



**Testimony for SB0387**  
**Favorable With Amendments**  
**Protection From Predatory Pricing Act**  
**February 13, 2026**

**To:** Honorable Chair Beidle, Vice Chair Hayes, and the members of the  
Senate Finance Committee

**From:** Kayla Mock, Political & Legislative Director

United Food and Commercial Workers Union Local 400

Chair Beidle, Vice Chair Hayes, members of the Senate Finance Committee:

I appreciate the opportunity to share my testimony on behalf of our more than 10,000 members in Maryland, who work in grocery, retail, food distribution, cannabis, and health care. Our members are many of the hardworking men and women who keep Maryland's grocery stores running, ensuring families have access to fresh food and essential goods. Through collective bargaining, our members raise workplace standards for wages, benefits, safety, and retirement for all workers. Union members are critical to addressing inequality and uplifting the middle class.

Fixed pricing systems were introduced into retail out of a rational understanding that all customers, regardless of their wants, needs, perceived wealth, or bargaining skills, should pay the same price.

Surveillance pricing and electronic shelf labels undermine this equity, allowing companies to collect customer data points such as location, demographics, browsing patterns, shopping history, mouse movements, and personal information about a person's life in order to determine their price sensitivity.

Companies already admit to doing this, claiming that the data they collect and how they use it is solely to drive prices down through personalized pricing in apps, targeted coupons, and reward programs.

This bill does not aim to harm that practice; its goal is to stop the nefarious side of surveillance pricing: determining the maximum amount a customer would be willing to pay for a product based on their data collected.

Companies claim that maximizing prices based on data is not happening; however, several studies have shown this is a widespread practice online. Multiple studies, including one extensive study from Goundwork Collaborative in December 2025, found that “Instacart basket totals varied by an average of about 7% for the exact same items from the exact same locations, at the exact same time.” They go on to project that “based on the average of about 7% difference in basket totals and the amount that Instacart says the average household of four spends on groceries in the U.S., that could translate into **a cost swing of about \$1,200 per year.**”

Companies that are already deploying these targeted price modifications online are investing heavily in technology and AI systems to bring predatory price changes into brick-and-mortar stores. In a time when grocery prices in Maryland have risen more than 7% over the last year, according to Consumer Affairs (<https://www.consumeraffairs.com/finance/cost-of-groceries-by-state.html>), addressing this trend is enormously important for food affordability.

We appreciate Governor Moore and his team for their work on this bill and their support for adding the critical section that will transform this bill into effective public policy:

**While we support SB0387, it is missing a critical piece to be truly successful in banning the predatory practice of surveillance pricing – the ban of electronic shelf labels.**

Electronic shelf labels are a piece of surveillance technology that makes prices change remotely and without a human.

Companies use consumer profiles they already own, compiled, or purchased and store them in their proprietary AI systems. By integrating data profiles with AI, coupled with facial recognition cameras and customer tracking software, companies deploy electronic shelf labels to adjust prices based on who is shopping in the stores.

In 2024, two US Senators wrote a letter to Kroger concerned over its use of electronic shelf labels (<https://www.grocerydive.com/news/kroger-electronic-shelf-labels-instore-technology-senators-inflation/723939/>), seeking answers around “Kroger’s ESL device, called Enhanced Display for Grocery Environment (EDGE) Shelf, also threatens consumer privacy, according to the senators. In partnership with Microsoft, Kroger plans to place cameras on its EDGE Shelf displays and use facial recognition to determine information about its shoppers, including gender and age, to push personalized offers and advertisements.”

In January 2025, outgoing FTC Chair Khan released a study of surveillance pricing and the use of ESL’s ([https://www.ftc.gov/system/files/ftc\\_gov/pdf/p246202\\_surveillancepricing6bstudy\\_researchsummaries\\_redacted.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/p246202_surveillancepricing6bstudy_researchsummaries_redacted.pdf)) however, with the new administration, the study was ended.

Additionally, electronic shelf labels also impact workers' jobs. Grocery workers spend a significant amount of time changing shelf label prices in grocery stores. The widespread adoption of ESLs and surveillance pricing will result in lost hours and wages for these employees.

Lastly, ESL's bring customer confusion, frustration, and anger when prices change suddenly and without transparency. Employees are already experiencing this on the front lines: when customers see price changes in the app, in-store employees are confronted with explaining or mediating the situation.

**Paper tags are the best protection for consumers, for store employees, for workers at the companies that make the paper, and are affordable.**

We urge a favorable report on SB0387 with the inclusion of the ban on electronic shelf labels,