How NYC Consumer Bill Could Expand Private Claims

By **Brian Turetsky** (November 9, 2026)



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New York City is considering a sweeping unfair, deceptive, and abusive acts and practices, or UDAAP, law that could materially expand litigation risk for businesses operating in, selling to or otherwise engaging with city residents.

The proposed legislation, called the People and Organizations Winning Economic Relief, or Power, Act, would "prohibit unfair methods of competition and unfair, deceptive, abusive or unlawful acts or practices in or affecting business, trade, or commerce," and it would enforce those prohibitions through a broad private right of action.[1]

Introduced on Oct. 8 at the request of Mayor Zohran Mamdani, it was sponsored by Committee Chair Harvey D. Epstein and 20 other Council members and referred to the City Council's Committee on Consumer and Worker Protection. The bill remains in committee and would take effect immediately if enacted.

A Local Law With Broader Reach

The proposal draws on the federal UDAAP framework. Its unfairness standard closely tracks the standards set forth in the Federal Trade Commission Act and Consumer Financial Protection Act, or CFPA: Conduct must cause or be likely to cause substantial injury that consumers cannot reasonably avoid, and the injury must not be outweighed by countervailing benefits to consumers or competition.

Its definition of abusive practices also tracks the CFPA, including material interference with a consumer's understanding and taking unreasonable advantage of a person's lack of understanding, inability to protect a person's interests, or reasonable reliance on another to act in the person's interests. The bill does not separately define the term "deceptive."

The proposal would, however, be materially broader in scope and enforcement than the CFPA, which only applies to consumer financial products and services and is enforced by regulators and state attorneys general. The FTC Act similarly relies principally on public enforcement by the FTC and does not create a general private damages action under Section 5.

The Power Act, by contrast, provides a private right of action to plaintiffs and qualifying nonprofit organizations across the business, trade and commerce sectors. Unlike the CFPA, it is not limited to consumer financial services or, for that matter, to consumers, generally.

The proposal also expressly directs broad interpretation by referring to and incorporating the FTC's November 2022 "Policy Statement Regarding the Scope of Unfair Methods of Competition Under Section 5 of the FTC Act" and the Consumer Financial Protection Bureau's April 2023 "Policy Statement on Abusive Acts or Practices," regardless of whether those federal statements remain in effect or are superseded or rescinded.[2]

The bill separately directs that its new chapter be liberally construed to effectuate its remedial purposes. These provisions could preserve broader interpretive benchmarks at the

city level even when federal agencies adopt a narrower approach.

Key Features of the Power Act

Expansive Prohibited Conduct

In addition to unfair, deceptive, and abusive acts and practices, the bill prohibits "unlawful acts or practices" and unfair methods of competition. The bill does not define "unlawful."

Similar language in California's Unfair Competition Law, Section 17200 of the California Business and Professions Code, has been interpreted to permit violations of other laws to serve as predicates in some circumstances, even where the underlying law does not itself create a private right of action. Whether New York courts would give the Power Act a similarly broad construction remains an open question.

Broad Plaintiff Authority

A person injured as a result of a violation could sue individually, for similarly situated persons, or for the general public.

Nonprofit organizations could also sue on their own behalf or for members or injured members of the public, and, subject to a sufficient-nexus requirement, could sue on behalf of an injured person or class without pursuing an independent interest of the organization or its members.

Significant Remedies

Available relief would include compensatory, injunctive and declaratory relief, including actual damages and $2,500 per violation, plus mandatory reasonable attorney fees and costs for a prevailing plaintiff.

The bill does not include an aggregate cap on the $2,500-per-violation remedy.

Relaxed Claim Requirements

A plaintiff would not need to plead or prove reliance, and claims would not be limited to personal, family or household use; conduct with public impact; or consumer-oriented conduct.

Those provisions would eliminate limitations associated with private claims under New York General Business Law, Section 349, for deceptive acts and practices.

Discovery-Based Limitations Period

The three-year limitations period would run from when the plaintiff "knew or should have known of the alleged violation."

Presuit Notice, but No Express Cure Safe Harbor

Most plaintiffs would have to provide notice and give the prospective defendant 10 business days to explain in writing why a suit should not be filed, subject to specified exceptions. The text does not state that correction during that period bars the action.

Limited Small-Business and City/Agency Exclusion

The bill would not create a private right of action against the city, its agencies or employees, or a small business.

"Small business" is defined narrowly to require that the business be independently owned and operated, not dominant in its field, employ four or fewer employees, and have less than $5 million in gross revenue in the preceding fiscal year.

Partial Legal and Regulatory Requirement Defense

The bill provides a "complete defense" for conduct required by rules, regulations or statutes administered by the FTC or other federal agencies, as interpreted by those agencies or federal courts.

How the Proposal Compares With Existing New York Law

The Power Act appears designed to address limitations that remained after the enactment of New York state's Fostering Affordability and Integrity Through Reasonable Business Practices Act.[3]

The FAIR Act amended General Business Law Section 349 to prohibit unfair and abusive, as well as deceptive, acts or practices, bringing the substantive prohibition closer to the federal UDAAP framework. But the enacted legislation reflected significant compromises: It did not extend the private right of action to unfair or abusive practices, and the governor's chapter amendments retained the requirement that actionable conduct be consumer-oriented.

The Power Act's legislative findings expressly identify that gap and propose to fill it at the city level by creating a private action covering unfair, deceptive, abusive, or unlawful practices and unfair methods of competition.

Industry Impact and Practical Considerations

The Power Act could significantly alter the litigation risk associated with practices that are currently evaluated principally under federal and state unfair, deceptive or abusive and UDAAP standards. Key issues and considerations raised by the bill include the following.

Reach Beyond Consumer Financial Services and Consumer Transactions

Unlike the CFPA, the Power Act is not limited to consumer financial products or services. It applies broadly to conduct "in or affecting business, trade, or commerce," and expressly provides that private claims need not involve personal, family or household use or be consumer-oriented.

This could potentially extend claims into business-to-business transactions, commercial financing, employment and worker disputes, housing, digital platforms, and other commercial relationships. The Mamdani administration and supporters have already identified landlord-tenant disputes as an intended application.

Potentially Significant Private Damages Exposure

The bill authorizes actual damages and $2,500 per violation, along with compensatory, injunctive, and declaratory relief, and mandatory attorney fees and costs for a prevailing

plaintiff. The bill contains no express aggregate cap on the $2,500-per-violation remedy.

That combination could be particularly significant where an allegedly unlawful standardized practice, such as a disclosure, fee, website flow, communication or contract provision, affects multiple people. By comparison, California's Unfair Competition Law has an expansive "unlawful" prong but generally limits private plaintiffs to restitution and injunctive relief rather than damages.

The concern with the Power Act is therefore not merely its substantive breadth, but also the combination of that breadth with per-violation relief and mandatory fee shifting.

Lower Barriers to Private Claims

The bill expressly eliminates reliance as a pleading requirement, although a private plaintiff must still have been "injured as a result of" the violation. It also eliminates requirements that the challenged conduct be consumer-oriented; have a public impact; or relate to personal, family or household use.

That contrasts with New York's existing private Section 349 framework and could make the Power Act an additional avenue for claims that would encounter obstacles under state law.

The FAIR Act expanded the attorney general's authority to pursue unfair and abusive practices but did not extend those theories to private plaintiffs. Neither the FTC Act nor the CFPA provides consumers with a comparable general private cause of action for UDAP or UDAAP.

Preemption and the Risk of Conflicting Standards

One of the Power Act's most consequential unresolved questions is whether, and to what extent, New York City can impose a separate private cause of action on conduct already regulated by federal or state law.

New York's home-rule framework gives cities substantial authority to enact local laws relating to the well-being of persons and property, but that authority is expressly limited to local laws that are not inconsistent with the state constitution or any general law.[4]

Preemption arguments could be strongest where the governing law reflects more than a regulatory floor, such as by affirmatively permitting particular conduct, creating exceptions or safe harbors, limiting enforcement to specified regulators or plaintiffs, or prescribing particular remedies.

In those circumstances, application of the Power Act could potentially upset the balance struck by the federal or state regulatory scheme by imposing liability or remedies that the governing law does not. The bill provides a defense when conduct is required by specified federal law, but does not expressly provide one merely because the conduct complies with, or is permitted by, federal or state law.

Uncertain Extraterritorial Reach

It is unclear how a court would determine when conduct outside New York City has a sufficient nexus to the city for purposes of applying the law. Because of that ambiguity, there is a potential exposure for businesses located outside both the city and New York state that engage with city residents.

This could become particularly important for businesses that advertise, conduct transactions or otherwise interface with consumers in the city through websites and other digital platforms.

Divergent Standards Within and Outside New York City

If enacted, the Power Act could create materially different private litigation exposure for the same conduct inside and outside the five boroughs. Conduct governed by New York's narrower private Section 349 regime elsewhere in the state could potentially face the Power Act's broader private remedy when sufficiently connected to New York City.

That divergence could, in turn, renew pressure to revisit the compromises reflected in the FAIR Act and strengthen state law to more closely align it with the city's approach. While many states have UDAP and UDAAP laws that provide protections beyond those available under federal law, it is notable that such expansive protections are being proposed within a local law.

What Happens Next?

As noted above, the proposal may change through committee consideration or amendment. It's therefore important to continue to monitor the legislation as it proceeds through committee and beyond.

However, given the breadth of the current text and the Mamdani administration's public support, companies doing business with New York City residents should immediately start thinking through its potential impact on their business practices.

The acts and practices the Power Act would govern may effectively be addressed through existing compliance practices, so companies should actively assess their current UDAP and UDAAP and regulatory compliance practices in light of the potential increased exposure presented should the bill be enacted into law.

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[1] https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=8281387&GUID=0ED7DA7E-2B4A-4223-B0AF-BB232C59035C.

[2] https://www.ftc.gov/system/files/ftc_gov/pdf/P221202Section5PolicyStatement.pdf.

[3] We have previously blogged about the FAIR Act and Governor Hochul's chapter amendments https://www.hinshawlaw.com/en/insights/blogs/consumer-crossroads-where-financial-services-and-litigation-intersect/governor-hochul-signs-chapter-amendment-to-the-new-york-fair-business-practices-act.; https://www.hinshawlaw.com/en/insights/blogs/consumer-crossroads-where-financial-services-and-litigation-intersect/governor-hochul-signs-new-york-fair-business-practices-

act-greatly-enhancing-ag-enforcement-authority.

[4] See N.Y. Const. art. IX, § 2(c)(ii)(10); N.Y. Mun. Home Rule Law § 10(1)(ii)(a)(12).