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SB 387 - Food Retailers - Dynamic Pricing, Surveillance Data, and Collective Bargaining Agreements (Protection From Predatory Pricing Act)

Senate Finance Committee

February 17, 2026

SUPPORT

Elizabeth Bobo

Legislative Director

Maryland State & DC AFL-CIO

Madame Chair and members of the Committee, thank you for the opportunity to submit testimony in support of SB 387 with amendments.

SB 387 prohibits food retailers from engaging in dynamic pricing while also barring retailers from using surveillance data, including sensors, cameras, and device tracking to set individualized prices for consumers. No one should pay more for groceries because an algorithm has studied their personal data to determine them as different from other consumers.

In the 19th century, a fixed-priced system was created because it was the belief that every customer should pay the same price for the same goods, regardless of their background or perceived value. Dynamic pricing undermines that foundation. Today, companies can analyze a range of data points from an individual's location and demographics, to their browsing patterns and shopping history. With this data, companies estimate what each individual is willing to pay. Two people standing in front of the same shelf at the same moment can be steered toward different prices, not because of discounts or cost differences, but because an algorithm has determined them to be different.

This is discrimination by algorithm. It erodes consumer trust, exploits personal information, and creates a shopping environment where consumers are left vulnerable to predatory pricing practices. SB 387 addresses this by prohibiting the use of protected-class data in ways that deny customers the opportunities offered to others, restoring transparency and fairness to shopping.



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Importantly, SB 387 protects workers. The legislation prevents food retailers from implementing operational or organizational changes that undermine rights given in existing collective bargaining agreements unless those changes are negotiated. This is especially important because the same technologies that bring dynamic pricing are the same that bring worker monitoring and new pressures to the workplace.

However, while we strongly support the substance of SB 387, we respectfully request an amendment to strengthen its protections: **the bill should include a ban on Electronic Shelf Labels (ESLs)**. Without a prohibition on ESLs, companies may implement dynamic based pricing at scale. To protect both workers and consumers from the predatory practices enabled by this technology, SB 387 must close this loophole.

For these reasons, we urge a favorable report on SB 387 with this amendment.



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