

SENATE BILL 889

I3, K3, S1

6lr2324

By: **Senator Lam**

Introduced and read first time: February 6, 2026

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection and Labor and Employment – Electronic Shelving Labels**
3 **and Surveillance–Based Price and Wage Setting – Prohibitions**

4 FOR the purpose of prohibiting a person from engaging in surveillance–based price setting
5 to set the price of consumer goods or services; prohibiting a food retailer from using
6 electronic shelving labels to display the prices of consumer goods, and instead
7 requiring the use of nondigital presentations of price; making a certain violation of
8 this Act an unfair, abusive, or deceptive trade practice that is subject to enforcement
9 and penalties under the Maryland Consumer Protection Act; prohibiting an
10 employer from engaging in surveillance–based wage setting; and generally relating
11 to electronic shelving labels and surveillance–based price and wage setting.

12 BY adding to
13 Article – Commercial Law
14 Section 13–321 and 13–322
15 Annotated Code of Maryland
16 (2025 Replacement Volume)

17 BY repealing and reenacting, without amendments,
18 Article – Commercial Law
19 Section 14–4701(a), (w), (y), (aa), and (gg)
20 Annotated Code of Maryland
21 (2025 Replacement Volume)

22 BY repealing and reenacting, without amendments,
23 Article – Labor and Employment
24 Section 3–103(a)
25 Annotated Code of Maryland
26 (2025 Replacement Volume)

27 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Labor and Employment
Section 3–103(e)(7) and 3–718
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) “CONSUMER DATA” INCLUDES PERSONAL DATA AND SENSITIVE
DATA, AS THOSE TERMS ARE DEFINED IN § 14–4701 OF THIS ARTICLE;

(3) “DEVICE DATA” MEANS INFORMATION ABOUT A DEVICE OWNED
OR USED BY A CONSUMER, INCLUDING AVAILABLE BATTERY LIFE.

(4) “PROCESS” HAS THE MEANING STATED IN § 14–4701 OF THIS
ARTICLE.

(5) “PROFILING” HAS THE MEANING STATED IN § 14–4701 OF THIS
ARTICLE.

(6) “SURVEILLANCE–BASED PRICE SETTING” MEANS THE PRACTICE
OF SETTING THE PRICE OF CONSUMER GOODS OR SERVICES BASED ON PROFILING
OR OTHER PROCESSING OF CONSUMER OR DEVICE DATA.

(B) THIS SECTION APPLIES TO A MERCHANT THAT CONDUCTS BUSINESS IN
THE STATE OR PROVIDES CONSUMER GOODS OR SERVICES TO CONSUMERS IN THE
STATE.

(C) THIS SECTION DOES NOT APPLY TO A MERCHANT THAT OFFERS A
CUSTOMIZED PRICE TO A CONSUMER OR GROUP OF CONSUMERS WHEN THE
DIFFERENT PRICES:

1 (1) ARE BASED ON DIFFERENCES IN COST TO PROVIDE A GOOD OR
2 SERVICE TO DIFFERENT CONSUMERS; OR

3 (2) REFLECT A DISCOUNT OFFERED TO ALL CONSUMERS OF A GROUP
4 ON EQUAL TERMS CONSISTENT WITH ANTIDISCRIMINATION LAWS.

5 (D) A PERSON MAY NOT ENGAGE IN SURVEILLANCE-BASED PRICE SETTING
6 OR UTILIZE A THIRD PARTY TO ENGAGE IN SURVEILLANCE-BASED PRICE SETTING.

7 13-322.

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

10 (2) “CONSUMER GOODS” HAS THE MEANING STATED IN § 13-301 OF
11 THIS SUBTITLE.

12 (3) (I) “ELECTRONIC SHELVING LABEL” MEANS AN ELECTRONIC
13 AND WIRELESS PAPER DISPLAY THAT SHOWS PRODUCT AND PRICING INFORMATION
14 OF CONSUMER GOODS.

15 (II) “ELECTRONIC SHELVING LABEL” INCLUDES E-PAPER.

16 (4) “FOOD RETAILER” MEANS A MERCHANT THAT OPERATES A
17 BUSINESS ESTABLISHMENT THAT:

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

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

21 (5) “NONDIGITAL PRESENTATION OF PRICE” MEANS:

22 (I) A SIGN THAT OFFERS THE UNIT PRICE FOR ONE OR MORE
23 BRANDS OR SIZES OF A CONSUMER GOOD;

24 (II) A STICKER, STAMP, SIGN, LABEL, OR TAG INDICATING THE
25 PRICE OF A CONSUMER GOOD AFFIXED TO THE SHELF ON WHICH THE CONSUMER
26 GOOD IS DISPLAYED; OR

27 (III) A STICKER, STAMP, LABEL, OR TAG INDICATING THE PRICE
28 OF A CONSUMER GOOD AFFIXED TO THE CONSUMER GOOD.

(B) A FOOD RETAILER MAY NOT USE ELECTRONIC SHELVING LABELS OR ANY DIGITAL SHELF DISPLAY TECHNOLOGY TO DISPLAY THE PRICE OF CONSUMER GOODS.

(C) A FOOD RETAILER SHALL USE NONDIGITAL PRESENTATIONS OF PRICE TO DISPLAY THE PRICE OF CONSUMER GOODS.

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.

(y) (1) “Process” means an operation or set of operations performed by manual or automated means on personal data.

(2) “Process” includes collecting, using, storing, disclosing, analyzing, deleting, or modifying personal data.

(aa) “Profiling” means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable consumer’s economic situation, health, demographic characteristics, personal preferences, interests, reliability, behavior, location, or movements.

(gg) “Sensitive data” means personal data that includes:

(1) Data revealing:

(i) Racial or ethnic origin;

(ii) Religious beliefs;

(iii) Consumer health data;

(iv) Sex life;

(v) Sexual orientation;

(vi) Status as transgender or nonbinary;

(vii) National origin; or

(viii) Citizenship or immigration status;

(2) Genetic data or biometric data;

(3) Personal data of a consumer that the controller knows or has reason to know is a child; or

(4) Precise geolocation data.

Article – Labor and Employment

3–103.

(a) Except as otherwise provided in this section, the Commissioner may conduct an investigation to determine whether a provision of this title has been violated on the Commissioner’s own initiative or may require a written complaint.

(e) **(7) THE COMMISSIONER MAY INVESTIGATE WHETHER § 3–718 OF THIS TITLE HAS BEEN VIOLATED ON RECEIPT OF A WRITTEN COMPLAINT OF AN EMPLOYEE.**

3–718.

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

(2) (I) “AUTOMATED DECISION SYSTEM” MEANS A SYSTEM, SOFTWARE, OR PROCESS THAT USES COMPUTATION TO ASSIST, APPROXIMATE, OR REPLACE HUMAN DECISION MAKING.

(II) “AUTOMATED DECISION SYSTEM” INCLUDES A SYSTEM, SOFTWARE, OR A PROCESS DERIVED FROM MACHINE LEARNING, STATISTICS, OR OTHER DATA PROCESSING OR TECHNIQUES THAT UTILIZE ARTIFICIAL INTELLIGENCE, AS DEFINED IN § 3.5–801 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(3) “SURVEILLANCE–BASED WAGE SETTING” MEANS THE USE OF SURVEILLANCE DATA IN CONJUNCTION WITH AN AUTOMATED DECISION SYSTEM TO OFFER OR INFORM A CUSTOMIZED WAGE FOR A SPECIFIC EMPLOYEE OR GROUP OF EMPLOYEES IN THE STATE.

(4) "SURVEILLANCE DATA" MEANS DATA OBTAINED THROUGH OBSERVATION, INFERENCE, OR SURVEILLANCE OF AN INDIVIDUAL RELATING TO PERSONAL OR GENETIC INFORMATION, BEHAVIOR, OR BIOMETRICS OF THE INDIVIDUAL OR A GROUP, BAND, CLASS, OR TIER TO WHICH THE INDIVIDUAL BELONGS.

(B) THIS SECTION DOES NOT APPLY IF AN EMPLOYER:

(1) OFFERS A CUSTOMIZED WAGE BASED ON DATA SPECIFIC TO AN EMPLOYEE THAT IS:

(I) DIRECTLY RELATED TO THE TASK THE EMPLOYEE WAS HIRED TO PERFORM; OR

(II) BASED ON THE LOCATION WHERE THE EMPLOYEE WORKS AND THE COST OF LIVING IN THAT LOCATION; AND

(2) BEFORE HIRING AN EMPLOYEE WHOSE WAGES ARE SET IN WHOLE OR IN PART THROUGH AN AUTOMATED DECISION SYSTEM, DISCLOSES IN PLAIN LANGUAGE TO THE EMPLOYEE WHAT DATA IS CONSIDERED AND HOW THE AUTOMATED DECISION SYSTEM CONSIDERS THE DATA.

(C) AN EMPLOYER MAY NOT ENGAGE IN SURVEILLANCE-BASED WAGE SETTING.

(D) (1) WHENEVER THE COMMISSIONER DETERMINES THAT THIS SECTION HAS BEEN VIOLATED, THE COMMISSIONER SHALL:

(I) TRY TO RESOLVE ANY ISSUE INVOLVED IN THE VIOLATION INFORMALLY BY MEDIATION; OR

(II) ASK THE ATTORNEY GENERAL TO BRING AN ACTION ON BEHALF OF THE APPLICANT OR EMPLOYEE.

(2) THE ATTORNEY GENERAL MAY BRING AN ACTION UNDER THIS SUBSECTION IN THE COUNTY WHERE THE VIOLATION ALLEGEDLY OCCURRED FOR INJUNCTIVE RELIEF, DAMAGES, OR OTHER RELIEF.

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

1 who operates a substantial grocery or market business at the same location where the food
2 is sold.

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

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

6 (ii) food for immediate consumption.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2026.