

SB0889_RichardKaplowitz_FAV

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TESTIMONY ON SB#0889- POSITION: FAVORABLE

Consumer Protection and Labor and Employment - Electronic Shelving Labels and Surveillance-Based Price and Wage Setting - Prohibitions

TO: Chair Beidle, Vice Chair Hayes, and members of the Finance Committee

FROM: Richard Keith Kaplowitz

My name is Richard Keith Kaplowitz. I am a resident of District 3, Frederick County. I am submitting this testimony in support of SB#0889, **Consumer Protection and Labor and Employment - Electronic Shelving Labels and Surveillance-Based Price and Wage Setting – Prohibitions**

This bill is an important consumer and labor protection measure. PBS News has explained *How online retailers are using AI to adjust prices by mining your personal data*¹

Some retailers are using artificial intelligence to set individualized prices online by sifting through personal data, including age, gender, location and browsing history.... That's the practice of some retailers using the power of AI to sift all sorts of personal data centers to set individualized prices online. Things like your age, gender, geographic location and even browsing history could change the price you pay.

Surveillance pricing is basically when companies gather a huge amount of data about their individual customers. And we're living in an era where more data is being collected about us than ever before. Companies take that data and they use it to try to figure out basically how to wring more money out of you when you buy things from them. What is your pain point? What are you willing to pay, questions like that. And there's a widespread experiment happening with that kind of pricing in some business sectors today.

This anti-consumer practice treats you as a data point and charges whatever the company thinks you can bear rather than a consistent price across the entire customer base.

In support of this dynamic pricing the use of electronic shelving labels is utilized. Electronic Shelf Labels (ESLs) are digital, battery-powered displays—typically using e-paper or LCD technology—attached to store shelves to show prices, product info, and barcodes. They update instantly from a central server, replacing paper tags to enable dynamic pricing, improve inventory management, and enhance operational efficiency.²

The Washington Center for Equitable Growth has explained *How artificial intelligence uncouples hard work from fair wages through 'surveillance pay' practices—and how to fix it*³

¹ <https://www.pbs.org/newshour/show/how-online-retailers-are-using-ai-to-adjust-prices-by-mining-your-personal-data#:~:text=Surveillance%20pricing%20is%20basically%20when,Jay%20Stanley:>

² Google AI Search “what are electronic shelving labels”

³ <https://equitablegrowth.org/how-artificial-intelligence-uncouples-hard-work-from-fair-wages-through-surveillance-pay-practices-and-how-to-fix-it/>

Workers' pay is increasingly shaped by opaque algorithms and artificial intelligence systems, shifting compensation decisions away from human managers, clear legal standards, and collective bargaining. This phenomenon—known as algorithmic wage discrimination¹ or surveillance pay²—was first documented in app-controlled ride-hail and food-delivery work.

Now, it is spreading to a range of other industries and services.

Our first-of-its-kind audit of 500 AI labor-management vendors suggests that traditional employers in industries including health care, customer service, logistics, and retail are now using automated surveillance and decision-making systems to set compensation structures and to calculate individual wages. Without policy interventions, we fear that these practices will become normalized, thus growing income uncertainty, entrenching bias, and eroding wage-setting transparency.

Recognizing the harm this AI driven practice will bring to workers in Maryland this bill will prohibit this practice by employers in Maryland.

Overall this important bill will prohibit a person from engaging in surveillance-based price setting to set the price of consumer goods or services; prohibit a food retailer from using electronic shelving labels to display the prices of consumer goods, and instead requiring the use of nondigital presentations of price; make a certain violation of the Act an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act; and prohibit an employer from engaging in surveillance-based wage setting.

AI is being used in ways that disadvantage consumers and workers and Maryland needs to be proactive in controlling its usage.

I respectfully urge this committee to return a favorable report on SB#0889.