

FAIR DEAL NY

A FAIR ECONOMY IS KEY TO JUSTICE FOR ALL
Pass the Consumer and Small Business Protection Act (CSPA)

S.795 (Comrie) / A.7138 (Weinstein)

Nearly all states ban Unfair, Deceptive, and Abusive Business Practices (UDAPs), but New York is one of only eight that does not ban unfair acts. This glaring oversight leaves New Yorkers vulnerable.

Examples of unfair but not deceptive conduct:

- Student loan servicer steers borrowers to the most expensive repayment options
- Nursing home shakes down relatives to pay patients' bills
- Debt collector manipulates seniors into giving up their limited, protected income
- Auto dealer refuses to return a customer's trade-in vehicle until a deal is finalized
- Credit reporting agency recklessly exposes people's personal information to theft
- A landlord refuses to make repairs to push out its rent-stabilized tenants
- A mortgage servicer fails to properly credit payments, landing a borrower in foreclosure

These predatory practices target and extract wealth from people of color, in communities with fewer safe options due to past and present discrimination.

Walter Griffin, a Black man, lives in his family home in Queens and works as an airport baggage handler. He lives with apparent disabilities that limit his capacity to make financial decisions. One day, a solar panel salesperson convinced him to allow the company to install solar panels on his roof, falsely claiming it would reduce his electricity bill, and then demanded high monthly payments for a 20-year lease agreement that Mr. Griffin never signed. This company unfairly took advantage of Mr. Griffin's disabilities, which is illegal in other states, including Arkansas, Kansas, and Idaho, but not in New York.

Worse yet, a court-imposed requirement that deceptive acts be "consumer-oriented conduct" has further weakened the existing statute, preventing most claims by individuals and small business owners.

Examples of deceptive conduct directed to small businesses:

- High-interest merchant cash advances
- Predatory taxi medallion loans
- "Grey-market" farm equipment billed as legitimate

Jones Real Estate v. Avatel: A small business charged for over \$10,000 in force-placed insurance to cover \$644 worth of equipment → DENIED as not "consumer-oriented conduct"

Abuse has no business in New York. Let's raise the bar: Pass CSPA.

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What does CSPA do?

- ✓ Bans **unfair and abusive** business conduct
- ✓ Eliminates “consumer-oriented conduct” requirement, thus protecting **small businesses**
- ✓ Imposes **real consequences** for harm by raising the penalty from \$50 to \$1,000
- ✓ Improves **access to justice** by allowing class actions

Does this bill hurt businesses? No!

- Businesses already comply with UDAP laws throughout the country.
- Allowing bad actors to flout New York’s weak law puts honest companies that treat their customers fairly at a competitive disadvantage.

Isn’t “unfair” hard to define? No!

- Bans on unfair, deceptive, and abusive business acts and practices is the prevailing consumer protection standard across the states and under the Federal Trade Commission Act.
- CSPA’s definitions of “unfair” and “abusive” are taken nearly verbatim from the Dodd-Frank Act.
- The meaning of “unfair” is well settled over decades of case law, and New York uses the standard in various industry-specific statutes already.

Who is AGAINST banning unfair and abusive conduct in New York?

- Large corporate interests claim that catching New York up to the rest of the country is bad policy.

Who is FOR banning unfair and abusive conduct in New York?

- **Governor Hochul:** “[M]ak[ing] unfair and abusive practices illegal . . . [will] help deter the bad actors from using these practices that have cheated New Yorkers out of their hard-earned money and make sure it stays in their pockets.”
- **Attorney General James:** “New York is one of only eight states in the country that doesn’t also provide protections against unfair or abusive business practices. . . . This seemingly simple addition will significantly strengthen our ability to protect consumers and small businesses.”

Protection from unfair and abusive business conduct is a matter of racial and economic justice. Pass CSPA (S.795/A.7138) now.

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