BILL

No. 636

An Act to amend *The Consumer Protection and Business Practices Act* to Ban Unfair Algorithmic Pricing

(Assented to)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 *The Consumer Protection and Business Practices (Banning Unfair A.I. Pricing) Amendment Act.*

SS 2013, c C-30.2 amended

2 *The Consumer Protection and Business Practices Act* is amended in the manner set out in this Act.

Section 2 amended

3 Section 2 is amended:

(a) by adding the following definitions:

" "consumer transaction" means a transaction between a consumer and a supplier for the retail sale or lease or other retail commercial disposition, by the supplier to the consumer, of any goods, in the ordinary course of business of the supplier and primarily for the consumer's personal, family or household use;

"electronic shelf labelling system" means, subject to the regulations, electronic or digital equipment, and the associated hardware, software and communication protocols, that:

(a) displays the price of a good at or adjacent to the place where the good is offered; and

(b) is capable of electronically updating the price of the good, including by remote or centralized input;

"online distributor" means, subject to the regulations, a person who is carrying on or is engaged in the business of facilitating the distribution of goods by connecting consumers, suppliers and delivery workers through an online platform;

"online platform" means, subject to the regulations, an online marketplace that enables or facilitates:

(a) selling, leasing or otherwise disposing of goods on a retail basis; or

(b) distributing goods on behalf of a supplier;

"online retailer" means, subject to the regulations, a person who is carrying on or is engaged in the business of selling, leasing or otherwise disposing of goods on a retail

basis through an online platform and includes a third party who does so through another party's online platform;

"personalized algorithmic pricing" means, subject to the regulations, pricing that is based on the use of an algorithm or automated processing to set, recommend or vary a price offered to a specific consumer as a result of data about the consumer collected, analyzed or processed with or without the consumer's consent, knowledge or involvement, including, without limitation, data about:

(i) the consumer's personal information, attributes and behaviours, such as:.

(I) the consumer's browsing or purchasing history, consumer habits or spending patterns;

(II) the consumer's electronic devices used in browsing or purchasing and their profiles on such devices;

(III) the consumer's inferred willingness to enter into the consumer transaction;

(IV) the consumer's demographics or socio-economic status, including their income level;

(V) the consumer's employment pay period or financial assistance payment schedule;

(VI) the consumer's credit history;

(VII) the consumer's location, including their address for the delivery of the good;

(VIII) the consumer's medical history or health status; and

(IX) any other information, attribute or behaviour prescribed by regulation**".**

(b) in the definition of "supplier", by adding the following in subsection 2(i) after "as defined in Part VII**":**

"and, for certainty, includes an online retailer and an online distributor**".**

Section 7 amended

4 Section 7 is amended by:

(a) inserting, in subsection (l) ", including anything as part of an online platform**" after "**representing anything**"; and**

(b) adding the following after subsection (s):

"(t) where the price of a part of the consumer transaction is displayed by way of an electronic shelf labelling system, demanding a higher price from the consumer at the point of sale due to personalized algorithmic pricing in respect of that consumer;

(u) in the case of an online retailer or online distributor, using any personalized algorithmic pricing to increase the price of the goods demanded from the consumer**".**

Section 4 amended

5 The following subsections are inserted in section 4:

"(2) For the purpose of subsection 7(o), the use of personalized algorithmic pricing as part of the consumer transaction is deemed to be a material fact.

(3) For the purpose of subsection (7)(j) as it relates to a supplier that is an online retailer or online distributor, a consumer is deemed to give their express consent to the higher price only if:

(a) the supplier prominently discloses to the consumer the reason for the higher price in clear and understandable language; and

(b) the consumer takes clear overt action to consent to the higher price**".**

New Section 8.1

6 The following section is inserted after section 8:

"Deemed unfair business practices

8.1 Without limiting the generality of sections 6, 7, or 8, it is deemed to be an unfair business practice within the meaning of that subsection when:

(a) a supplier takes advantage of a consumer if the supplier knows or ought to have known that the consumer was unable to protect, or incapable of protecting, his or her own interests because of the consumer's physical or mental infirmity, illiteracy, age or inability to understand the character, nature or language of the consumer transaction, or any other matter related to the transaction;

(b) the terms or conditions on which, or subject to which, the consumer entered into the consumer transaction are so adverse or so harsh to the consumer as to be inequitable; or

(c) a supplier that is an online retailer or online distributor or that uses an electronic shelf labelling system takes advantage of a consumer by demanding a price that is higher than the price offered to other consumers because of personalized algorithmic pricing in respect of that consumer**".**

Section 9 amended

7 The following subsections are inserted after subsection 9(3):

"(4) In determining whether anything not described in this section is an unfair business practice within the meaning of this Part, all relevant circumstances shall be considered including, but not limited to, the following factors, if applicable:

(a) whether there is a reasonable probability of full payment of the total price by the consumer;

(b) except where personalized algorithmic pricing is used, whether the total price grossly exceeded the total price at which similar goods are readily obtainable in a similar transaction by like consumers;

(c) in the case of an online retailer or online distributor, whether the total price, including the mandatory fees and charges, and any other material facts, are disclosed to the consumer in clear and understandable language and posted in a prominent manner; and

(d) in the case of a supplier that is an online retailer or online distributor or that uses an electronic shelf labelling system, the extent to which the collected, analyzed or processed data about the consumer that is available to the supplier is also available to the consumer.

(5) An unfair business practice may occur through the use of algorithms, data analytics, machine learning or artificial intelligence by the supplier or a third party, and is an unfair business practice for all the purposes of this Act notwithstanding that no consumer transaction is in fact entered into or concluded**".**

Section 111 amended

8 Section 111 is repealed and replaced with the following:

"111 A prosecution for an offence under this Act must not be commenced more than two years after the day on which evidence sufficient to justify a prosecution for the offence came to the knowledge of the director. The certificate of the director as to the day on which the evidence came to their knowledge is evidence of that date**".**

Coming into force

9 Act comes into force on Assent.

THIRD SESSION

Thirtieth Legislature

SASKATCHEWAN

BILL

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Received and read the

First time

Second time

Third time

And Passed

Ms. Brittney Senger

Printed under the authority of
The Speaker of the Legislative Assembly
of Saskatchewan
2026