
SENATE BILL 6312

State of Washington

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

Read first time 01/26/26. Referred to Committee on Business, Trade & Economic Development.

1 AN ACT Relating to prohibiting surveillance-based price
2 discrimination and surge pricing for retail goods; adding a new
3 section to chapter 43.330 RCW; adding a new chapter to Title 19 RCW;
4 creating a new section; and providing expiration dates.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that the use of
7 algorithms for surveillance-based price discrimination and surge
8 pricing threatens fair market access to grocery goods. The use of
9 automation and dynamic pricing models in retail grocery sales
10 exacerbates inequality and undermines consumer trust. The price of
11 retail grocery goods should be rooted in fairness, not in profiling
12 or prediction.

13 The legislature further finds that comprehensive consumer
14 protection is needed to prevent discriminatory and opaque pricing
15 practices in retail grocery sales as businesses increasingly adopt
16 data-driven technologies to set prices. Innovation should not come at
17 the expense of transparency, fairness, or access to grocery goods.

18 The legislature further finds that the prohibition of
19 surveillance-based price discrimination and surge pricing will
20 protect consumers from profiling and ensure equitable and fair
21 pricing of grocery goods.

1 The legislature further finds that a moratorium on the use of
2 electronic shelf label systems by grocery businesses will protect
3 consumers from data collection without their knowledge from their
4 electronic devices, such as smartphones, to modify the price of
5 grocery goods for individual shoppers. Pricing should remain
6 consistent and be clearly posted.

7 Therefore, the legislature intends to ban surveillance-based
8 price discrimination and surge pricing and establish a four-year
9 moratorium on the use of electronic shelf label systems in retail
10 grocery locations to allow further study of the impact on pricing
11 transparency and employee job security.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout this chapter unless the context clearly requires
14 otherwise.

15 (1) "Algorithm" means a computational process that uses a set of
16 rules to define a sequence of operation including, but not limited
17 to, artificial intelligence systems and facial recognition software.

18 (2) "Behaviors" means a consumer's observable, measurable, or
19 inferred actions, habits, preferences, interests, or vulnerabilities,
20 including the consumer's political, personal, or professional
21 affiliations, web browsing history, internet protocol addresses used,
22 locations frequented, purchase history, financial circumstances,
23 consumer behaviors, or inferences associated with a group, band,
24 class, or tier of consumers in which the consumer belongs.

25 (3) "Consumer" means a natural person who is a Washington
26 resident and who acts only in an individual or household context,
27 however identified, including by any unique identifier. The location
28 of a person in Washington state creates the presumption that the
29 person is a Washington resident.

30 (4) "Electronic shelf label system" means any hardware, software,
31 or connected technology used to display or update prices
32 electronically, including electronic shelf labels, pricing servers,
33 wireless beacons, and consumer-facing applications, that have the
34 capacity, directly or indirectly, to collect, receive, infer,
35 analyze, or use consumer data for the purpose of modifying,
36 personalizing, or varying the price of goods. Any electronic shelf
37 label system, regardless of whether it is enabled, disabled, or
38 actively utilized, is an electronic shelf label system for the
39 purposes of this act.

1 (5) "Goods" means retail products for sale in a grocery
2 establishment as defined in RCW 49.85.015.

3 (6) "Inferred data" means data, assumptions, predictions, or
4 classifications about a consumer that are derived, in whole or in
5 part, from personally identifiable information, device identifiers,
6 online activity, loyalty program participation, or other behavioral
7 information, including, but not limited to, inferences about income,
8 education level, household composition, likelihood to purchase
9 certain products, race, ethnicity, age, disability status, or any
10 other protected characteristic.

11 (7) "Person" means any business engaged in the retail sale of
12 goods to consumers. For the purposes of this act, "person" does not
13 include a "small business," as defined in RCW 19.85.020.

14 (8) "Personalized pricing" or "algorithmic pricing" means pricing
15 that is determined or modified in whole or in part through the use of
16 an automated system, artificial intelligence, machine learning model,
17 or algorithm that relies on consumer data or inferred data to
18 determine the price a consumer or group of consumers will be charged.

19 (9)(a) "Personally identifiable information" means information
20 that identifies, relates to, describes, is reasonably capable of
21 being associated with, or could reasonably be linked, directly or
22 indirectly, with a particular consumer or household. Personally
23 identifiable information includes, but is not limited to, the
24 following if it identifies, relates to, describes, is reasonably
25 capable of being associated with, or could be reasonably linked,
26 directly or indirectly, with a particular consumer or household:

27 (i) Identifiers such as a real name, alias, postal address,
28 unique personal identifier, online identifier, internet protocol
29 address, email address, account name, social security number,
30 driver's license number, passport number, or other similar
31 identifiers;

32 (ii) Any information that identifies, relates to, describes, or
33 is capable of being associated with, a particular consumer,
34 including, but not limited to, his or her name, signature, social
35 security number, physical characteristics or description, address,
36 telephone number, passport number, driver's license or state
37 identification card number, insurance policy number, education,
38 employment, employment history, bank account number, credit card
39 number, debit card number, or any other financial information,
40 medical information, or health insurance information;

1 (iii) Characteristics of protected classifications under
2 Washington or federal law;

3 (iv) Commercial information, including records of personal
4 property, products or services purchased, obtained, or considered, or
5 other purchasing or consuming histories or tendencies;

6 (v) Biometric information;

7 (vi) Internet or other electronic network activity information,
8 including, but not limited to, browsing history, search history, and
9 information regarding a consumer's interaction with an internet
10 website application, or advertisement;

11 (vii) Geolocation data;

12 (viii) Audio, electronic, visual, thermal, olfactory, or similar
13 information;

14 (ix) Professional or employment-related information;

15 (x) Education information, defined as information that is not
16 publicly available personally identifiable information as defined in
17 20 U.S.C. Sec. 1232g as it existed on December 18, 2025;

18 (xi) Inferences drawn from any of the information identified in
19 this section to create a profile about a consumer reflecting the
20 consumer's preferences, characteristics, psychological trends,
21 predispositions, behavior, attitudes, intelligence, abilities, and
22 aptitudes; or

23 (xii) Sensitive personal information.

24 (b) "Personally identifiable information" does not include
25 publicly available information or lawfully obtained, truthful
26 information that is a matter of public concern.

27 (c) "Personally identifiable information" can exist in various
28 formats, including, but not limited to, all of the following: (i)
29 Physical formats, including paper documents, printed images, vinyl
30 records, or video tapes; (ii) digital formats, including text, image,
31 audio, or video files; and (iii) abstract digital formats, including
32 compressed or encrypted files, metadata, or artificial intelligence
33 systems that are capable of outputting personally identifiable
34 information.

35 (10)(a) "Publicly available" means any of the following:

36 (i) Public records;

37 (ii) Information that a person has a reasonable basis to believe
38 is lawfully made available to the general public by the consumer or
39 from widely distributed media; or

1 (iii) Information made available by a person to whom the consumer
2 has disclosed the information if the consumer has not restricted the
3 information to a specific audience.

4 (b) "Publicly available" does not mean biometric information
5 collected by a person about a consumer without the consumer's
6 knowledge.

7 (11) "Surge pricing" means increasing the price of a good or
8 service based on real-time or predicted demand, consumer behavior,
9 consumer characteristics, or algorithmic determination of willingness
10 to pay, rather than changes in the person's actual costs of providing
11 the good or service.

12 (12) "Surveillance pricing" means the practice of using
13 personally identifiable information, personal data, inferred data,
14 device information, browsing history, geolocation, purchasing
15 behavior, demographic characteristics, or any other consumer-specific
16 information to set, vary, modify, or optimize the price of a good or
17 service for a consumer or a group of consumers. Surveillance pricing
18 does not mean offering the same price for a good or service to all
19 consumers.

20 (13) "Surveillance-based price discrimination" means the practice
21 of setting, altering, or manipulating the price of goods or services
22 offered to a consumer based in whole or in part on monitoring,
23 tracking, or automated analysis of the consumer's behavior, location,
24 demographic characteristics, biometric data, or other personally
25 identifiable information, rather than on the actual cost of providing
26 the good or service.

27 NEW SECTION. **Sec. 3.** (1) A person must clearly post the price
28 of goods in a retail location.

29 (2) A person may not use surveillance-based price discrimination
30 to modify the price of goods for a consumer.

31 (3) A person is prohibited from using surge pricing to modify the
32 price of goods regardless of the frequency or duration of the price
33 change, including price changes that occur within minutes, hours,
34 days, or across separate transactions.

35 (4) Surveillance-based price discrimination and surge pricing do
36 not include a reduction in the posted price that is uniformly offered
37 or made available to all consumers who meet the disclosed eligibility
38 criteria. A person may offer a loyalty, membership, or reward program
39 if any personally identifiable information collected for the purpose

1 of administering the program is not used to personalize, optimize, or
2 otherwise modify the price of goods offered for sale to a consumer.

3 NEW SECTION. **Sec. 4.** (1) A person may not use an electronic
4 shelf label system in retail locations 15,000 square feet or larger
5 until January 1, 2030.

6 (2) This section expires June 30, 2031.

7 NEW SECTION. **Sec. 5.** The legislature finds that the practices
8 covered by this chapter are matters vitally affecting the public
9 interest for the purpose of applying the consumer protection act,
10 chapter 19.86 RCW. A violation of this chapter is not reasonable in
11 relation to the development and preservation of business and is an
12 unfair or deceptive act in trade or commerce and an unfair method of
13 competition for the purpose of applying the consumer protection act,
14 chapter 19.86 RCW.

15 NEW SECTION. **Sec. 6.** This chapter shall be known as the "fair
16 pricing and transparency act."

17 NEW SECTION. **Sec. 7.** Sections 2 through 6 of this act
18 constitute a new chapter in Title 19 RCW.

19 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.330
20 RCW to read as follows:

21 (1) The department shall study the use of electronic shelf label
22 systems, as defined in section 2 of this act, and the impact of such
23 systems on pricing transparency and employee job security. The
24 department shall submit a report to the legislature with its findings
25 and recommendations by June 30, 2029, in compliance with RCW
26 43.01.036.

27 (2) This section expires June 30, 2031.

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