M. of A. LASHER, DINOWITZ, SEAWRIGHT, FORREST, WEPRIN, SCHIAVONI, STECK, SIMON, SHIMSKY, VALDEZ, GALLAGHER, TORRES, P. CARROLL, HEVESI, EPSTEIN, R. CARROLL, ROSENTHAL, REYES, ALVAREZ, RAJKUMAR, BURROUGHS, SIMONE, GLICK, SOLAGES, COLTON, GONZALEZ-ROJAS, LUNSFORD, TAPIA, TAYLOR, CUNNINGHAM, O'PHARROW, DE LOS SANTOS, MITAYNES, CLARK, LEVENBERG, BORES, GIBBS, CRUZ, STIRPE, WIEDER, PAULIN, McMAHON, MEEKS, LEE, SHRESTHA, WRIGHT, JACKSON, BRONSON, CONRAD, ROMERO -- (at request of the Attorney General) -- read once and referred to the Committee on Consumer Affairs and Protection -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to enacting the "fostering affordability and integrity through reasonable (FAIR) business practices act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "fostering
2 affordability and integrity through reasonable (FAIR) business practices
3 act".

4 § 2. Article 22-A of the general business law is amended by adding a
5 new section 348 to read as follows:

6 § 348. Purpose and intent of article. The legislature declares that
7 the state has a responsibility to protect New Yorkers from unfair,
8 deceptive and abusive business acts and practices. The legislature
9 recognizes the limitations of the current state law, which prohibits
10 only the use of deceptive business acts and practices, and has proven
11 insufficient to satisfy the state's responsibilities to protect New
12 Yorkers and the New York economy from unfair, deceptive, and abusive
13 business practices. For too long, New Yorkers, especially New Yorkers
14 with limited income, communities of color, seniors, children, veterans,

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD03277-23-5

1 and immigrant populations, have been left vulnerable to unscrupulous
2 business practices. It is time for New York to join all but a handful
3 of New York's fellow jurisdictions by adopting a comprehensive unfair,
4 deceptive, and abusive business acts and practices statute that gives
5 government and private parties the tools to address these harms. The
6 state must achieve the goal of deterring and remedying a broad range of
7 unfair, deceptive, and abusive business practices, and leveling the
8 playing field for the state's many honest businesses and non-profits
9 that treat their customers fairly. It must also anticipate future
10 unfair, deceptive, and abusive acts, including from new and emerging
11 technologies. To that end, this article defines unfair and abusive acts
12 and practices expansively to reach conduct that is unfair or abusive but
13 arguably not deceptive.

14 The state must also ensure the most meaningful and effective
15 protection to New Yorkers against unfair, deceptive, and abusive busi-
16 ness practices. This article therefore eliminates atextual exceptions
17 imposed by courts over the last five decades that have limited the
18 attorney general's power to enforce the statute to acts that are
19 "consumer-oriented" or that have an impact on the public at large. The
20 attorney general has a special responsibility to the public to create a
21 fair marketplace for all. That responsibility extends to protecting
22 businesses and non-profits as well as individuals. There is no reason
23 to believe that a small business or non-profit is any better able to
24 defend itself from unfair, abusive, and deceptive conduct than a consum-
25 er, or that small entities need the protections of this article any less
26 than individuals do. The market and wider society is harmed by the nega-
27 tive consequences that flow from unfair, deceptive, and abusive business
28 practices even if those acts and practices have not been understood as
29 "consumer-oriented".

30 § 3. The article heading of article 22-A of the general business law,
31 as amended by chapter 43 of the laws of 1970, is amended to read as
32 follows:

33 [CONSUMER] PROTECTION FROM
34 UNFAIR, DECEPTIVE, OR ABUSIVE ACTS AND
35 PRACTICES

36 § 4. Section 349 of the general business law, as added by chapter 43
37 of the laws of 1970, subdivision (h) as amended by chapter 157 of the
38 laws of 1984 and subdivision (j) as added by section 6 of part HH of
39 chapter 55 of the laws of 2014, is amended to read as follows:

40 § 349. [~~Deceptive~~] Unfair, deceptive, or abusive acts and practices
41 unlawful. (a) [~~Deceptive~~] Unfair, deceptive, or abusive acts or prac-
42 tices in the conduct of any business, trade or commerce or in the
43 furnishing of any service in this state are hereby declared unlawful.
44 For the purposes of this section:

45 (1) An act or practice is unfair when it causes or is likely to cause
46 substantial injury which is not reasonably avoidable and is not
47 outweighed by countervailing benefits to consumers or to competition.
48 The term "substantial injury" as used in this subdivision shall have the
49 same meaning as the term "substantial injury" in the federal trade
50 commission act, 15 U.S.C. Section 41 et seq., provided that the substan-
51 tial injury of a person or persons other than consumers shall also be
52 deemed a "substantial injury" for purposes of this section.

53 (2) An act or practice is abusive when:

54 (i) it materially interferes with the ability of a person to under-
55 stand a term or condition of a product or service; or

1 (A) a lack of understanding on the part of a person of the material
2 risks, costs, or conditions of a product or service;

3 (B) the inability of a person to protect such person's interests in
4 selecting or using a product or service; or

5 (C) the reasonable reliance by a person on a person engaging in the
6 act or practice to act in the relying person's interests.

7 (b) (1) Whenever the attorney general shall believe from evidence
8 satisfactory to ~~[him]~~ the attorney general that any person, including
9 but not limited to an individual, firm, corporation, company, partner-
10 ship or association, or agent or employee thereof, has engaged in or is
11 about to engage in any of the acts or practices stated to be ~~[unlawful~~
12 ~~he]~~ unfair, deceptive, or abusive, the attorney general may bring an
13 action or proceeding in the name and on behalf of the people of the
14 state of New York to enjoin such unlawful acts or practices and to
15 obtain restitution of any moneys or property obtained directly or indi-
16 rectly by any such unlawful acts or practices. In such action or
17 proceeding, preliminary relief may be granted under article sixty-three
18 of the civil practice law and rules.

19 (2) The attorney general may bring such an action or proceeding
20 against any person conducting any business, trade or commerce or
21 furnishing a service in this state, whether or not the person is with-
22 out the state. The attorney general may also bring such an action or
23 proceeding against any person within the state conducting any business,
24 trade, or commerce or furnishing a service, whether or not the business,
25 trade, commerce, or service is conducted or furnished without the state.

26 (3) An act or practice made unlawful by this section is actionable by
27 the attorney general regardless of whether or not that act or practice
28 is consumer-oriented.

29 (c) Before ~~[any violation of this section is sought to be enjoined]~~
30 commencing an action or proceeding pursuant to this section, the attor-
31 ney general shall be required to give the person against whom such
32 action or proceeding is contemplated notice by certified mail and an
33 opportunity to show in writing within five business days after receipt
34 of notice why ~~[proceedings]~~ an action or proceeding should not be insti-
35 tuted against ~~[him]~~ such person, unless the attorney general shall find,
36 in any case in which ~~[he]~~ the attorney general seeks preliminary relief,
37 that to give such notice and opportunity is not in the public interest.

38 (d) In any ~~[such]~~ action or proceeding brought pursuant to this
39 section it shall be a complete defense that the act or practice is, or
40 if in interstate commerce would be, subject to and complies with the
41 rules and regulations of, and the statutes administered by, the federal
42 trade commission or any official department, division, commission or
43 agency of the United States as such rules, regulations or statutes are
44 interpreted by the federal trade commission or such department, divi-
45 sion, commission or agency or the federal courts.

46 (e) Nothing in this section shall apply to any television or radio
47 broadcasting station or to any publisher or printer of a newspaper,
48 magazine or other form of printed advertising, who broadcasts,
49 publishes, or prints the advertisement.

50 (f) In connection with any proposed action or proceeding under this
51 section, the attorney general is authorized to take proof and make a
52 determination of the relevant facts, and to issue subpoenas in accord-
53 ance with the civil practice law and rules.

54 (g) This section shall apply to all ~~[deceptive]~~ unfair, deceptive, or
55 abusive acts or practices ~~[declared to be unlawful],~~ whether or not

56 subject to any other law of this state, and shall not supersede, amend

1 or repeal any other law of this state under which the attorney general
2 or any other party is authorized to take any action or conduct any
3 inquiry.

4 (h) In addition to the right of action granted to the attorney general
5 pursuant to this section, any person who has been injured by reason of
6 any [~~violation of~~] deceptive act or practice made unlawful by this
7 section may bring an action in [~~his~~] such person's own name to enjoin
8 such [~~unlawful~~] deceptive act or practice, an action to recover [~~his~~]
9 such person's actual damages or fifty dollars, whichever is greater, or
10 both such actions. The court may, in its discretion, increase the award
11 of damages to an amount not to exceed three times the actual damages up
12 to one thousand dollars, if the court finds the defendant willfully or
13 knowingly violated this section. The court may award reasonable attor-
14 ney's fees to a prevailing plaintiff.

15 [~~(j)~~] (i) Notwithstanding any law to the contrary, all monies recov-
16 ered or obtained under this article by a state agency or state official
17 or employee acting in their official capacity shall be subject to subdi-
18 vision eleven of section four of the state finance law.

19 § 5. Severability. If any clause, sentence, paragraph, subdivision,
20 section or part of this act shall be adjudged by any court of competent
21 jurisdiction to be invalid, such judgment shall not affect, impair, or
22 invalidate the remainder thereof, but shall be confined in its operation
23 to the clause, sentence, paragraph, subdivision, section or part thereof
24 directly involved in the controversy in which such judgment shall have
25 been rendered. It is hereby declared to be the intent of the legislature
26 that this act would have been enacted even if such invalid provisions
27 had not been included herein.

28 § 6. This act shall take effect on the sixtieth day after it shall
29 have become a law.

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A8427A

SPONSOR: Lasher

TITLE OF BILL:

An act to amend the general business law, in relation to enacting the "fostering affordability and integrity through reasonable (FAIR) business practices act"

PURPOSE:

To permit the Attorney General to bring actions or proceedings to enjoin, penalize, and seek restitution for abusive and unfair business practices and abolish "consumer-oriented" limits on the Attorney General's enforcement authority; as well as make technical improvements to Attorney General enforcement.

SUMMARY OF PROVISIONS:

Section 1 provides for the title of the enactment.

Section 2 adopts a new § 348 of the General Business Law (GBL) setting out the purpose and intent of Article 22-a.

Section 3 amends the article heading of Article 22-a to read "Protection from Unfair, Deceptive, and Abusive Acts and Practices."

Section 4 amends § 349 of the GBL to outlaw unfair and abusive acts and practices and provide a definition of "unfair" and "abusive" acts and practices derived from the Federal Trade Commission Act, 15 U.S.C. § 41 et seq. ("unfair") and the Consumer Financial Protection Act, 12 U.S.C. § 5531(d) ("abusive") with certain modifications. It continues the existing law's prohibition on deceptive acts and practices without modification.

It eliminates, in enforcement actions or proceedings brought by the Attorney General, the "consumer-oriented" doctrine developed by the courts to limit the applicability of the statute.

Section 5 provides that each part of the act is severable from each other part in the event one or more parts are adjudicated invalid.

Section 6 provides an effective date of 60 days following enactment.

JUSTIFICATION:

The "Fostering Affordability and Integrity through Reasonable (FAIR) business practices act" ("the FAIR Business Practices Act") updates the Attorney General's powers to enforce New York's consumer protection laws by adding federal authorities that are presently at risk of falling into desuetude.

The bill brings the Attorney General's consumer protection authority into line with now-47 states that outlaw unfair business practices, updates enforcement mechanisms not touched since 1980, and closes a court-created loophole inadvertently and inappropriately applied to Attorney General enforcement actions and proceedings.

It also augments the Attorney General's powers to protect consumers and businesses in the wake of the federal government's attempted dismantlement of the Consumer Financial Protection Bureau (CFPB), which protected New Yorkers from abusive acts perpetrated by businesses.

Although this memo uses the word "businesses" to describe defendants or potential defendants in FAIR Business Practices Act enforcements and litigations and "business practices" to describe the acts and practices of those persons, the acts and practices of non-profit entities are covered by the Act, and nonprofits are protected to the same extent as businesses are by any of the Act's protections or defenses.

OUTLAWING ABUSIVE AND UNFAIR ACTS AND PRACTICES.ct.

According to the National Consumer Law Center, 47 states other than New York already outlaw "unfair" business practices; many have done so since 1967. The FAIR Business Practices Act defines "unfair" practices using the Federal Trade Commission's definition, updated to cover businesses and non-profits as well as consumers (15 USC § 45(n)). This definition is narrower than most states' definitions of "unfair" acts and practices and is designed to be easy to comply with because it already applies to everyone under federal law.

The Act applies to harms against businesses or non-profits as well as consumers, although it keeps the requirement that the benefits proposed to outweigh such harms must be to consumers or competition. By defining unfair acts and practices as extending to injury to more than just "consumers," the FAIR Business Practices Act does not observe the distinction found in the FTCA between "unfair competition" and "unfair acts and practices" (cf. *Cel-Tech Commc'ns, Inc. v Los Angeles Cellular Tel. Co.*, 20 Cal 4th 163, 179-81 (1999)). The omission of "unfair competition" in the FAIR Business Practices Act should not be interpreted to exclude by negative implication acts and practices that constitute unfair competition. Nor does the fact that an act was found to be an unfair method of competition (or, indeed, an unfair act) under some different statute per se determine whether the act is an unfair act or practice under the FAIR Business Practices Act. The question is always whether the act or practice satisfies the Act's particular definition of "unfair."

The FAIR Business Practices Act defines "abusive" practices in line with

the federal Consumer Financial Protection Act (12 USC § 5531(d)): Abusive practices are those that materially interfere with someone else's understanding of a term or condition of a good or service, or that unreasonably take advantage of someone else's lack of understanding of relevant risks, inability to protect their own interests, or reasonable reliance on another person to act in their interests.

The FAIR Business Practices Act expands this definition in two ways. First its protections apply beyond consumer financial products as this is a general-purpose statute. Second, it applies to both sides of the commercial equation, such that those who sell goods or services (including employees and contractors) are just as protected as those who buy them.

The Act provides that the prohibition on unfair or abusive acts and practices is enforceable only by the Attorney General. No change is

intended to be made to the private right of action, which remains limited to consumer-oriented deceptive acts and practices.

PRESERVING FEDERAL AND STATE INJURY REQUIREMENTS.ct.

The FAIR Business Practices Act does not disturb existing caselaw requiring a private plaintiff alleging a deceptive act or practice show that the "act or practice that caused actual, although not necessarily pecuniary, harm" (Oswego Laborers, 85 NY2d at 26). The FAIR Business Practices Act also does not alter existing law providing that an act is deceptive even in the absence of reliance (see *Stutman v Chem. Bank*, 95 NY2d 24, 30 (2000)).

The Act continues the current statute's provision that the Attorney General need not prove either likely or actual injury as a condition for bringing an enforcement for deception (see, e.g., *Goshen v Mut. Life Ins. Co. of New York*, 98 NY2d 314, 324

2002), consistent with the Attorney General's vital role in policing the marketplace as a whole and preventing unfair, abusive, and deceptive practices, ideally before they claim their first victim. In the same way, the Attorney General need not show injury, or likely injury, to prove that a particular practice is abusive.

If the Attorney General seeks to bring an enforcement against an unfair act or practice, however, the Attorney General must show the act or practice "causes or is likely to cause substantial injury." The likely or actual "substantial injury" that the Attorney General must show is different from the "actual" injury that must be shown to maintain a private right of action. Each definition-substantial injury for Attorney General unfairness proceedings, "actual, although not necessarily pecuniary, harm" for deceptiveness private rights of action-must be analyzed separately and in the context of their independently developed caselaw.

In the overwhelming majority of cases, the same injury will suffice for both, as in the federal context "substantial injury" means injury "having a real existence" rather than "of ample or considerable size" (see generally FTC Policy Statement on Unfairness, <https://www.ftc.gov/legal-library/browse/ftc-policy-statement>

unfairness (Dec 17, 1980) (describing "substantial injury" as not "trivial or merely speculative harms"), cf. Oxford English Dictionary, Substantial, definitions 1.3, II.11 ("substantial" here takes definition II.11, not I.3)).

There are two primary ways in which the Attorney General's "substantial injury" standard may diverge from the "actual, though not necessarily pecuniary, harm" standard for the private right of action. First, and most obviously, the Act allows the Attorney General to show only that the act or practice is "likely to cause" substantial injury. Second, "substantial injury" may involve harms of a nature that would not rise to the standards of injury demanded under state law in a private right of action but would nonetheless be deemed substantial under federal law (see generally American Fin. Servs. Ass'n v FTC, 767 F2d 957, 972 (DC Cir 1985) (an act or practice causes substantial injury when it causes "small harm to a large number of people, or if it raises a significant risk of concrete harm"))).

In relying on federal law in this way, it is important to observe the one change expressly made by the text to the federal "substantial injury" requirement: The substantial injury may, but need not, be caused to a person or persons who are consumers, consistent with the overall purpose of the FAIR Business Practices Act of permitting the Attorney General to enforce it as to the whole economy.

ABOLISHING THE "CONSUMER-ORIENTED" DOCTRINE IN ATTORNEY GENERAL ENFORCEMENTS.ct.

New York's current law banning deceptive business practices has been interpreted to apply only to "consumer-oriented" practices that "affect the public at large" rather than "private contract disputes, unique to the parties" (Oswego Laborers, 85 NY2d at 25). The underlying statute, however, does not require-or even reference-"consumer-oriented" conduct. This rule was established in the early 1980s by courts concerned that complex high-value commercial negotiations might be distorted if consumer protection laws could be applied by the parties to those negotiations when the deal goes bad (see Genesco Entertainment v Koch, 593 F Supp 743, 752-53 (SDNY 1984) (originating the requirement), approved by Oswego Laborers, 85 NY2d at 25-26).

The "consumer-oriented" doctrine has been applied erroneously to reject enforcements brought by the Attorney General, whose enforcements are, by definition, brought in the name of the People of New York to protect the public interest. Moreover, the salient reasons for the consumer-oriented doctrine have no relevance to Attorney General enforcement actions; indeed, as the residential mortgage-backed securities crisis demonstrated, sophisticated private commercial deals can sometimes have enormous public consequences not apparent at the time they are made. Worse, the doctrine has prevented the Attorney General from engaging in enforcements designed to protect businesses and non-profits, particularly small businesses and non-profits, from deceptive acts and practices.

The FAIR Business Practices Act accordingly exempts Attorney General enforcements (whether for unfair, deceptive, or abusive conduct) from the "consumer-oriented" doctrine, in all its varieties and formulations, including "public impact" "unique to the parties" "one-off" and so on.

In Attorney General enforcements, liability is established when the Attorney General establishes that the challenged act or practice satisfies one or more of the definitions in subdivision (a). That is all that is required.

The abolition of the "consumer-oriented" doctrine as applied to Attorney General enforcements may lead to courts needing to alter slightly the application of the existing judicial definition of "deceptive acts and practices." Presently, the existing "objective" definition of "deceptive acts and practices" set out in *Oswego Laborers' Loc. 214 Pension Fund v. Marine Midland Bank, N.A.* (85 NY2d 20, 26 (1995)), is "whether representations or omissions" are "likely to mislead a reasonable consumer acting reasonably under the circumstances." This definition continues to apply, without modification, to the private right of action.

But with the abolition of "consumer-oriented," it is now possible for the Attorney General to bring enforcements deceptive acts and practices that are not oriented to consumers. In many such cases, the reasonable consumer standard will still be appropriate, but if the act or practice is exclusively directed to members of a particular non-consumer population, to give effect to the abolition of consumer-oriented it may be necessary for the court to apply the objective standard of the reasonable member of that population instead of the average reasonable consumer.

The Act does not disturb existing caselaw concerning the application of the consumer-oriented doctrine to the private right of action (see, e.g., *Himmelstein, McConnell, Gribben, Donoghue & Joseph, LLP v Matthew Bender & Co., Inc.*, 37 NY3d 169, 178 (2021)). It simply provides that this doctrine no longer applies to Attorney General enforcements.

STREAMLINING ATTORNEY GENERAL PROCEEDINGS.ct.

The FAIR Business Practices Act reaffirms the Attorney General's authority to enforce the law against New York businesses that victimize non-New York residents, and non-New York businesses that victimize New Yorkers, consistent with the Attorney General's broad responsibility to ensure an honest marketplace in New York and New York's reciprocal responsibilities to other states to, where appropriate, seek restitution for out-of-state victims of in-state unfair, deceptive, and abusive acts and practices.

The FAIR Business Practices Act also clarifies that the Attorney General may enforce the statute by plenary action or by using the more efficient Article 4 special court proceedings the Attorney General is already authorized to use under Executive Law § 63(12), among other statutes (see, e.g., *Matter of People v Applied Card Sys., Inc.*, 27 AD3d 104, 109 (1st Dep't 2005)).

PRIOR LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

It is anticipated that the increased civil penalty and widened protections proposed in the bill would result in an increase in monies remitted to the state by violators and perpetrators.

EFFECTIVE DATE:

This act shall take effect on the 60th day after it shall have become law.

STATE OF NEW YORK

8427--A

2025-2026 Regular Sessions

IN ASSEMBLY

May 15, 2025

Introduced by M. of A. LASHER, DINOWITZ, SEAWRIGHT, FORREST, WEPRIN,
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and referred to the Committee on Consumer Affairs and Protection --
reported and referred to the Committee on Codes -- committee
discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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"fostering affordability and integrity through reasonable (FAIR) business practices act"

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Section 1. This act shall be known and may be cited as the "fostering affordability and integrity through reasonable (FAIR) business practices act".

§ 2. Article 22-A of the general business law is amended by adding a new section 348 to read as follows:

§ 348. Purpose and intent of article. The legislature declares that the state has a responsibility to protect New Yorkers from unfair, deceptive and abusive business acts and practices. The legislature recognizes the limitations of the current state law, which prohibits only the use of deceptive business acts and practices, and has proven insufficient to satisfy the state's responsibilities to protect New Yorkers and the New York economy from unfair, deceptive, and abusive business practices. For too

long, New Yorkers, especially New Yorkers with limited income, communities of color, seniors, children, veterans, and immigrant populations, have been left vulnerable to unscrupulous business practices. It is time for New York to join all but a handful of New York's fellow jurisdictions by adopting a comprehensive unfair, deceptive, and abusive business acts and practices statute that gives government and private parties the tools to address these harms. The state must achieve the goal of deterring and remedying a broad range of unfair, deceptive, and abusive business practices, and leveling the playing field for the state's many honest businesses and non-profits that treat their customers fairly. It must also anticipate future unfair, deceptive, and abusive acts, including from new and emerging technologies. To that end, this article defines unfair and abusive acts and practices expansively to reach conduct that is unfair or abusive but arguably not deceptive.

The state must also ensure the most meaningful and effective protection to New Yorkers against unfair, deceptive, and abusive business practices. This article therefore eliminates textual exceptions imposed by courts over the last five decades that have limited the attorney general's power to enforce the statute to acts that are "consumer-oriented" or that have an impact on the public at large. The attorney general has a special responsibility to the public to create a fair marketplace for all. That responsibility extends to protecting businesses and non-profits as well as individuals. There is no reason to believe that a small business or non-profit is any better able to defend itself from unfair, abusive, and deceptive conduct than a consumer, or that small entities need the protections of this article any less than individuals do. The market and wider society is harmed by the negative consequences that flow from unfair, deceptive, and abusive business practices even if those acts and practices have not been understood as "consumer-oriented".

§ 3. The article heading of article 22-A of the general business law, as amended by chapter 43 of the laws of 1970, is amended to read as follows:

[~~CONSUMER~~] PROTECTION FROM

UNFAIR, DECEPTIVE, OR ABUSIVE ACTS AND

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§ 4. Section 349 of the general business law, as added by chapter 43 of the laws of 1970, subdivision (h) as amended by chapter 157 of the laws of 1984 and subdivision (j) as added by section 6 of part HH of chapter 55 of the laws of 2014, is amended to read as follows:

§ 349. [~~Deceptive~~] Unfair, deceptive, or abusive acts and practices unlawful. (a) [~~Deceptive~~] Unfair, deceptive, or abusive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are hereby declared unlawful. For the purposes of this section:

(1) An act or practice is unfair when it causes or is likely to cause substantial injury which is not reasonably avoidable and is not outweighed by countervailing benefits to consumers or to competition. The term "substantial injury" as used in this subdivision shall have the same meaning as the term "substantial injury" in the federal trade commission act, 15 U.S.C. Section 41 et seq., provided that the substantial injury of a person or persons other than consumers shall also be deemed a "substantial injury" for purposes of this section.

(2) An act or practice is abusive when:

(i) it materially interferes with the ability of a person to understand a term or condition of a product or service; or

(ii) it takes unreasonable advantage of:

(A) a lack of understanding on the part of a person of the material risks, costs, or conditions of a product or service;

(B) the inability of a person to protect such person's interests in selecting or using a product or service; or

(C) the reasonable reliance by a person on a person engaging in the act or practice to act in the relying person's interests.

(b) (1) Whenever the attorney general shall believe from evidence satisfactory to ~~[him]~~ the attorney general that any person, including but not limited to an individual, firm, corporation, company, partnership or association, or agent or employee thereof, has engaged in or is about to engage in any of the acts or practices stated to be ~~[unlawful he]~~ unfair, deceptive, or abusive, the attorney general may bring an action or proceeding in the name and on behalf of the people of the state of New York to enjoin such unlawful acts or practices and to obtain restitution of any moneys or property obtained directly or indirectly by any such unlawful acts or practices. In such action or proceeding, preliminary relief may be granted under article sixty-three of the civil practice law and rules.

(2) The attorney general may bring such an action or proceeding against any person conducting any business, trade or commerce or furnishing a service in this state, whether or not the person is without the state. The attorney general may also bring such an action or proceeding against any person within the state conducting any business, trade, or commerce or furnishing a service, whether or not the business, trade, commerce, or service is conducted or furnished without the state.

(3) An act or practice made unlawful by this section is actionable by the attorney general regardless of whether or not that act or practice is consumer-oriented.

(c) Before ~~[any violation of this section is sought to be enjoined]~~ commencing an action or proceeding pursuant to this section, the attorney general shall be required to give the person against whom such action or proceeding is contemplated notice by certified mail and an opportunity to show in writing within five business days after receipt of notice why ~~[proceedings]~~ an action or proceeding should not be instituted against ~~[him]~~ such person, unless the attorney general shall find, in any case in which ~~[he]~~ the attorney general seeks preliminary relief, that to give such notice and opportunity is not in the public interest.

(d) In any ~~[such]~~ action or proceeding brought pursuant to this section it shall be a complete defense that the act or practice is, or if in interstate commerce would be, subject to and complies with the rules and regulations of, and the statutes administered by, the federal trade commission or any official department, division, commission or agency of the United States as such rules, regulations or statutes are interpreted by the federal trade commission or such department, division, commission or agency or the federal courts.

(e) Nothing in this section shall apply to any television or radio broadcasting station or to any publisher or printer of a newspaper, magazine or other form of printed advertising, who broadcasts, publishes, or prints the advertisement.

(f) In connection with any proposed action or proceeding under this section, the attorney general is authorized to take proof and make a determination of the relevant facts, and to issue subpoenas in accordance with the civil practice law and rules.

(g) This section shall apply to all ~~[deceptive]~~ unfair, deceptive, or abusive acts or practices ~~[declared to be unlawful]~~, whether or not subject to any other law of this state, and shall not supersede, amend or repeal

any other law of this state under which the attorney general or any other party is authorized to take any action or conduct any inquiry.

(h) In addition to the right of action granted to the attorney general pursuant to this section, any person who has been injured by reason of any [~~violation of~~] deceptive act or practice made unlawful by this section may bring an action in [~~his~~] such person's own name to enjoin such [~~unlawful~~] deceptive act or practice, an action to recover [~~his~~] such person's actual damages or fifty dollars, whichever is greater, or both such actions. The court may, in its discretion, increase the award of damages to an amount not to exceed three times the actual damages up to one thousand dollars, if the court finds the defendant willfully or knowingly violated this section. The court may award reasonable attorney's fees to a prevailing plaintiff.

[⊕] (i) Notwithstanding any law to the contrary, all monies recovered or obtained under this article by a state agency or state official or employee acting in their official capacity shall be subject to subdivision eleven of section four of the state finance law.

§ 5. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 6. This act shall take effect on the sixtieth day after it shall have become a law.