

# SENATE BILL 387

I3, K3

EMERGENCY BILL

6lr0331

CF 6lr0332

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By: **The President (By Request – Administration) and Senators Augustine, Brooks, Charles, Harris, Hettleman, Kagan, King, Lam, Lewis Young, Love, and Zucker**

Introduced and read first time: January 27, 2026

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Food Retailers – Dynamic Pricing, Surveillance Data, and Collective Bargaining**  
3 **Agreements**  
4 **(Protection From Predatory Pricing Act)**

5 FOR the purpose of prohibiting a food retailer from engaging in the practice of dynamic  
6 pricing or using consumer surveillance data to set a price for consumer goods or  
7 services; prohibiting a food retailer from using protected class data to offer,  
8 advertise, or sell a consumer good or service under certain circumstances; prohibiting  
9 a food retailer from diminishing or impairing any right or benefit guaranteed to  
10 employees of the food retailer under an existing collective bargaining agreement or  
11 memorandum of understanding under certain circumstances; making a certain  
12 violation of this Act an unfair, abusive, or deceptive trade practice that is subject to  
13 enforcement and penalties under the Maryland Consumer Protection Act; and  
14 generally relating to the regulation of food retailers.

15 BY adding to  
16 Article – Commercial Law  
17 Section 13–321  
18 Annotated Code of Maryland  
19 (2025 Replacement Volume)

20 BY repealing and reenacting, with amendments,  
21 Article – Commercial Law  
22 Section 13–411  
23 Annotated Code of Maryland  
24 (2025 Replacement Volume)

25 BY adding to  
26 Article – Labor and Employment

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 4-406  
Annotated Code of Maryland  
(2025 Replacement Volume)

4 BY repealing and reenacting, without amendments,  
5 Article – Tax – General  
6 Section 11–206(c)  
7 Annotated Code of Maryland  
8 (2022 Replacement Volume and 2025 Supplement)

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

## Article – Commercial Law

12 13-321.

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

26 (4) "FOOD RETAILER" MEANS A MERCHANT THAT OPERATES A  
27 BUSINESS ESTABLISHMENT THAT:

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

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

1 OTHER FORMS OF OBSERVATION OR DATA COLLECTION, THAT ARE CAPABLE OF  
2 GATHERING PERSONALLY IDENTIFIABLE INFORMATION ABOUT A CONSUMER'S  
3 BEHAVIOR, CHARACTERISTICS, LOCATION, OR OTHER PERSONAL ATTRIBUTES,  
4 WHETHER IN A PHYSICAL OR DIGITAL ENVIRONMENT.

5 (B) A FOOD RETAILER MAY NOT ENGAGE IN DYNAMIC PRICING OR USE  
6 SURVEILLANCE DATA TO SET A PRICE FOR CONSUMER GOODS OR SERVICES FOR A  
7 SINGLE CONSUMER OR A GROUP OF CONSUMERS.

8 (C) A FOOD RETAILER MAY NOT USE PROTECTED CLASS DATA TO OFFER,  
9 ADVERTISE, OR SELL A CONSUMER GOOD OR SERVICE TO A CONSUMER FOR WHOM  
10 THE PROTECTED CLASS DATA PERTAINS IF THE USE OF THE PROTECTED CLASS  
11 DATA HAS THE EFFECT OF WITHHOLDING OR DENYING FROM THE CONSUMER AN  
12 ACCOMMODATION, AN ADVANTAGE, OR A PRIVILEGE ACCORDED TO OTHERS.

13 13–411.

14 (A) THIS SECTION DOES NOT APPLY TO A VIOLATION OF § 13–321 OF THIS  
15 TITLE.

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

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

## 24 Article – Labor and Employment

25 4–406.

26 (A) IN THIS SECTION, “FOOD RETAILER” HAS THE MEANING STATED IN §  
27 13–321 OF THE COMMERCIAL LAW ARTICLE.

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

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

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

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

## Article – Tax – General

11 11-206.

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

17 (i) food that the vendor serves for consumption on the premises of  
18 the buyer or of a third party; or

19 (ii) food for immediate consumption.

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