

Introduced by Senator Jackson

January 21, 2020

An act to amend Section 51.6 of the Civil Code, relating to civil rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 873, as introduced, Jackson. Gender: discrimination: pricing.

Existing law, the Gender Tax Repeal Act of 1995, prohibits a business establishment from discriminating against a person because of the person's gender with respect to the price charged for services of similar or like kind and specifies that this prohibition does not apply to price differences based specifically upon the amount of time, difficulty, or cost of providing the services.

This bill would also prohibit a business establishment from discriminating against a person because of a person's gender with respect to the price charged for any 2 consumer products from the same manufacturer that are substantially similar if those products are priced differently based on the gender of the individuals for whose use the products are intended or marketed, as specified.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51.6 of the Civil Code is amended to
2 read:

1 51.6. (a) This section shall be known, and may be cited, as the
2 Gender Tax Repeal Act of 1995.

3 (b) (1) No business establishment of any kind whatsoever may
4 discriminate, with respect to the price charged for services of
5 similar or like kind, against a person because of the person's
6 gender. *Nothing in this paragraph prohibits price differences based
7 specifically on the amount of time, difficulty, or cost of providing
8 the services.*

9 (2) *No business establishment of any kind whatsoever may
10 discriminate, with respect to the price charged for any two
11 consumer products from the same manufacturer that are
12 substantially similar, if those products are priced differently based
13 on the gender of the individuals for whose use the products are
14 intended or marketed. For purposes of this paragraph, all of the
15 following apply:*

16 (A) *Two products are substantially similar if there are no
17 substantial differences in the materials used in the products, the
18 function of the products, and the functional design or features of
19 the products.*

20 (B) *A difference in color or packaging among consumer
21 products shall not, by itself, be construed as a substantial
22 difference.*

23 (C) *Nothing in this paragraph prohibits price differences based
24 on bona fide factors other than gender, including, but not limited
25 to, when a retail establishment passes through a price to the
26 consumer that is set by a manufacturer, distributor, or other entity
27 that is beyond the retailer's control.*

28 ~~(e) Nothing in subdivision (b) prohibits price differences based
29 specifically upon the amount of time, difficulty, or cost of
30 providing the services.~~

31 ~~(d)~~

32 (c) Except as provided in subdivision (f), the remedies for a
33 violation of this section are the remedies provided in subdivision
34 (a) of Section 52. However, an action under this section is
35 independent of any other remedy or procedure that may be
36 available to an aggrieved party.

37 ~~(e)~~

38 (d) This act does not alter or affect the provisions of the Health
39 and Safety Code, the Insurance Code, or other laws that govern
40 health care service plan or insurer underwriting or rating practices.

1 ~~(f)~~

2 (e) (1) The following business establishments shall clearly and
3 conspicuously disclose to the customer in writing the pricing for
4 each standard service provided:

5 (A) Tailors or businesses providing aftermarket clothing
6 alterations.

7 (B) Barbers or hair salons.

8 (C) Dry cleaners and laundries providing services to individuals.

9 (2) The price list shall be posted in an area conspicuous to
10 customers. Posted price lists shall be in no less than 14-point
11 boldface type and clearly and completely display pricing for every
12 standard service offered by the business under paragraph (1).

13 (3) The business establishment shall provide the customer with
14 a complete written price list upon request.

15 (4) The business establishment shall display in a conspicuous
16 place at least one clearly visible sign, printed in no less than
17 24-point boldface type, which reads: “CALIFORNIA LAW
18 PROHIBITS ANY BUSINESS ESTABLISHMENT FROM
19 DISCRIMINATING, WITH RESPECT TO THE PRICE
20 CHARGED FOR SERVICES OF SIMILAR OR LIKE KIND,
21 AGAINST A PERSON BECAUSE OF THE PERSON’S
22 GENDER. A COMPLETE PRICE LIST IS AVAILABLE UPON
23 REQUEST.”

24 (5) A business establishment that fails to correct a violation of
25 this subdivision within 30 days of receiving written notice of the
26 violation is liable for a civil penalty of one thousand dollars
27 (\$1,000).

28 (6) For the purposes of this subdivision, “standard service”
29 means the 15 most frequently requested services provided by the
30 business.

31 ~~(g)~~

32 (f) (1) Commencing January 1, 2021, a city, county, or city and
33 county that issues business licenses shall provide a business, at
34 the time the business is issued the license or when the license is
35 renewed, written notice of these provisions in English, Spanish,
36 Chinese, Tagalog, Vietnamese, and Korean. In order to comply
37 with this paragraph, a city, county, or city and county may provide
38 the business with the notice created by the Department of
39 Consumer Affairs under subdivision (b) of Section 55.63.

1 (2) A city, county, or city and county that issues business
2 licenses may increase the fee for that license in an amount not to
3 exceed the reasonable costs of providing the written notice above.

4 ~~(h)~~

5 (g) The Legislature finds and declares that this section addresses
6 a matter of statewide concern rather than a municipal affair as that
7 term is used in Section 5 of Article XI of the California
8 Constitution. Therefore, this section applies to all cities, including
9 charter cities.

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