

SENATE BILL REPORT

SB 6312

As of January 28, 2026

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: Senators Saldaña, Alvarado, Conway, Dhingra, Frame, Hasegawa, Lovelett, Nobles, Shewmake, Stanford and Valdez.

Brief History:

Committee Activity: Business, Trade & Economic Development: 1/28/26.

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.
- Specifies that violation of the pricing practices is an unfair or deceptive act under the Consumer Protection Act.
- 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.

SENATE COMMITTEE ON BUSINESS, TRADE & ECONOMIC DEVELOPMENT

Staff: William Bridges (786-7312)

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.

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 in state law as a retail store 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) allows a person injured by an unfair or deceptive practice to bring a private cause of action for actual damages, injunctive relief, reasonable attorney's fees, and treble damages. The Office of the Attorney General may investigate and prosecute claims under the CPA on behalf of the state or individuals in the state as well.

Summary of Bill: Limiting Business Price Modifications of Certain Retail Goods in Grocery Establishments. Retail grocery establishments are required to take the following specified actions regarding the pricing of retail goods:

- an establishment must clearly post the price of goods in a retail location;
- an establishment 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;
- an establishment 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; and
- an establishment may not use 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.

Providing Exceptions. Small independent businesses, with less than 50 employees, are excluded from the pricing requirements. Reducing a posted price through a loyalty or reward program is not considered surveillance-based price discrimination or surge pricing.

Providing for 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 CPA.

Defining Terms. Goods are defined as retail products for sale in a grocery establishment. Numerous other terms are defined, including algorithm, personalized pricing or algorithmic

pricing, and surveillance pricing, among others.

Requiring a 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.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: AI can transform the economy but not always to the benefit of the consumer or society. Price adjustments based on dynamic and surveillance pricing can lead to price discrimination based on the characteristics of the buyer. It is already appearing online and is moving to physical stores. This bill represents the Legislature's chance to proactively prevent harm instead of reacting after harm has occurred. Pricing adjustments based on personal characteristics could lead to accusations of price gouging and assaults on store staff. The data definition should be strengthened by including credit scores and consumers should be given the power to consent to the use of their data. Food pricing should be clear, stable, fair, and accessible to all. The moratorium on electronic shelf labels is necessary before they are widely deployed. Surveillance pricing determines what a consumer should pay, not based on the cost of the food, but on what the system thinks someone cannot avoid paying. That means working people, seniors, and families with fewer options pay more. This bill sets a simple rule: if two people are in the same store buying the item, they should pay the same price.

CON: Electronic shelf labels can reduce operational costs that benefit customers. The prohibitions in this bill will inadvertently eliminate digital coupons, loyalty rewards, and personalized grocery deals. Digital coupons save the average household over \$1,400 a year, with \$300 of that savings from groceries. Low-income families with children are the most active users of coupons. Twenty-four percent of consumers earning under \$40,000, and 32 percent earning between \$40,000 and \$80,000, choose their supermarket based on loyalty program membership. This bill's definition of surveillance pricing would jeopardize loyalty programs and personalized digital coupons. The definition of surge pricing could unintentionally restrict price changes based on inventory, supply chain, tariffs, and limited sales. Electronic shelf labels are an acceptable method for displaying unit pricing, they increase pricing compliance and are not used to charge different prices for different customers. Retailers have already invested hundreds of thousands of dollars in electronic shelf label systems.

Persons Testifying: PRO: Senator Rebecca Saldaña, Prime Sponsor; Maya Morales, WA People's Privacy; Ryan Stokes; Jennifer Edwards; Carissa Larsen, Washington State Labor Council, AFL-CIO; Dustin Lambro, UFCW 3000; Jonathan Pincus, The Nexus of Privacy.

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

Persons Signed In To Testify But Not Testifying: No one.