



March 12, 2026

The Honorable Pamela Beidle
Chair
Senate Committee on Finance
Miller Senate Office Building, Room 3E
11 Bladen Street
Annapolis, MD 21401-1991

RE: Oppose SB 889 - "Electronic Shelving Labels and Surveillance-Based Price and Wage Setting – Prohibitions"

Dear Chair Beidle and members of the Senate Finance Committee:

On behalf of Chamber of Progress, a tech industry association supporting public policies to build a more inclusive society in which all people benefit from technological advances, **I respectfully urge you to oppose SB 889, which would harm consumers in Maryland.**

We share the General Assembly's concern about affordability. The cost of living is the top issue facing American families,¹ and we understand the impulse to ensure consumers are getting a fair deal. But SB 889 risks backfiring on the very families it aims to help.

SB 889 is among the broadest surveillance pricing bills introduced in any state this session. Rather than targeting a specific sector or practice, it applies a blanket ban on data-informed pricing across all consumer goods and services, with no exemption for loyalty programs, digital coupons, or personalized promotions. It also flatly prohibits electronic shelf labels in grocery stores, banning a display technology regardless of how it is used. The digital coupons, loyalty rewards, and targeted deals that help Maryland families stretch their budgets would all be outlawed, and grocers would lose a tool that improves pricing accuracy, reduces food waste, and lowers operating costs.

Personalized pricing in practice: discounts and savings that help Maryland families

The term "surveillance pricing" suggests that companies are using personal data to charge individual consumers higher prices. But **despite widespread speculation, there is**

¹ Erin Doherty, "New poll paints a grim picture of a nation under financial strain," *POLITICO*, Dec. 10, 2025, <https://www.politico.com/news/2025/12/10/poll-affordability-cost-of-living-00678076>.

no conclusive evidence that this is actually happening. What businesses overwhelmingly use consumer data for is the opposite: offering discounts, coupons, and targeted promotions that help families save money.

The competitive dynamics of consumer markets explain why. When shoppers can compare prices with a few taps on their phone, using personal data to charge a customer more is a losing strategy; a competitor will simply offer a better price and win the sale. Businesses that use consumer data most actively are competing hardest for customers, and they compete by offering better deals, not higher prices.

In practice, these savings take familiar forms:

- *Personalized coupons.* Your grocery store's app sends you a \$2-off coupon for the cereal you buy every week, or a deal on diapers because you have a baby at home.
- *Loyalty rewards.* Your local coffee shop gives you a free drink after ten purchases, or sends you a discount because you haven't visited in a month.
- *Retention offers.* A streaming service offers you a discounted rate to come back after you canceled, or a meal kit company drops its price to keep you as a subscriber.
- *Delivery and rideshare promotions.* A delivery app sends you a promo code for free delivery because you haven't ordered in a while, or a rideshare app offers a discounted fare on your regular commute.
- *Small business offers.* A seller on an online marketplace sends you a 10% off coupon for an item you favorited, or a small clothing brand offers a discount because you've browsed their site before.

Consumers actively seek out these deals. A 2024 survey of more than 10,000 consumers found that 91% are willing to share personal data in exchange for value from brands, with discounts, loyalty points, and exclusive access as the top motivators.²

Targeted promotions also help new brands and smaller businesses compete. A new grocery brand can use targeted discounts to introduce itself to likely buyers; a local retailer can use promotional pricing to compete against national chains with far larger advertising budgets. Restricting these practices tilts the playing field toward large incumbents, reducing the competition that keeps prices low.

SB 889 would ban these practices and raise costs for Maryland families

SB 889 is aimed at a hypothetical harm, but its real effect would be to eliminate the pro-consumer savings described above. The bill defines "surveillance-based price

² Marigold, "2024 Global Consumer Trends Index" (2024), <https://www.globenewswire.com/en/news-release/2024/01/16/2809582/0/en/Annual-Marigold-Global-Consumer-Trends-Index-Reveals-Need-for-Brands-to-Deliver-on-Data-Privacy-and-Personalization-to-Win-Customer-Loyalty.html>.

setting" as pricing based on "profiling or other processing of consumer or device data," and it incorporates the Maryland Online Data Privacy Act's expansive definition of "processing," which includes collecting, using, storing, analyzing, or modifying personal data.³ Under that definition, any use of consumer information to inform a pricing decision could violate the law. Everyday discounts, targeted promotions, and loyalty rewards all fall on the wrong side of the ban.

The bill's narrow exemptions for cost-to-serve differentials and group discounts offered on equal terms do not rescue the prohibition.⁴ SB 889 provides no exemption for loyalty programs, even though 70% of consumers say they value them⁵ and about 24% of consumers earning under \$40,000 rely on loyalty programs when choosing where to shop.⁶ A coffee shop that tracks purchases to offer a free tenth drink, a grocery store that sends a family a coupon based on what they buy, a streaming service that offers a discount to win back a lapsed subscriber: all prohibited.

The cost to families would be significant. Digital coupons alone save the average household \$1,465 each year.⁷ Low-income families, especially those with children, are among the most active coupon users.⁸ Research on personalized pricing reinforces this point: one study found that it delivers lower prices for the majority of consumers,⁹ and another found that it can have progressive distributional effects, directing savings toward the consumers who benefit most from discounts.¹⁰ Banning personalized pricing does not produce a fairer market. It produces a less accessible one.

SB 889's electronic shelf label ban would raise grocery costs and increase food waste

SB 889 prohibits food retailers with more than 15,000 square feet of selling space from using electronic shelf labels or any digital shelf display technology to display prices.¹¹ This is not a regulation of how ESLs are used. It is a ban on the technology itself, regardless of whether a grocer uses it solely to display static prices the same way a paper tag would.

³ MD SB 889, Section 13-321(A)(6); Md. Code, Com. Law Section 14-4701(y).

⁴ MD SB 889, Section 13-321(C).

⁵ Bobby Stephens and Ramya Murali, *2024 Consumer Loyalty Survey*, Deloitte, Feb. 24, 2025,

<https://www.deloitte.com/us/en/services/consulting/articles/brand-loyalty-program-consumer-behavior.html>.

⁶ F. Watty, "Supermarket Choice Due to Membership in Its Loyalty Program in U.S. 2023 by Income," Statista, Jan. 11, 2024, <https://www.statista.com/statistics/1548425/supermarket-choice-due-to-loyalty-program-by-income-us/>.

⁷ Elyssa Kirkham, "Study: Skipping Online Coupons Could Cost You \$1,465 Per Year," CouponFollow, last modified May 19, 2021, <https://couponfollow.com/research/coupon-data-study>.

⁸ Stephanie M. Noble et al., "Coupon Clipping by Impoverished Consumers: Linking Demographics, Basket Size, and Coupon Redemption Rates," *International Journal of Research in Marketing* 34, no. 2 (2017): 553-571, <https://doi.org/10.1016/j.ijresmar.2016.08.010>.

⁹ Jean-Pierre Dube and Sanjog Misra, "Personalized Pricing and Consumer Welfare," *Journal of Political Economy* 131, no. 1 (2023): 131-189, <https://www.journals.uchicago.edu/doi/10.1086/720793>.

¹⁰ Jerod Coker and Jean-Manuel Izaret, "Progressive Pricing: The Ethical Case for Price Personalization," *Journal of Business Ethics* 173, no. 3 (2021): 387-398, <https://doi.org/10.1007/s10551-020-04545-x>.

¹¹ MD SB 889, Section 13-322(B).

ESLs are digital displays that allow grocers to update pricing centrally rather than replacing paper tags by hand. They improve price accuracy and reduce labor costs by up to 80% for price management tasks,¹² savings that help grocers keep operating costs down rather than passing them on to shoppers. Banning ESLs would force Maryland grocers back to paper-only price management, locking them into higher labor costs and more frequent pricing errors at a time when consumers are already paying more for groceries.

Opponents worry ESLs will be used for surge pricing. The largest peer-reviewed empirical study of ESLs in U.S. grocery found otherwise. Researchers at UC San Diego, Northwestern, and UT Austin analyzed over 180 million product-level observations across 114 stores before and after ESL adoption.¹³ Surge pricing affected just 0.005% of products per day before ESLs, and that figure increased by only 0.0006 percentage points after adoption.¹⁴ Surge pricing was "basically nonexistent" before electronic shelf labels, and it stayed nonexistent with them. Discounts were actually slightly *more* common after ESL adoption.

What ESLs do enable is more frequent markdowns on perishable goods nearing expiration, which separate research shows can reduce grocery food waste by up to 21%.¹⁵ In 2022 alone, U.S. grocers wasted 5 million tons of food.¹⁶ **ESLs are not a tool for price gouging; they are a tool for getting consumers better deals on food that would otherwise end up in a landfill.** A flat ban on the technology treats a display tool as if it were a pricing strategy. Maryland should address genuinely harmful practices directly, not prohibit a technology that has clear consumer benefits.

Maryland should not be the first state to ban the personalized savings families depend on

No state has enacted a ban on algorithmic or surveillance pricing. Similar proposals have been introduced across the country, and they have repeatedly stalled or failed to advance. The reason is straightforward: **broad bans on personalized pricing inevitably capture the very savings tools that consumers rely on.** Imposing a blanket pricing restriction that does not exist anywhere in the country would put Maryland businesses at a competitive disadvantage while raising costs for Maryland consumers.

¹² Jessica Vician, "Electronic Shelf Labels Deliver Flexibility & Eliminate Pricing Errors," *IGA Insights*, Jul. 19, 2023, <https://www.iga.com/insights/electronic-shelf-labels>.

¹³ Ioannis Stamatopoulos et al., "Electronic Shelf Labels Have Not Led to Surge Pricing in US Grocery Retail, Despite Regulator Concerns," *SSRN*, May 27, 2025, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5271491.

¹⁴ Ioannis Stamatopoulos et al., "Surge Pricing in Aisle Five?" *Kellogg Insight*, Aug. 1, 2025, <https://insight.kellogg.northwestern.edu/article/surge-pricing-in-aisle-five>.

¹⁵ Brian Maloney, "Digital Labels Can Help Grocers Waste Less Food," *McCombs News*, Dec. 17, 2024, <https://news.mcombs.utexas.edu/research/digital-labels-can-help-grocers-waste-less-food/>.

¹⁶ SOLUM, "New Retail Innovation May Eliminate Food Waste For Good," Dec. 8, 2020, <https://www.solumesl.com/en/insights/use-esl-to-reduce-retail-food-waste>.

I respectfully urge you to oppose SB 889. This bill would take away the personalized discounts, digital coupons, and loyalty rewards that Maryland families rely on to get by. We welcome the opportunity to discuss targeted approaches that address genuine pricing abuses without eliminating the benefits consumers value.

Sincerely,

A handwritten signature in black ink, appearing to read "Brianna January". The signature is fluid and cursive, with the first name being more prominent.

Brianna January
Director of State & Local Government Relations, Northeast US