



Testimony for SB0889

Favorable

Consumer Protection and Labor Employment

Electronic Shelving Labels and Surveillance-Based Price and Wage Setting

Prohibitions

March 10, 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 over 10,000 members in Maryland, who work in grocery, retail, food distribution, cannabis, and health care. Through collective bargaining, our members raise the workplace standards of wages, benefits, safety, and retirement for all workers. Union members are critical to addressing inequality and uplifting the middle class.

Many of our members are the hardworking men and women who keep Maryland's grocery stores running, ensuring families have access to fresh food and essential goods.

In the mid-19th century, the Quakers pioneered fixed pricing systems, transforming commerce. They believed that all customers, regardless of their wants, needs, perceived wealth, or bargaining skills, should pay the same price.

Surveillance pricing undermines this equity, allowing companies to analyze data points such as location, demographics, browsing patterns, shopping history, and even mouse movements to determine 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 data collected about them.

Companies claim that data-driven price optimization is not happening; they only use this data for personalized savings for consumers. However, several studies have shown that it 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 to bring it to real-time brick-and-mortar stores.

We appreciate Senator Lam and his team for their work on this bill, especially in a time when grocery prices in Maryland have risen over 7% in the last year, according to Consumer Affairs (<https://www.consumeraffairs.com/finance/cost-of-groceries-by-state.html>).

We support SB0889, and we believe it has the 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 often changes prices without human oversight.

Companies use consumer profiles they already have, compiled or purchased, and store them in their proprietary AI systems. By integrating data profiles with AI, along with facial recognition cameras and customer-tracking software, companies deploy electronic shelf labels to adjust prices based on who is shopping in 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 on surveillance pricing and the use of ESLs (https://www.ftc.gov/system/files/ftc_gov/pdf/p246202_surveillancepricing6bstudy_researchsummaries_redacted.pdf); however, with the new administration, the study was discontinued.

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.

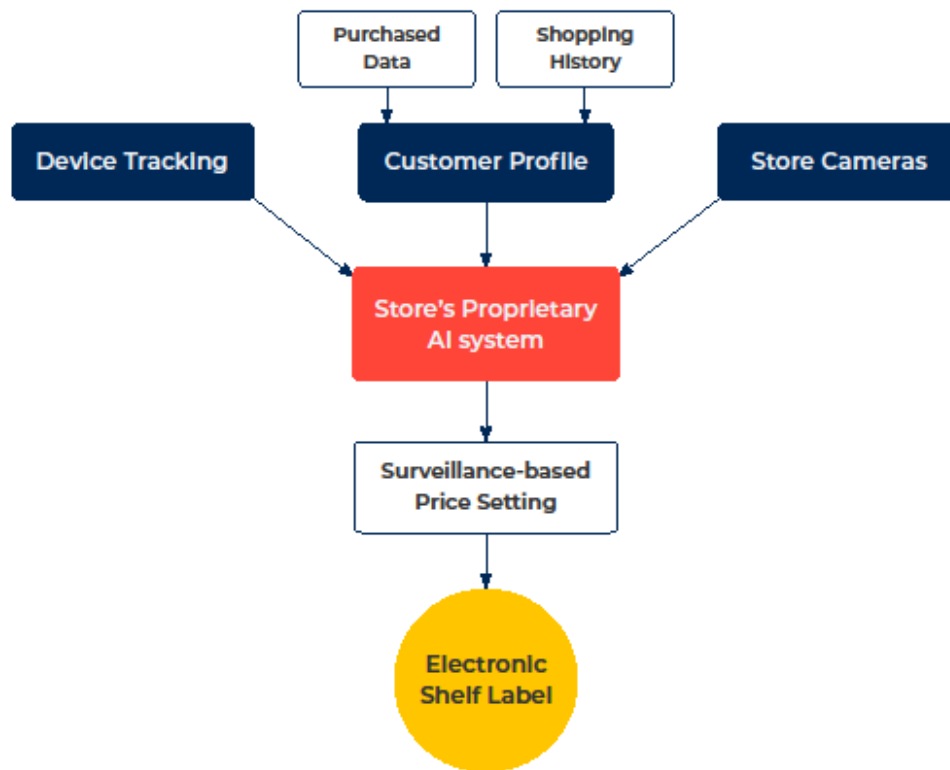
Lastly, ESL's bring customer confusion, frustration, and anger when prices change suddenly and without transparency. Employees are already experiencing this on the front lines: when customers see price changes in the app, in-store employees are confronted with explaining or mediating the situation.

Paper tags are the best protection for consumers and employees and are affordable.

We urge a favorable report on SB0889 to protect Maryland's consumers and workers.

ELECTRONIC SHELF LABELS FACILITATE DISCRIMINATORY PRICING IN GROCERY STORES

ESL technology can incorporate vast amounts of personal data which can be used to set different prices for different people in real time. Using personal customer data compiled into a customer profile, a store can use an AI system to calculate the maximum amount of money a customer is willing to pay, and reflect that number on the ESL when the customer is in the aisle.



The United Food and Commercial Workers (UFCW) represents highly trained grocery professionals who work on the frontlines to keep our communities fed. ESLs can lead to job loss in the grocery sector and higher grocery prices for consumers.

