



KeyCite Yellow Flag

Unconstitutional or Preempted Limited on Preemption Grounds by [Criticter v. L'Oreal USA, Inc.](#), 2nd Cir.(N.Y.), May 11, 2020



KeyCite Yellow Flag

Proposed Legislation

McKinney's Consolidated Laws of New York Annotated

General Business Law ([Refs & Annos](#))

Chapter 20. Of the Consolidated Laws

Article 22-a. Protection from Unfair, Deceptive, or Abusive Acts and Practices ([Refs & Annos](#))

McKinney's General Business Law § 349

§ 349. Unfair, deceptive, or abusive acts and practices unlawful

Effective: February 17, 2026

[Currentness](#)

(a) 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 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 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 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 an action or proceeding should not be instituted against such person, unless the attorney general shall find, in any case in which the attorney general seeks preliminary relief, that to give such notice and opportunity is not in the public interest.

(d) In any 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 unfair, deceptive, or abusive acts or practices, 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 deceptive act or practice made unlawful by this section may bring an action in such person's own name to enjoin such deceptive act or practice, an action to recover 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](#).

Credits

(Added L.1970, c. 43, § 2, eff. Sept. 1, 1970. Amended L.1980, c. 346, § 1; L.1984, c. 157, § 1; [L.2014, c. 55, pt. HH, § 6, eff. March 31, 2014](#); [L.2025, c. 708, § 4, eff. Feb. 17, 2026](#).)

McKinney's General Business Law § 349, NY GEN BUS § 349

Current through L.2025 chapters 1 to 713. Some statute sections may be more current, see credits for details.

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