

## IMPORTANT GUIDANCE REGARDING GENDER-NEUTRAL PRICING AND SERVICES

On September 30, 2020, a new law went into effect that prohibits businesses within the State, including appearance enhancement businesses and barbershops licensed by the Department of State (“Department”), from charging customers different prices for substantially the same services because of gender. This new law has been commonly referred to as eliminating the “Pink Tax” in New York State. A copy of the law, General Business Law §391-u, can be found [here](#). The purpose of this guidance is to help businesses licensed by the Department understand how to comply with the law.

The law generally makes it unlawful for a business to charge different prices for a service (e.g., haircut) or product (e.g., hair gel) unless there is a gender-neutral reason. Some factors businesses can consider include, but are not limited to:

- the amount of time it took to provide such services;
- the difficulty offering such services;
- the cost incurred in offering such services;
- the labor used in providing such services;
- the materials used in providing such services.

If a price difference for substantially similar services is based solely on the gender of the individuals for whom the services are performed, offered, or marketed, it is unlawful.

The law does not prevent businesses, for example, for charging different fees where a specific service requires more time or skill to produce a style.

### **How to Comply:**

The following examples illustrate some factors businesses should consider regarding compliance.

**Example 1—Same Hair, Same Price:** A male and female customer come to a salon and each requests a similar haircut. Since both customers have requested the substantially same service, each should be charged the same fee, so long as there is no substantial difference in the amount of time, tools, materials or skill required to provide the two similar services.

**Example 2—Different Hair, Different Price:** A male client with shoulder length hair and a female client with short hair request different style haircuts. If providing a different style or type of haircut is more complex or requires more time, tools, or materials than providing another style or haircut, a higher fee can be charged because there is a gender-neutral justification.

**Example 3—Same Product, Same Price:** Salon offers hair pomade marketed “for men” with the same ingredients, size and manufacture as another hair pomade offered by the salon. These two products are virtually identical and so the price should be the same.

**Signage and Price Lists:** Businesses are encouraged, but not required, to update business signs to reflect that fees are determined based on the service provided and not gender of the client. Price listings for particular styles of haircuts or services, even if historically characterized by a particular gender (i.e., “Men’s Haircuts”) are not expressly prohibited under the new law, but are not recommended by the Division. Under the new law, a customer is entitled to be provided with a complete written price list upon request. A gender-neutral price list related to the available services is advised to show compliance under the law.

Violations of this law can be investigated by both the Office of the Attorney General and the Department’s Division of Licensing Services.

If you have any questions regarding this guidance, you may email questions to the Department at: [licensing@dos.ny.gov](mailto:licensing@dos.ny.gov), or contact 518-474-4429. Call Center Representatives are available from 8:30am to 4:30pm Monday through Friday except on Legal Holidays.

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