

HOUSE BILL REPORT

HB 2481

As Reported by House Committee On:

Technology, Economic Development, & Veterans

Title: An act relating to prohibiting surveillance-based price discrimination and surge pricing for retail goods.

Brief Description: Prohibiting surveillance-based price discrimination and surge pricing for retail goods.

Sponsors: Representatives Fosse, Pollet, Berry, Stearns, Reeves, Farivar, Ryu, Santos, Simmons, Parshley, Goodman, Salahuddin, Donaghy, Gregerson, Thomas, Doglio, Kloba, Cortes, Obras, Macri, Nance, Hill and Callan.

Brief History:

Committee Activity:

Technology, Economic Development, & Veterans: 1/21/26, 1/28/26 [DP].

Brief Summary of Bill

- Specifies pricing practices for a business that sells retail products in a grocery store, including clearly posting the price and prohibiting the use of surveillance pricing or surge pricing.
- Prohibits the use of electronic shelf label systems in retail stores larger than 15,000 square feet until January 1, 2030.
- Requires the Department of Commerce to study the use of electronic shelf label systems and report on price transparency and employee job security by June 30, 2029.
- Specifies that violation of the pricing practices is an unfair or deceptive act for purposes of enforcement under the Consumer Protection Act.

HOUSE COMMITTEE ON TECHNOLOGY, ECONOMIC DEVELOPMENT, & VETERANS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 8 members: Representatives Ryu, Chair; Kloba, Vice Chair; Cortes, Donaghy, Paul, Shavers, Simmons and Thomas.

Minority Report: Do not pass. Signed by 3 members: Representatives Barnard, Ranking Minority Member; Keaton and Waters.

Minority Report: Without recommendation. Signed by 1 member: Representative Penner.

Staff: Martha Wehling (786-7067).

Background:

Dynamic Pricing.

Dynamic pricing, also referred to as surge pricing or variable pricing, occurs when a business changes the price of retail goods based on an individual user or demand for the goods. Some businesses use algorithms to consider competitor pricing, supply and demand, or other market factors.

Grocery Establishment.

A "grocery establishment" is defined as a "retail store in this state that is over 15,000 square feet in size and that sells primarily household foodstuffs for off-site consumption, including the sale of fresh produce, meats, poultry, fish, deli products, dairy products, canned foods, dry foods, beverages, baked foods, or prepared foods. Other household supplies or other products must be secondary to the primary purpose of food sales."

Consumer Protection Act.

The Consumer Protection Act (CPA) prohibits unfair methods of competition, and unfair or deceptive acts or practices in trade or commerce. If a person is injured in their business or property by a violation of the CPA, the person may bring a civil action to enjoin further violations and recover actual damages, costs, and reasonable attorney's fees. The Attorney General may bring a legal action to enjoin violations of the CPA, obtain restitution, and seek civil penalties.

Summary of Bill:

Limitations on Business Price Modifications of Certain Retail Goods.

A person is required to take certain actions regarding the pricing of retail goods:

- A person must clearly post the price of goods in a retail location.
- A person may not use surveillance-based price discrimination to modify the price of goods for a consumer. "Surveillance-based price discrimination" means the practice of altering the price of goods based on analysis of individual data associated with that consumer.

- A person is prohibited from using surge pricing to modify the price of goods. "Surge pricing" means increasing the price of a good or service based on demand or willingness to pay.
- A person is prohibited from using an electronic shelf label system in a retail store 15,000 square feet or larger until January 1, 2030. "Electronic shelf label system" means the use of technology to display prices, when that technology has the capacity to use consumer data to change the price of goods.

"Person" is defined as a business engaged in the retail sale of goods to consumers. Small businesses, with less than 50 employees, are excluded from the definition of "person."
"Goods" are defined as retail products for sale in a "grocery establishment."

Reducing a posted price through a loyalty or reward program is not considered surveillance-based price discrimination or surge pricing.

Department of Commerce Study of Electronic Shelf Labels.

The Department of Commerce is required to study the use and impact of electronic shelf label systems on pricing transparency and employee job security. The Department of Commerce must submit a report to the Legislature with findings and recommendations by June 30, 2029.

Enforcement.

Violations of requirements relating to pricing practices are deemed to affect the public interest and constitute an unfair or deceptive act in trade or commerce for purposes of the Consumer Protection Act.

Definitions.

Definitions are provided for numerous terms, including "algorithm," "behaviors," "consumer," "electronic shelf label system," "inferred data," "personalized pricing or algorithmic pricing," "personally identifiable information," "publicly available," "surge pricing," "surveillance pricing," and "surveillance-based price discrimination," among others.

Appropriation: None.

Fiscal Note: Requested on January 14, 2026.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) A customer in a store buying an item should pay the same price as their

neighbor. Large stores use AI to change prices for nefarious purposes, including what an individual might be willing to pay, not supply and demand. Surveillance pricing and price surging are used by large retailers to transform community-based chains into advertisers by personalizing prices based on demographics, focused on higher income consumers, who believe they are getting a deal. It is designed to identify the highest price a consumer is willing to pay. Electronic shelf labeling enables these practices by collecting data from customer cell phones and deskill retail workers.

The bill prevents economic prejudice and pauses the roll out of the shelf labels. Food costs are more of each paycheck. Use of an algorithm is not based on cost of food but what a consumer will pay. Food is not a luxury. There are 26,000 food retail workers in the region. Workers are not afraid of technology, but there is a concern about use without regulation. When shoppers are upset with prices, they are frustrated with the workers who do not control the prices or strategy. Seniors will pay more. AI will make jobs harder, increase lines, and violates the trust built with the consumer. Fair and transparent pricing makes consumers satisfied. Food prices should be based on the cost of food, not who you are. Sales are permitted in the bill, and small businesses should be included. It is important to safeguard consumers before these unfair practices become the norm. Once the system is in place, it is easy to turn on.

(Opposed) As drafted, the bill does not account for the reasons a retailer may need to adjust the pricing in a day, such as prohibiting sale items at the end of the day. Clear definitions are critical to consistent compliance, and the current language could affect inventory or discount programs that customers have come to rely on and expect. For a loyalty program to exist, it must collect personal information. Electronic shelf labels provide efficiencies, saving businesses billions of dollars a year, prioritize employee time, and reduce error. These result in cost savings for consumers, provide price transparency, and accuracy. Every day savings are not surveillance, and stores are not engaging in these practices. Many customers like personalized recommendations and reward. Transparency and avoiding consumer confusion are also business goals. The tags are not designed to identify individuals or permit surge pricing. A right to cure should be provided.

(Other) Algorithmic pricing is generally invisible to consumers, who typically only see their offered price. Consumer Reports found five prices for an identical basket of groceries in Seattle, resulting in a cost difference of about \$1,200 per year.

Persons Testifying: (In support) Representative Mary Fosse, prime sponsor; Maya Morales, WA People's Privacy; John Marshall, UFCW 3000; Daisy Hannalore; Devin Tegelberg; Anne Steyh; Jonathan Pincus, The Nexus of Privacy; and Carissa Larsen, Washington State Labor Council, AFL-CIO.

(Opposed) Molly Pfaffenroth, Washington Food Industry Association; Robert Singleton, Chamber of Progress; Crystal Leatherman, Washington Retail Association; Jessica Vittorio, VusionGroup Inc.; and Marian Dacca, Northwest Grocery Retail Association .

(Other) Derek Kravitz, Consumer Reports.

Persons Signed In To Testify But Not Testifying: None.