

SB0387/373823/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 387
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, at the top of the page, strike “EMERGENCY BILL”; in the sponsor line, strike “**and Zucker**” and substitute “**Hester, Sydnor, and Zucker**”; in line 2, after “**Retailers**” insert “**and Third-Party Food Delivery Service Providers**”; in line 2, strike “**, Surveillance**” and substitute “**and Personal**”; strike beginning with the second comma in line 2 down through “**Agreements**” in line 3; in lines 5 and 7, in each instance, after “retailer” insert “and a third-party food delivery service provider”; in line 6, strike “surveillance” and substitute “personal”; strike beginning with “prohibiting” in line 8 down through “circumstances;” in line 11; in line 14, after “retailers” insert “and third-party food delivery service providers”; in line 22, after “Section” insert “13-408 and”; and after line 24, insert:

“BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 14-4701(a) and (w)

Annotated Code of Maryland

(2025 Replacement Volume)”.

On pages 1 and 2, strike in their entirety the lines beginning with line 25 on page 1 through line 3 on page 2, inclusive.

AMENDMENT NO. 2

On page 2, strike in their entirety lines 15 and 16; after line 16, insert:

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

strike beginning with “PRACTICE” in line 17 down through “REAL-TIME” in line 21 and substitute “DISCRIMINATORY PRACTICE OF 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”;

in line 22, strike “THE” and substitute “;

1. THE;

and in line 25, after “CUSTOMERS” insert “;

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 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;

8. A PRICE CORRECTION RESULTING FROM A PRICING ERROR; OR

9. RESETTING A PRICE FOLLOWING A SYSTEM OR NETWORK OUTAGE”.

On pages 2 and 3, strike in their entirety the lines beginning with line 31 on page 2 through line 4 on page 3, inclusive, and substitute:

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

(6) (I) “THIRD-PARTY FOOD DELIVERY SERVICE PROVIDER” MEANS A MERCHANT THAT PROVIDES 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.”.

On page 3, in lines 5 and 8, in each instance, after “RETAILER” insert “OR THIRD-PARTY FOOD DELIVERY SERVICE PROVIDER”; in line 5, strike “ENGAGE” and substitute “:

(1) ENGAGE”;

(Over)

in the same line, after “PRICING” insert “TO INCREASE A PRICE FOR CONSUMER GOODS OR SERVICES FOR A SPECIFIC CONSUMER;”; in the same line, strike “USE” and substitute:

“(2) USE”;

in line 6, strike “SURVEILLANCE” and substitute “PERSONAL”; in the same line, strike “SET” and substitute “INCREASE”; after line 12, insert:

“(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.

13-408.

(a) THIS SECTION DOES NOT APPLY TO A VIOLATION OF § 13-321 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.”;

and after line 23, insert:

“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.”.

(Over)

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On pages 3 and 4, strike in their entirety the lines beginning with line 24 on page 3 through line 9 on page 4, inclusive.

On page 4, strike beginning with “is” in line 20 down through “enacted” in line 24 and substitute “shall take effect October 1, 2026”.