

Chapter 154

(House Bill 895)

AN ACT concerning

~~Food Retailers – Dynamic Pricing, Surveillance Data, and Collective Bargaining Agreements~~
~~Consumer Protection – Price Setting of Consumer Goods and Services and Use of Protected Class Data~~
Food Retailers and Third-Party Delivery Service Providers – Dynamic Pricing and Personal Data
 (Protection From Predatory Pricing Act)

FOR the purpose of prohibiting a food retailer ~~and a third-party food delivery service provider~~ from engaging in the practice of dynamic pricing or using consumer ~~surveillance~~ personal data to set a price for consumer goods or services; prohibiting a food retailer ~~and a third-party food delivery service provider~~ from using protected class data to offer, advertise, or sell a consumer good or service under certain circumstances; ~~prohibiting a food retailer from diminishing or impairing any right or benefit guaranteed to employees of the food retailer under an existing collective bargaining agreement or memorandum of understanding under certain circumstances; prohibiting a merchant from setting the price of consumer goods or services using certain dynamic pricing or personal data and issuing a certain communication in a certain manner unless the merchant includes a certain clear and conspicuous disclosure statement;~~ making ~~a~~ a certain ~~violation~~ violations *violation* of this Act an unfair, abusive, or deceptive trade practice that is subject to enforcement and penalties under the Maryland Consumer Protection Act; and generally relating to ~~the regulation of food retailers consumer protections regarding the setting of prices for consumer goods and services and the use of protected class data~~ the regulation of food retailers and third-party delivery service providers.

BY adding to

Article – Commercial Law
 Section 13-321 ~~and 13-322~~
 Annotated Code of Maryland
 (2025 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – Commercial Law
 Section ~~13-408 and 13-411~~
 Annotated Code of Maryland
 (2025 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – Commercial Law
Section 14-4701(a) and (w)

Annotated Code of Maryland
(2025 Replacement Volume)

~~BY adding to~~

~~Article – Labor and Employment~~

~~Section 4-406~~

~~Annotated Code of Maryland~~

~~(2025 Replacement Volume)~~

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 11-206(c)

Annotated Code of Maryland

(2022 Replacement Volume and 2025 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Commercial Law

13-321.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(2) “ARTIFICIAL INTELLIGENCE” HAS THE MEANING STATED IN § 3.5-801 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

(2) “CONSENT” HAS THE MEANING STATED IN § 14-4701 OF THIS ARTICLE.

~~(3) (2) (3) (4) “DYNAMIC PRICING” MEANS THE DISCRIMINATORY PRACTICE OF VARYING THE PRICES OF CONSUMER GOODS OR SERVICES WITHIN A THE SAME BUSINESS DAY BASED ON DEMAND OR OTHER FACTORS OFFERING OR SETTING A PERSONALIZED PRICE FOR A GOOD OR SERVICE THAT IS SPECIFIC TO A CONSUMER BASED ON THE CONSUMER’S PERSONAL DATA, REGARDLESS OF WHETHER THE SELLER COLLECTED OR PURCHASED THE PERSONAL DATA, INCLUDING THROUGH THE USE OF ARTIFICIAL INTELLIGENCE OR MODELS THAT RETRAIN OR RECALIBRATE BASED ON RECEIVED INFORMATION IN NEAR REAL-TIME.~~

~~(H) “DYNAMIC PRICING” DOES NOT INCLUDE THE;~~

~~1. THE USE OF PROMOTIONAL PRICING OFFERS, LOYALTY PROGRAM BENEFITS, OR OTHER TEMPORARY DISCOUNTS OR CHANGES TO PRICING RELATED TO RETENTION OF EXISTING CUSTOMERS;~~

~~2. A DIFFERENCE IN PRICE BASED ON OBJECTIVE COSTS ATTRIBUTABLE TO PROVIDING CONSUMER GOODS OR SERVICES TO DIFFERENT CONSUMERS, SUCH AS A DIFFERENCE IN PRICE CAUSED BY SHIPPING COSTS OR TAXES BASED ON A CONSUMER'S PHYSICAL LOCATION;~~

~~3. A DISCOUNTED PRICE OFFERED TO A CONSUMER THROUGH A CLEAR AND CONSPICUOUS DISCLOSURE ON A MERCHANT'S WEBSITE THAT LISTS ALL ELIGIBILITY CRITERIA, THE AVAILABLE DISCOUNT, AND ANY CONDITIONS FOR RECEIVING OR EARNING THE DISCOUNTED PRICE THAT IS:~~

~~A. BASED ON PUBLICLY DISCLOSED ELIGIBILITY CRITERIA THAT ANY CONSUMER COULD SATISFY, SUCH AS AN ELECTION TO RECEIVE PROMOTIONAL MATERIALS OR PARTICIPATE IN PROMOTIONAL EVENTS;~~

~~B. OFFERED TO MEMBERS OF A BROADLY DEFINED GROUP, INCLUDING TEACHERS, ACTIVE OR RETIRED SERVICE MEMBERS, SENIOR CITIZENS, STUDENTS, OR RESIDENTS OF A CERTAIN AREA BASED ON PUBLICLY DISCLOSED ELIGIBILITY CRITERIA; OR~~

~~C. OFFERED THROUGH A LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM THAT IS PUBLICLY OFFERED TO ALL CONSUMERS WHO AFFIRMATIVELY CONSENT TO THE PROGRAM;~~

~~3. A DIFFERENCE IN PRICE BASED ON COSTS OR DIFFERENCES IN SUPPLY OR DEMAND ASSOCIATED WITH PROVIDING OR SELLING A GOOD OR SERVICE IN DIFFERENT LOCATIONS OR GEOGRAPHIES;~~

~~4. A DIFFERENCE IN PRICE BASED ON COSTS ASSOCIATED WITH THE AVAILABILITY OR SUPPLY OF THE GOOD OR SERVICE;~~

~~5. A PRICE OFFERED TO A CONSUMER THROUGH A LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM IN WHICH ANY CONSUMER MAY VOLUNTARILY ENROLL OR CONSENT TO PARTICIPATE;~~

~~6. A PRICE OFFERED TO A CONSUMER IN CONNECTION WITH A SUBSCRIPTION BASED CONTRACT OR AGREEMENT;~~

~~7. A PRICE OFFERED TO A CONSUMER WHO CONSENTS TO PROVIDING PERSONAL DATA OR OTHER INFORMATION IN EXCHANGE FOR OBTAINING THE PRICE;~~

~~4.8.3. A PRICE CORRECTION RESULTING FROM A PRICING ERROR; OR~~

~~5.9.4. RESETTING A PRICE FOLLOWING A SYSTEM OR NETWORK OUTAGE.~~

~~(4) (3) (4)~~ “FOOD RETAILER” MEANS A MERCHANT THAT OPERATES A BUSINESS ESTABLISHMENT THAT:

(I) HAS A MINIMUM OF 15,000 SQUARE FEET; AND

(II) SELLS FOOD THAT IS EXEMPT FROM THE SALES AND USE TAX IN ACCORDANCE WITH § 11-206(C) OF THE TAX – GENERAL ARTICLE.

~~(5) (4) (5)~~ “SURVEILLANCE PERSONAL DATA” MEANS ~~CONSUMER INFORMATION COLLECTED AND TRACKED BY TECHNOLOGICAL METHODS, SYSTEMS, OR TOOLS, SUCH AS SENSORS, CAMERAS, DEVICE TRACKING, BIOMETRIC MONITORING, OR OTHER FORMS OF OBSERVATION OR DATA COLLECTION, THAT ARE CAPABLE OF GATHERING PERSONALLY IDENTIFIABLE INFORMATION ABOUT A CONSUMER’S BEHAVIOR, CHARACTERISTICS, LOCATION, OR OTHER PERSONAL ATTRIBUTES, WHETHER IN A PHYSICAL OR DIGITAL ENVIRONMENT~~ HAS THE MEANING STATED IN § 14-4701 OF THIS ARTICLE.

~~(5) (6)~~ “PROTECTED CLASS DATA” MEANS INFORMATION ABOUT AN INDIVIDUAL OR GROUP OF INDIVIDUALS THAT, ALONE OR IN COMBINATION, DIRECTLY OR BY IMPLICATION IDENTIFIES A CHARACTERISTIC THAT IS LEGALLY PROTECTED FROM DISCRIMINATION UNDER THE LAWS OF THE STATE OR UNDER FEDERAL LAW.

(7) (I) “THIRD-PARTY ~~FOOD~~ DELIVERY SERVICE PROVIDER” MEANS A MERCHANT THAT ~~PROVIDES~~ FACILITATES AS A CONSUMER SERVICE THE DELIVERY OF FOOD THAT IS EXEMPT FROM THE SALES AND USE TAX IN ACCORDANCE WITH § 11-206(C) OF THE TAX – GENERAL ARTICLE.

(II) “THIRD-PARTY ~~FOOD~~ DELIVERY SERVICE PROVIDER” DOES NOT INCLUDE A FOOD RETAILER.

(B) (1) THIS SUBSECTION DOES NOT APPLY TO:

(I) USING PROMOTIONAL PRICING OFFERS, LOYALTY PROGRAM BENEFITS, OR OTHER TEMPORARY DISCOUNTS OR CHANGES TO PRICING RELATED TO RETENTION OF EXISTING CUSTOMERS;

(II) SETTING A DIFFERENT PRICE BASED ON OBJECTIVE COSTS ATTRIBUTABLE TO PROVIDING CONSUMER GOODS OR SERVICES TO DIFFERENT CONSUMERS, SUCH AS A DIFFERENCE IN PRICE CAUSED BY SHIPPING COSTS OR TAXES BASED ON A CONSUMER’S PHYSICAL LOCATION;

(III) SETTING A DIFFERENT PRICE BASED ON COSTS OR DIFFERENCES IN SUPPLY OR DEMAND ASSOCIATED WITH PROVIDING OR SELLING A GOOD OR SERVICE IN DIFFERENT LOCATIONS OR GEOGRAPHIES;

(IV) SETTING A DIFFERENT PRICE BASED ON COSTS ASSOCIATED WITH THE AVAILABILITY OR SUPPLY OF THE GOOD OR SERVICE;

(V) OFFERING A PRICE TO A CONSUMER THROUGH A LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM IN WHICH ANY CONSUMER MAY VOLUNTARILY ENROLL OR CONSENT TO PARTICIPATE;

(VI) OFFERING A PRICE TO A CONSUMER IN CONNECTION WITH A SUBSCRIPTION-BASED CONTRACT OR AGREEMENT;

(VII) OFFERING A PRICE TO A CONSUMER WHO CONSENTS TO PROVIDING PERSONAL DATA OR OTHER INFORMATION IN EXCHANGE FOR OBTAINING THE PRICE;

(VIII) CORRECTING A PRICE RESULTING FROM A PRICING ERROR;

OR

(IX) RESETTING A PRICE FOLLOWING A SYSTEM OR NETWORK OUTAGE.

(2) A FOOD RETAILER OR THIRD-PARTY FOOD DELIVERY SERVICE PROVIDER MAY NOT ENGAGE:

~~(1)~~ (I) ENGAGE IN DYNAMIC PRICING TO SET A HIGHER PRICE FOR FOOD THAT IS EXEMPT FROM THE SALE AND USE TAX IN ACCORDANCE WITH § 11-206(C) OF THE TAX – GENERAL ARTICLE FOR A SPECIFIC CONSUMER; OR USE

~~(2)~~ (II) USE SURVEILLANCE PERSONAL DATA TO SET A HIGHER PRICE FOR CONSUMER GOODS OR SERVICES FOOD THAT IS EXEMPT FROM THE SALE AND USE TAX UNDER § 11-206(C) OF THE TAX – GENERAL ARTICLE FOR A SINGLE CONSUMER OR A GROUP OF CONSUMERS.

(C) A FOOD RETAILER OR THIRD-PARTY ~~FOOD~~ DELIVERY SERVICE PROVIDER MAY NOT USE PROTECTED CLASS DATA TO OFFER, ADVERTISE, OR SELL A CONSUMER GOOD OR SERVICE TO A CONSUMER FOR WHOM THE PROTECTED CLASS DATA PERTAINS IF THE USE OF THE PROTECTED CLASS DATA HAS THE EFFECT OF WITHHOLDING OR DENYING FROM THE CONSUMER AN ACCOMMODATION, AN ADVANTAGE, OR A PRIVILEGE ACCORDED TO OTHERS.

(D) (1) BEFORE INITIATING AN ENFORCEMENT ACTION UNDER SUBTITLE 4 OF THIS TITLE FOR A VIOLATION OF THIS SECTION, THE DIVISION SHALL ISSUE A NOTICE OF VIOLATION TO THE ALLEGED VIOLATOR.

(2) THE DIVISION SHALL PROVIDE THE ALLEGED VIOLATOR 45 DAYS AFTER THE NOTICE OF VIOLATION IS RECEIVED TO CURE THE VIOLATION.

(3) IF THE ALLEGED VIOLATOR CURES THE VIOLATION WITHIN THE TIME PERIOD SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE DIVISION MAY NOT INITIATE AN ENFORCEMENT ACTION FOR A VIOLATION OF THIS SECTION.

(E) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE A PRIVATE RIGHT OF ACTION UNDER THIS SECTION OR ANY OTHER LAW.

13-322.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CLEAR AND CONSPICUOUS DISCLOSURE” MEANS DISCLOSURE:

(i) IN THE SAME MEDIUM AS, AND PROVIDED ON, AT, OR NEAR AND CONTEMPORANEOUS WITH, EACH COMMUNICATION OF A PRICE FOR WHICH NOTICE IS REQUIRED; AND

(ii) USING LETTERING AND WORDING THAT IS EASILY VISIBLE AND UNDERSTANDABLE TO A CONSUMER.

(3) “COMMUNICATION” MEANS A DISPLAY, AN IMAGE, AN OFFER, OR AN ANNOUNCEMENT.

(4) “DYNAMIC PRICING” HAS THE MEANING STATED IN § 13-321 OF THIS SUBTITLE.

~~(5) "PERSONAL DATA" HAS THE MEANING STATED IN § 14-4701 OF THIS ARTICLE.~~

~~(B) THIS SECTION DOES NOT APPLY TO:~~

~~(1) CONDUCT OF A MERCHANT THAT IS REGULATED UNDER THE INSURANCE ARTICLE;~~

~~(2) CONDUCT OF A FOOD RETAILER OR THIRD PARTY FOOD DELIVERY SERVICE PROVIDER SUBJECT TO § 13-321 OF THIS SUBTITLE;~~

~~(3) (I) A FINANCIAL INSTITUTION, AS DEFINED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE; OR~~

~~(II) A FINANCIAL INSTITUTION OR AN AFFILIATE OF A FINANCIAL INSTITUTION THAT IS SUBJECT TO TITLE V OF THE GRAMM LEACH BLILEY ACT; OR~~

~~(4) A LOWER PRICE THAT IS OFFERED TO A CONSUMER WHO IS AN EMPLOYEE OF THE MERCHANT.~~

~~(C) A MERCHANT MAY NOT SET THE PRICE OF A CONSUMER GOOD OR SERVICE USING DYNAMIC PRICING OR PERSONAL DATA AND DIRECTLY OR INDIRECTLY ADVERTISE OR PROMOTE, INCLUDE ON A LABEL, OR PUBLISH ANY OTHER COMMUNICATION CONTAINING THE PRICE, UNLESS THE MERCHANT INCLUDES WITH THE ADVERTISEMENT, PROMOTION, LABEL, OR OTHER COMMUNICATION A CLEAR AND CONSPICUOUS DISCLOSURE WITH THE FOLLOWING STATEMENT:~~

~~"THIS PRICE WAS SET BY AN ALGORITHM OR BY USING YOUR PERSONAL DATA".~~

~~(D) (1) BEFORE INITIATING AN ENFORCEMENT ACTION UNDER SUBTITLE 4 OF THIS TITLE FOR A VIOLATION OF THIS SECTION, THE DIVISION SHALL ISSUE A NOTICE OF VIOLATION TO THE ALLEGED VIOLATOR.~~

~~(2) THE DIVISION SHALL PROVIDE THE ALLEGED VIOLATOR 45 DAYS AFTER THE NOTICE OF VIOLATION IS RECEIVED TO CURE THE VIOLATION.~~

~~(3) IF THE ALLEGED VIOLATOR CURES THE VIOLATION WITHIN THE TIME PERIOD SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE DIVISION MAY NOT INITIATE AN ENFORCEMENT ACTION FOR A VIOLATION OF THIS SECTION.~~

13-408.

(a) THIS SECTION DOES NOT APPLY TO A VIOLATION OF § 13-321 ~~OR § 13-322~~ OF THIS TITLE.

(B) In addition to any action by the Division or Attorney General authorized by this title and any other action otherwise authorized by law, any person may bring an action to recover for injury or loss sustained by him as the result of a practice prohibited by this title.

[(b)] (C) Any person who brings an action to recover for injury or loss under this section and who is awarded damages may also seek, and the court may award, reasonable attorney's fees.

[(c)] (D) If it appears to the satisfaction of the court, at any time, that an action is brought in bad faith or is of a frivolous nature, the court may order the offending party to pay to the other party reasonable attorney's fees.

[(d)] (E) Notwithstanding any other provision of this section, a person may not bring an action under this section to recover for injuries sustained as a result of the professional services provided by a health care provider, as defined in § 3-2A-01 of the Courts Article.

13-411.

(A) THIS SECTION DOES NOT APPLY TO A VIOLATION OF § 13-321 ~~OR § 13-322~~ OF THIS TITLE.

[(a)] (B) Except as provided in subsection **[(b)] (C)** of this section, any person who violates any provision of this title is guilty of a misdemeanor and, unless another criminal penalty is specifically provided elsewhere, on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding one year or both, in addition to any civil penalties.

[(b)] (C) A person may not be imprisoned for violation of any provision of an order of the Attorney General or an agreement of a party relating to unit pricing under Title 14, Subtitle 1 of this article.

14-4701.

(a) In this subtitle the following words have the meanings indicated.

(w) (1) “Personal data” means any information that is linked or can be reasonably linked to an identified or identifiable consumer.

- (2) “Personal data” does not include:
 - (i) De-identified data; or
 - (ii) Publicly available information.

~~Article – Labor and Employment~~

~~4-406.~~

~~(A) IN THIS SECTION, “FOOD RETAILER” HAS THE MEANING STATED IN § 13-321 OF THE COMMERCIAL LAW ARTICLE.~~

~~(B) A FOOD RETAILER MAY NOT IMPLEMENT AN ADMINISTRATIVE, OPERATIONAL, OR ORGANIZATIONAL CHANGE THAT DIMINISHES OR IMPAIRS ANY RIGHT OR BENEFIT GUARANTEED TO EMPLOYEES OF THE FOOD RETAILER UNDER AN EXISTING COLLECTIVE BARGAINING AGREEMENT OR MEMORANDUM OF UNDERSTANDING UNLESS THE CHANGE IS NEGOTIATED AND MUTUALLY AGREED ON WITH THE EXCLUSIVE REPRESENTATIVE OF THE EMPLOYEES.~~

~~(C) A PERSON MAY BRING AN ACTION TO RECOVER FOR INJURY OR LOSS SUSTAINED AS A RESULT OF A VIOLATION OF THIS SECTION.~~

~~(D) A PERSON WHO BRINGS AN ACTION TO RECOVER FOR INJURY OR LOSS UNDER THIS SECTION AND WHO IS AWARDED DAMAGES MAY ALSO SEEK, AND THE COURT MAY AWARD, REASONABLE ATTORNEY’S FEES.~~

~~(E) IF IT APPEARS TO THE SATISFACTION OF THE COURT, AT ANY TIME, THAT AN ACTION IS BROUGHT IN BAD FAITH OR IS OF A FRIVOLOUS NATURE, THE COURT MAY ORDER THE OFFENDING PARTY TO PAY TO THE OTHER PARTY REASONABLE ATTORNEY’S FEES.~~

Article – Tax – General

11-206.

(c) (1) Except as provided in paragraph (2) of this subsection, the sales and use tax does not apply to a sale of food for consumption off the premises by a food vendor who operates a substantial grocery or market business at the same location where the food is sold.

(2) The exemption under paragraph (1) of this subsection does not apply to:

- (i) food that the vendor serves for consumption on the premises of the buyer or of a third party; or
- (ii) food for immediate consumption.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted~~ shall take effect October 1, 2026.

Approved by the Governor, April 28, 2026.