

SB889_FAV.pdf

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Position: FAV



MARYLAND STATE & D.C. AFL-CIO

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SB 889 - Consumer Protection and Labor and Employment – Electronic Shelving Labels and Surveillance-Based Price and Wage Setting - Prohibitions

Senate Finance Committee

March 12, 2026

SUPPORT

Elizabeth Bobo

Legislative Director

Maryland State and DC AFL-CIO

Madame Chair and members of the Committee, thank you for the opportunity to submit testimony in support of SB 889.

Quakers pioneered the fixed-price system in the 19th century because they believed that all customers, regardless of their background, bargaining power, or value, should pay the same price for the same goods.

Surveillance-based pricing undermines that foundational principle. Today, companies analyze an array of data points ranging from location and demographics to browsing patterns and shopping history. With that, they determine what they think a customer is willing to pay. Two people looking at the same product at the same moment can be steered towards different prices, not because of cost differences or discounts, but because an algorithm has profiled them to be different and thus gives them different prices.

This is discrimination by algorithm. It erodes consumer trust, exploits information, and creates a marketplace where customers are vulnerable to companies' predatory practices. SB 889 restores fairness by prohibiting this form of opaque pricing manipulation.

A crucial component of this bill is its prohibition on Electronic Shelving Labels (ESLs). These digital shelf labels allow prices to be changed instantly and repeatedly, enabling individualized pricing. By requiring "non-digital price displays", SB 889 prevents the deployment of tools that would make surveillance-based pricing easy to implement at scale in grocery stores.

For these reasons, we urge a favorable report on SB 889.



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SB0889 - Favorable.pdf

Uploaded by: Jane St Louis

Position: FAV

Good afternoon. My name is Jane St. Louis. I am a scan coordinator and have worked for Safeway for 33 years. I am also a proud member of the UFCW Local 400. Today I am speaking on behalf of grocery workers across Maryland and across this country.

I want to share what pricing looks like **from the worker's side**, because it is very different from how it is often described.

Customers assume that prices are the same for everyone, unless you use a coupon or discount card, in which case the discounts are the same for everyone. But with the introduction of retail apps, customers using the app may get a different discount than the person standing next to them buying the exact same product.

This happens even on advertised items. Customers don't understand why they are paying more. They feel frustrated and embarrassed, and they turn to employees for answers.

Workers are then put in the impossible position of trying to explain why **one customer qualifies for a price and another does not**. We are expected to explain technology, data collection, and pricing systems that we don't control. This confusion is happening in **almost every retail store today** where customers can use an app to receive lower prices.

These systems collect customer data—what people buy, how often they shop, and how they use the app—to decide who gets better deals. While retailers may call this personalized savings, from the worker's point of view, it creates **unequal pricing, confusion, and stress on the front line**.

Electronic shelf labels will make this problem even worse, because every customer in the store will be impacted, whether they use an app or not. Customers will have no way of knowing if they're getting a deal or if they're getting squeezed.

To be clear: this bill does nothing to stop retailers from offering discounts. This bill simply protects customers from their personal information—such as their race, gender, family status, or even whether or not they're pregnant—being used against them to individually charge them more for their purchases.

But this bill is not just about pricing. It is about **fairness, transparency, and protecting workers and consumers**.

As pricing becomes more automated and digital, **jobs are disappearing**. Electronic shelf labels and automated pricing systems are replacing work that trained employees once did. Across Safeway stores nationwide, scan coordinators who once worked **full-time—40 hours a week with benefits—are now being cut to just 8 to 10 hours a week**, causing workers to lose healthcare, financial stability, and dignity after decades of service.

I have given 33 years of my life to this company. Many of my coworkers have done the same. We are not data points or algorithms. We are people trying to support our families.

I urge you to support the Protection from Predatory Pricing Act and stand with grocery workers and the communities we serve.

Thank you for listening.

SB889 Sen. Lam UFCW IU Testimony.pdf

Uploaded by: Jeremy Espinosa

Position: FAV



**Testimony of
Jeremy Espinosa
United Food and Commercial Workers International Union**

before the

**Maryland Senate Finance Committee
March 12, 2026**

regarding

SB 889

Thank you, Senator Beidle, Senator Hayes, and all the distinguished members of the Senate Finance Committee for the opportunity to testify on SB 889.

I am here today in support of this bill and on behalf of United Food and Commercial Workers Locals 27 and 400 representing more than 22,000 members in Maryland who work in retail grocery stores, food processing, healthcare, and the cannabis industry. UFCW members put food on the table for Maryland families. And unfortunately, today the cost of food in Maryland is not affordable for many working families.

Food costs continue to climb. U.S. food prices rose by nearly 24% from 2020 to 2024. In Maryland, grocery prices increased by 6.4% over the past year and according to U.S. census data the average weekly grocery bill here is \$266.11. This means Maryland families are paying nearly \$14,000 a year to put food on the table. This is unsustainable and now there is new technology being introduced that would make this problem worse.

Many factors are responsible for this trend, but one issue can be addressed directly through policy: price gouging made possible by the use of surveillance-based pricing and electronic shelf labels (ESLs).

Major grocery chains are introducing these technologies that will allow them to squeeze consumers by preying on what they know about a customer's needs or ability to pay. Companies collect extensive data about our lives – where we go, who we live with, what we purchase, and retailers are beginning to use this information to tailor prices to individual shoppers.

Investments in this technology are about squeezing consumers for extra money. It is not to save consumers money. Prices can already be lowered, sales offered. If this technology can be used to quickly lower prices, then it can also be used to quickly raise them. There is no way for us to know when we are getting a deal and when the store is squeezing us for every dollar it thinks it can get.

Electronic shelf labels are a critical piece of discriminatory pricing in brick and mortar stores. These are digital price tags connected to centralized systems that can quickly adjust pricing in real-time. When combined with customer profiles and advanced algorithms, these systems can enable stores to set prices not based on economics but on what they know about an individual customer. In practice, this could allow retailers to analyze personal data and calculate the highest amount a shopper is willing to pay, then update the price shown on the shelf in real time.

These technologies are already being tested. Grocery chains across the country have launched pilot programs using electronic shelf labels. Kroger introduced ESLs in hundreds of locations and Walmart has announced plans to install them in all of its stores. Both companies have been reported to use dynamic pricing.

If grocery pricing begins to resemble the surge-style pricing used by ride-hailing services, lawmakers must step in to regulate the tools that make such practices possible. Without oversight, surveillance-driven pricing and digital shelf technology could push grocery costs even higher.

For this reason, we are advocating for a prohibition on electronic shelf labels. Food is a basic necessity, not unnecessary merchandise and shoppers should be able to rely on consistent, easily understood prices. Traditional printed price tags provide transparency and stability.

If policymakers do not act, both surveillance pricing and electronic shelf technology will continue to add pressure to already rising grocery costs and worsen affordability challenges. Prohibiting surveillance technology and electronic shelf labels is a necessary step. I respectfully ask the committee to pass SB 889 and move the bill forward. Thank you for the opportunity to testify.

UFCW 400 Favorable on SB0889 - Surveillance Pricin

Uploaded by: Kayla Mock

Position: FAV



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.

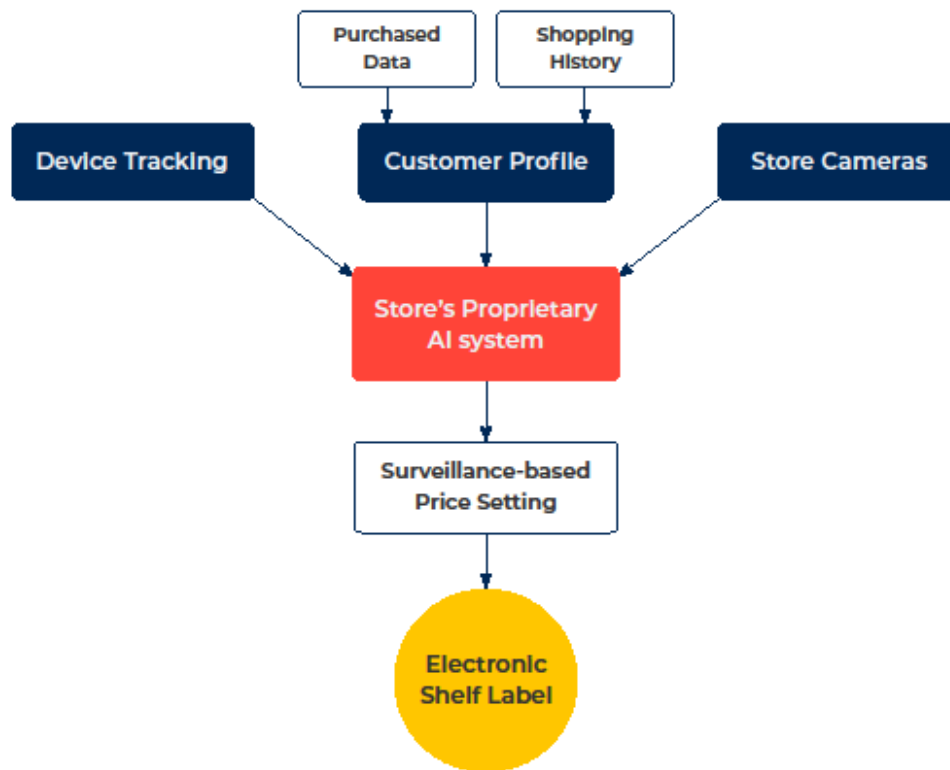
Lastly, ESL's bring customer confusion, frustration, and anger when prices change suddenly and without transparency. Employees are already experiencing this on the front lines: when customers see price changes in the app, in-store employees are confronted with explaining or mediating the situation.

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.



SB889 Surveillance Price and Wage Setting -EconAct

Uploaded by: Marceline White

Position: FAV



SB889 Consumer Protection and Labor and Employment – Electronic Shelving Labels 3 and Surveillance–Based Price and Wage Setting – Prohibitions
Position: FAV

March 12, 2026

The Honorable Pam Beidle, Chair
Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, Maryland 21401
cc: Members, Senate Finance

Chair Beidle and Members of the Committee,

Economic Action Maryland Fund is here in strong support of SB387.

Each year, our Securing Older Adult Resources (SOAR), Tenant Advocacy, and Fair Housing programs serve nearly 2000 older adults and renters who struggle to make ends meet.

The high cost of groceries came up as a point of stress for them again and again. In a recent survey we conducted of more than 500 Marylanders, 73% said that skyrocketing food prices had the greatest impact on their economic security.

Maryland families work hard to put food on the table. But this is becoming harder and harder to do. While there are many factors that contribute to the soaring cost of groceries that are outside of our control, technology is something that we can manage to ensure it does not contribute to rising prices.

Technology can be used to increase price transparency and competition but instead grocery store chains are collecting reams of personal data in order to charge people different prices for the same bag of groceries. Grocery stores are doing this through the use of dynamic pricing and surveillance pricing. Grocery stores are moving from traditional labels to electronic labels which can change prices at the flip of a switch-and that's part of the issue.

Surveillance pricing is when grocery store chains collect reams of personal data on customers in order to charge people different prices for the same bag of groceries. Why should one customer be charged more for a loaf of bread than another based on personal data? This practice distorts the market, may be based on error-filled data, and skews the market by using these 'black box' models to set prices.

Economic Action (formerly the Maryland Consumer Rights Coalition) champions economic rights and housing justice through advocacy, research, consumer education, and direct service. Our 12,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

2209 Maryland Ave · Baltimore, MD 21218 | www.econaction.org
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This predatory pricing model is often used online as well. It hits older adults hard since many rely on online shopping where it is more difficult for them to compare items between stores or see price differences. Similarly 36% of Baltimore City households do not have cars. These residents and those of people with mobility issues are uniquely vulnerable to these black box pricing models since they are more likely to either shop at the nearest store or rely on online retailers for their groceries.

Technology and Wages

As new technologies emerge, they hold the potential to both spur innovation as well as reinforce discrimination. Many companies are embracing the use of algorithms to assist in a number of ways including employment screening. However, a recent survey of 500 employers found that a number of industries including customer service, logistics, healthcare, and retail are using black box AI and algorithms to set compensation and calculate individual wages.

This flies in the face of the U.S. long embrace of meritocracy-if you work hard, you will be successful. Instead, with the use of these technologies, corporations can set individual wages per hour. Inverting the idea of hard work leads to better wages, research has found that the longer hours individuals worked, the lower their pay¹.

Predictive analytics may assess a worker's 'elasticity' for low pay; system errors such as penalizing drivers for others accidents or road work when the system was supposed to assess road conditions results in unfair errors that affected pay, and the black box nature of the data may impede organizing for better wages and working conditions, particularly for gig workers. As low-wage and gig workers live from paycheck to paycheck, Maryland must ensure technologies help workers to thrive rather than depress wages and bonuses.

SB889 simply protects hardworking Marylanders from predatory technology that eliminates the public price of a good and sets higher prices for certain individuals based on the time that they shop or personal characteristics. It also addresses the use of algorithms in hiring. These tools distort the marketplace, create asymmetrical information, and have the potential to harm Marylanders as workers and consumers.

For all these reasons, we support SB889 and urge a favorable report.

Best,

Marceline White
Executive Director

1

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

Economic Action (formerly the Maryland Consumer Rights Coalition) champions economic rights and housing justice through advocacy, research, consumer education, and direct service. Our 12,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

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Testimony in support of SB0889 - Consumer Protecti

Uploaded by: Richard KAP Kaplowitz

Position: FAV

SB0889_RichardKaplowitz_FAV

03/12/2026

Richard Keith Kaplowitz Frederick,
MD 21703

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.

SB 889 CPD Support with Amendment.pdf

Uploaded by: Hanna Abrams

Position: FWA

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**STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION**

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HANNA ABRAMS
Assistant Attorney General

March 12, 2026

TO: The Honorable Pamela Beidle, Chair
Finance Committee

FROM: Hanna Abrams, Assistant Attorney General
Consumer Protection Division

RE: Senate Bill 889– Consumer Protection and Labor and Employment –
Electronic Shelving Labels and Surveillance–Based Price and Wage
Setting – Prohibitions (SUPPORT WITH AMENDMENTS)

The Consumer Protection Division of the Office of the Attorney General supports Senate Bill 889 (“SB 889”) sponsored by Senator Lam, with amendments. Senate Bill 889 restricts businesses’ use of consumers’ personal data to personalize prices or wages and prohibits the use of electronic shelving labels.

Senate Bill 889 protects consumers by restricting the use of “surveillance-based price setting.” Surveillance-based pricing uses massive amounts of data about an individual consumer to charge the highest price and extract the maximum profit that the consumer would be willing to pay for a given product or service. Advances in data collection and artificial intelligence allow companies to collect, purchase, and analyze your personal data on an unimaginable scale and without consumer knowledge. Companies exploit this trove of detailed personal data – demographics, browsing history, location data, keystroke data, purchasing behavior, inferential data, and other data – to set the prices of goods and services on an individual basis.

“Surveillance-based price setting” harms consumers by offering the same product or service at the same time from the same business at different prices to different consumers. These price differences can be discriminatory based on characteristics such as race, gender, age, income, or geographic location. Second, surveillance pricing incentivizes data brokers to collect vast amounts of data in order to predict an individual consumer’s cost thresholds. And finally, surveillance pricing results in a lack of transparency around pricing practices and prevents consumers from making informed choices. Moreover, because surveillance-based pricing allows businesses to identify an individual consumer’s reservation price (the maximum price a

consumer is willing to pay for a good), it allows a store to charge that consumer more than it would have otherwise.

In addition, although the Division takes no position on the outright ban of electronic shelving labels proposed by SB 889, the Division supports limitations on the use of electronic shelving labels, such as prohibiting retailers from using electronic shelving labels to alter prices for individual consumers or using electronic shelving labels in a way that undermines a consumer's ability to comparison shop, including using them to change prices more frequently. These protections are particularly important in the context of food, an essential good.

Based on testimony in the General Assembly, the Division understands that retailers contend that loyalty programs should be exempted. Store loyalty programs should not be exempted from this bill. On the surface, loyalty rewards programs entice consumers by offering free enrollment accompanied by discounts. In reality, loyalty programs function as “surveillance infrastructure”: consumers often unknowingly pay for this benefit with their personal data.¹ A Consumer Reports investigation revealed that Kroger collects such vast amounts of data to build profiles of its customers that one profile stretched across *62 pages* and included inferences about the consumer's income, gender, household size, and education.² Kroger has monetized this information, reportedly selling or sharing these loyalty profiles with more than 50 companies, from tobacco firms to data brokers to health tech companies, making more than 35% of the company's net income in 2024 from leveraging this data.³

CPD Amendments

The Division recommends two amendments to SB 889 to clarify the scope and intent of the bill.

- Replace the citation in the definition of “automated decision system” to the State Finance and Procurement Article⁴ (page 5, lines 24-25), with a cross reference to the Insurance Code's definition (MD Code Ann., Ins. Law, § 15-10B-05.1). As drafted, the definition fails to address two key aspects of artificial intelligence. By limiting its scope to “predictions, recommendations, or decisions” and omitting any reference to content, it may not clearly encompass systems whose primary function is content generation or other original outputs. Although content generation can be described technically as a form of prediction, that characterization is not apparent from the term's ordinary meaning. In addition, by

¹ Samuel A.A. Levine and Stephanie T. Nguyen, *The Loyalty Trap: How Loyalty Programs Hook Us with Deals, Hack Our Brains, and Hike Our Prices*, Vanderbilt Policy Accelerator (October 2025).

² See Cyrus Rassool, *Consumer Reports Investigation Uncovers Kroger's Widespread Data Collection of Loyalty Program Members to Create Secret Shopper Profiles*, Consumer Reports (May 21, 2025), <https://www.consumerreports.org/media-room/press-releases/2025/05/consumer-reports-investigation-uncovers-krogers-widespread-data-collection-of-loyalty-program-members-to-create-secret-shopper-profiles/>

³ *Id.*

⁴ Md. Code Ann., State Fin. And Proc. § 3.5–801 reads: (c) “Artificial intelligence” means a machine–based system that: (1) can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments; (2) uses machine and human–based inputs to perceive real and virtual environments and abstracts those perceptions into models through analysis in an automated manner; and (3) uses model inference to formulate options for information or action.

restricting objectives to those that are “human-defined,” the definition does not clearly encompass implicit objectives—goals not explicitly coded but learned from data or inferred from behavior. The definition found in the Insurance Code provides sufficient flexibility to accommodate both existing technology and future developments.

- The enforcement mechanism on page 6, line 25, should be the Commissioner, rather than the Attorney General.

The Division asks the Senate Finance Committee to issue a favorable report with the amendments discussed.

Cc: Senator Clarence K. Lam
Members, Finance Committee

Ad Trade Letter in Opposition to Maryland SB 889.p

Uploaded by: Adam Wadsworth

Position: UNF

March 9, 2026

Senator Pamela Beidle
Chair, Senate Finance Committee
3 East Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

Senator Antonio Hayes
Vice Chair, Senate Finance Committee
223 James Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

Senator Clarence Lam
420 Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

RE: Letter in Opposition to Maryland SB 889

Dear Chair Beidle, Vice Chair Hayes, and Senator Lam:

On behalf of the advertising industry, we write to oppose Maryland SB 889.¹ We provide this letter to offer our non-exhaustive list of concerns about this bill. SB 889 would significantly limit Maryland consumers' access to discounts and special pricing, prohibit the use of third-parties to support pricing and rewards that benefit consumers, and establish a new private right of action. Accordingly, we ask you to decline to advance the bill as drafted out of the Senate Finance Committee ("Committee").

As the nation's leading advertising and marketing trade associations, we collectively represent thousands of companies across the country. These companies range from small businesses to household brands, advertising agencies, and technology providers. Our combined membership includes more than 2,000 companies that power the commercial Internet, which accounted for nearly 20 percent of total U.S. gross domestic product ("GDP") in 2024.² By one estimate, approximately 17.0% of Maryland jobs in 2024 were related to the ad-subsidized Internet, a share projected to increase to 18.5% by 2029.³ Our group has more than a decade's worth of hands-on experience it can bring to bear on matters related to consumer privacy and controls. We would welcome the opportunity to engage with the Committee further on the points we discuss in this letter.

¹ Maryland SB 889 (2025-2026 Session), located [here](#) (hereinafter, "SB 889").

² S&P Global, THE ECONOMIC IMPACT OF ADVERTISING ON THE US ECONOMY, 2024-2029 at 4 (Aug. 2025), located at https://theadcoalition.com/wp-content/uploads/2025/08/TAC_SP-Global-Final-Report_August-2025.pdf.

³ *Id.* at 15-16.

I. SB 889 would limit access to discounts and special pricing offers that Maryland consumers rely on to manage everyday costs.

SB 889 would fail to adequately protect the everyday value that common pricing practices, such as discounts and personalized offers, provide to Maryland consumers, nor does it recognize that personalized pricing strategies can enhance consumer choice and satisfaction. In fact, it would penalize Maryland companies by prohibiting them from using these routine and expected practices to grow their businesses.

Under the bill, a business may not engage in “surveillance-based price pricing” or use a third party to engage in “surveillance-based price pricing” to customize the price of goods for individual consumers.⁴ In practice, these restrictions would likely prohibit consumer-friendly pricing practices that Marylanders encounter and value every day. For example, SB 889 would make it unclear whether it would be permissible for a grocery retailer to use location and purchase history to provide a consumer, who regularly purchases fresh produce, a targeted discount on a surplus of fruits. This type of personalized discount is expected and benefits consumers through lower prices, reduces food waste, and helps retailers manage inventory more efficiently, yet it may be swept into the bill’s broad prohibition if the grocery retailer relies on consumer data rather than uniform pricing to all consumers. While SB 889 does provide limited exceptions for customizing pricing when based on differences in cost to provide a good or service to different consumers or if the discount is offered to all consumers of a group, the bill could significantly curtail discounting and special pricing for the average consumer who may not, or may not yet, be enrolled in such programs.⁵ By prohibiting such commonplace practices, SB 889 dismisses the role that data-driven pricing plays in delivering value to a broader set of consumers.

II. SB 889 would establish a private right of action which is an inappropriate form of enforcement for the legislation.

As presently drafted, SB 889 would create a private right of action by adding Section 13-321 to the codified Maryland Consumer Protection Act.⁶ SB 889 should be updated to clarify that it does not create a private right of action under any law. We strongly believe a private right of action would be an inappropriate enforcement mechanism for this bill. Instead, enforcement should be vested with the Attorney General (“AG”) alone, because such an enforcement structure would lead to stronger outcomes for Maryland residents while better enabling businesses to allocate resources to developing processes, procedures, and plans to facilitate compliance with

⁴ SB 889 § 13-321(D).

⁵ SB 889 § 13-321(C)(2)).

⁶ SB 889 § 13-321. See Md. Comm. Law Code § 13-408 for the private right of action provision.

the bill's new requirements. AG enforcement, instead of a private right of action, is in the best interests of consumers and businesses alike.

The possibility of a private right of action in SB 889 would create a complex and flawed compliance system without tangible benefits for consumers. Allowing private actions will flood Maryland's courts with frivolous lawsuits driven by opportunistic trial lawyers searching for technical violations, rather than focusing on actual consumer harm.⁷ Private right of action provisions are completely divorced from any connection to actual consumer harm and provide consumers little by way of protection from detrimental data practices.

Additionally, a private right of action would have a chilling effect on the State's economy by creating the threat of steep and unforeseeable costs for companies that are good actors but inadvertently fail to conform to technical provisions of law. Private litigant enforcement provisions do not effectively address consumer protection concerns or deter undesired business conduct. They expose businesses to extraordinary and potentially enterprise-threatening costs for technical violations of law rather than drive systemic and helpful changes to business practices. A private right of action would also encumber businesses' attempts to innovate by threatening companies with expensive litigation costs, especially if those companies are visionaries striving to develop transformative new technologies. The threat of an expensive lawsuit may force smaller companies to agree to settle claims against them, even if the claims are without merit.⁸

Beyond the staggering cost to Maryland businesses, the resulting snarl of litigation could create a chaotic and inconsistent enforcement framework with conflicting requirements based on differing court outcomes. Overall, the possibility of a private right of action would serve as a windfall to the plaintiff's bar without focusing on the business practices that actually harm

⁷ A select few attorneys benefit disproportionately from private right of action enforcement mechanisms in a way that dwarfs the benefits that accrue to the consumers who are the basis for the claims. For example, a study of 3,121 private actions under the Telephone Consumer Protection Act ("TCPA") showed that approximately 60 percent of TCPA lawsuits were brought by just forty-four law firms. Amounts paid out to consumers under such lawsuits proved to be insignificant, as only 4 to 8 percent of eligible claim members made themselves available for compensation from the settlement funds. U.S. Chamber Institute for Legal Reform, *TCPA Litigation Sprawl* at 2, 4, 11-15 (Aug. 2017), located [here](#).

⁸ For instance, in the early 2000s, private actions under California's Unfair Competition Law ("UCL") "launched an unending attack on businesses all over the state." American Tort Reform Foundation, *State Consumer Protection Laws Unhinged: It's Time to Restore Sanity to the Litigation* at 8 (2003), located [here](#). Consumers brought suits against homebuilders for abbreviating "APR" instead of spelling out "Annual Percentage Rate" in advertisements and sued travel agents for not posting their phone numbers on websites, in addition to initiating myriad other frivolous lawsuits. These lawsuits disproportionately impacted small businesses, ultimately resulting in citizens voting to pass Proposition 64 in 2004 to stem the abuse of the state's broad private right of action under the UCL. *Id.*



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consumers. We therefore encourage the Committee to clarify that SB 889 does not create a private right of action under any law and vests enforcement authority with the AG alone.

* * *

We respectfully ask the Committee not to advance SB 889, as its provisions would negatively affect both businesses and consumers alike. Rather than strengthening consumer protections, the bill risks higher prices, reduced choice, and fewer opportunities for consumers to benefit from discounts and incentives, while also limiting businesses' ability to use third party data to offer competitive pricing and promotions.

Thank you in advance for your consideration of this letter.

Sincerely,

Christopher Oswald
EVP for Law, Ethics & Govt. Relations
Association of National Advertisers
202-296-1883

Alison Pepper
EVP, Government Relations & Sustainability
American Association of Advertising Agencies, 4As
202-355-4564

Clark Rector
Executive VP–Government Affairs
American Advertising Federation
202-898-0089

Lou Mastria
CEO
Digital Advertising Alliance
347-770-0322

CC: Members of the Maryland Senate Finance Committee

Mike Signorelli, Venable LLP
Allie Monticollo, Venable LLP
Matthew Stern, Venable LLP

SB889_MHLA_UNF.pdf

Uploaded by: Amy Rohrer

Position: UNF

SB 889 - Consumer Protection and Labor and Employment - Electronic Shelving Labels and Surveillance-Based Price and Wage Setting - Prohibitions
Senate Finance Committee
March 12, 2026
Position: OPPOSED

MHLA is the sole statewide organization dedicated to advocacy on behalf of Maryland’s lodging industry. With 765 hotels supporting more than 115,000 jobs statewide, generating \$7.2 billion in wages and salaries, contributing \$2.4 billion in state and local tax revenue, and driving \$10.6 billion in guest spending that strengthens communities across Maryland – our industry is a powerful economic engine.

MHLA believes consumers and employees should be protected from unfair and discriminatory practices. However, SB 889, as currently drafted, goes far beyond that shared goal. While the bill is intended to address narrow and objectionable practices, its language sweeps in a wide range of lawful, consumer-valued pricing practices. Our comments focus primarily on the bill’s potential harm to discounts and loyalty programs, particularly where it would prevent businesses from offering common consumer-friendly benefits.

SB 889 treats the use of consumer or device data as sufficient to presume wrongdoing in routine pricing practices, irrespective of whether the pricing outcome is beneficial to consumers. In doing so, the bill risks treating some of the most effective tools businesses use to lower prices as problematic conduct. In modern retail and service markets, discounts are offered intentionally to attract price-sensitive consumers, reward loyalty, and compete for repeat business. By making the use of basic customer information a potential liability, the bill would discourage competitive pricing strategies that routinely deliver savings to consumers.

The bill’s expansive definitions are broad enough to capture routine business tools used across many industries, and even with the bill’s limited exemptions, businesses will struggle to distinguish prohibited conduct from ordinary pricing operations. Loyalty discounts, targeted promotions, and rewards programs exist precisely because they create downward pressure on prices and expand consumer choice. While SB 889 attempts to exempt certain discounts, that language is too narrow and fails to reflect how modern loyalty and rewards programs operate, creating substantial compliance and enforcement uncertainty.

Maryland already has robust consumer protection, privacy, and anti-discrimination laws that allow regulators to target unfair, deceptive, or abusive practices directly. In addition, the Maryland Online Data Privacy Act (MODPA), which took effect in 2025, establishes a comprehensive framework governing the collection and use of personal data. SB 889 does not point to a specific deficiency in current law that necessitates a broad new prohibition. Instead of targeting clearly defined harmful conduct, the bill focuses on restricting categories of technology, which risks suppressing beneficial practices without articulating the problem it is meant to solve.

The likely result is not stronger consumer protection, but fewer discounts, weaker competition, and higher baseline prices. Loyalty programs and targeted offers are among the most accessible ways consumers realize meaningful savings.

While MHLA supports efforts to protect consumers from unfair pricing practices and employees from unfair wage setting, SB 889 casts too wide a net. We respectfully urge the Committee to adopt a more precise framework—one that protects consumers from real harm while preserving lawful discounts, promoting competition, and maintaining affordability and innovation.

For these reasons, MHLA respectfully requests an **unfavorable report** on **SB 889**.

For more information, please contact:

Amy Rohrer, President & CEO
Maryland Hotel Lodging Association
amy@MDLodging.org

Chamber of Progress_MD SB 889_Oppose.pdf

Uploaded by: Brianna January

Position: UNF



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**

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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

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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).

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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.

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

SB 889 Center for Data Innovation.pdf

Uploaded by: Daniel Castro

Position: UNF



March 10, 2026

The Honorable Pamela G. Beidle, Chair
The Honorable Antonio L. Hayes, Vice Chair
Maryland Senate Finance Committee
Maryland General Assembly
Annapolis, MD

RE: Opposition to Senate Bill 889 – Consumer Protection and Labor and Employment – Electronic Shelving Labels and Surveillance–Based Price and Wage Setting – Prohibitions

Dear Chair Beidle, Vice Chair Hayes, and Members of the Committee:

My name is Daniel Castro, and I am Vice President of the Information Technology and Innovation Foundation (ITIF) and Director of ITIF’s Center for Data Innovation, a nonprofit think tank that studies the intersection of data, technology, and public policy.

I write to express concerns regarding Senate Bill 889, which would prohibit what the bill terms “surveillance-based price setting” and “surveillance-based wage setting.”¹ While policymakers are right to ensure that consumers and workers are treated fairly in the digital economy, the bill’s sweeping definitions would effectively prohibit many forms of dynamic, data-driven pricing and compensation that benefit both consumers and workers.

Dynamic pricing—using data to adjust prices or promotions based on real-time conditions—is a common and beneficial feature of modern markets. It allows companies to allocate resources efficiently, respond to shifts in supply and demand, and deliver lower prices or targeted discounts to consumers. By defining “surveillance-based price setting” as any practice that uses consumer or device data to determine prices, SB 889 risks banning many widely used and consumer-friendly practices.

For example, many services rely on location data to determine prices or availability. Ride-sharing and delivery platforms use location and demand data to match drivers with riders or customers efficiently. When demand increases in a particular area, prices may temporarily rise to encourage more drivers to come online, helping ensure that more people can get rides rather than facing long wait times or no service at all. This type of dynamic pricing improves market responsiveness and

¹ Maryland Senate Bill 889, "Consumer Protection and Labor and Employment – Electronic Shelving Labels and Surveillance–Based Price and Wage Setting – Prohibitions," 2026 Regular Session, introduced February 6, 2026, <https://mgaleg.maryland.gov/2026RS/bills/sb/sb0889F.pdf>.



availability, and it increases earnings opportunities for drivers who choose to work during periods of high demand.

Similarly, businesses frequently use consumer data to offer discounts, loyalty rewards, and targeted promotions. Retailers may provide special offers to encourage a lapsed customer to return, or offer discounts to frequent shoppers through loyalty programs. Streaming services, restaurants, and online retailers regularly use customer engagement data to tailor promotions that lower costs for consumers. Under the bill's broad definitions, these routine and beneficial practices could be prohibited because they rely on "consumer data" to determine individualized prices or offers.

Importantly, none of these practices involve discrimination based on protected characteristics. Such discrimination is already illegal under existing civil rights laws and should remain so. Protecting consumers from unlawful discrimination is essential. But banning broad categories of data-driven pricing tools is not necessary to achieve that goal and would instead eliminate many legitimate and beneficial uses of data.

The bill also raises similar concerns with respect to "surveillance-based wage setting." Employers increasingly use data-driven tools to reward performance, improve safety, and design incentive programs.² For example, transportation companies may offer bonuses to drivers who demonstrate safer driving behavior, such as avoiding sudden braking or maintaining safe speeds. Logistics companies may provide incentives to workers who verify their identity through biometric systems that help reduce cargo theft. In other industries, employers use performance data to create targeted bonuses or incentives that reward productivity and reliability.

The bill's definition of "surveillance data"—which includes data obtained through observation or inference relating to behavior or biometrics—appears broad enough to capture many of these legitimate and beneficial practices. As a result, the bill could unintentionally limit employers' ability to implement performance-based compensation systems that benefit both businesses and workers.

More broadly, SB 889 risks undermining innovation in Maryland's digital economy. Data-driven decision-making—including algorithmic pricing and compensation systems—is increasingly central to modern commerce. If Maryland broadly prohibits these tools, businesses may face significant compliance uncertainty and may choose to limit services, reduce promotions, or avoid introducing innovative pricing models in the state.

² Eli Clemens, "How Data-Rich Workplaces Can Improve Worker Safety, Health, and Experience," Information Technology and Innovation Foundation, October 27, 2025, <https://itif.org/publications/2025/10/27/how-data-rich-workplaces-can-improve-worker-safety-health-and-experience/>.



Policymakers understandably want to ensure that data-driven technologies are used responsibly. Transparency requirements, strong privacy protections, and clear prohibitions on unlawful discrimination can all play constructive roles in protecting consumers and workers. However, SB 889 goes much further by effectively taking dynamic pricing and algorithmic compensation off the table altogether.

For these reasons, I respectfully urge the Committee to oppose Senate Bill 889.

Thank you for your consideration of these comments.

Sincerely,

Daniel Castro
Vice President, Information Technology and Innovation Foundation (ITIF)
Director, ITIF's Center for Data Innovation

SB0889_UNF_MTC_Consumer Prot. & Labor & Emp. - Ele

Uploaded by: Drew Vetter

Position: UNF



Senate Finance Committee

March 12, 2026

Senate Bill 889 – *Consumer Protection and Labor and Employment – Electronic Shelving Labels and Surveillance-Based Price and Wage Setting – Prohibitions*

POSITION: OPPOSE

The Maryland Tech Council (MTC), with over 800 members, is the State’s largest association of technology companies. Our vision is to propel Maryland to be the country's number one innovation economy for life sciences and technology. MTC brings the State’s life sciences and technology communities into a single, united organization that empowers members to achieve their goals through advocacy, networking, and education. On behalf of MTC, we submit this letter of **opposition** for Senate Bill 889.

Senate Bill 889 seeks to prohibit certain forms of “surveillance-based” price setting and wage setting and would also prohibit food retailers from using electronic shelving labels to display prices. The legislation aims to restrict the use of data-driven tools that businesses use to manage pricing, operations, and compensation decisions by designating certain practices as unfair or deceptive trade practices under the Maryland Consumer Protection Act.

Automated pricing tools and electronic shelf labeling systems provide significant benefits to both businesses and consumers. Retailers increasingly rely on modern digital tools to respond to real-time market conditions, adjust prices to reflect changes in supply and demand, and manage inventory efficiently. Electronic shelf labels allow retailers to update prices quickly and accurately across thousands of products, reducing human error and ensuring consumers see consistent pricing at the shelf and checkout. These systems also allow retailers to rapidly manage inventory in ways that reduce waste and improve product availability.

Senate Bill 889 contains several concepts that are broadly and vaguely defined, which could make longstanding and beneficial business practices infeasible rather than addressing only the narrow set of behaviors lawmakers intend to target. Terms such as “surveillance-based price setting” rely on definitions tied to consumer data processing and profiling that may inadvertently capture a wide range of common business practices. Without clear guardrails, the bill risks restricting routine and consumer-friendly pricing strategies rather than preventing genuinely harmful conduct. The bill, as drafted, provides no path for retailers to use ordinary shopping information to offer curated promotions or discounts. Retailers frequently rely on standard purchasing data to provide customers with personalized savings, loyalty rewards, and targeted promotions. Restricting these common practices could limit retailers’ ability to offer discounts that benefit consumers.

By failing to clearly distinguish between harmful practices and legitimate data-driven operational tools, Senate Bill 889 risks discouraging the adoption of technologies that improve pricing accuracy, efficiency, and consumer experience. For these reasons, the MTC respectfully requests an unfavorable report on Senate Bill 889.

For more information call:

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MDCC_SB 889_Unfavorable.pdf

Uploaded by: Grason Wiggins

Position: UNF



Senate Bill 889

Date: March 12, 2026

Committee: Senate Finance

Position: **Unfavorable**

Founded in 1968, the Maryland Chamber of Commerce (the Chamber) is the leading voice for business in Maryland. We are a statewide coalition of more than 7,000 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic growth for Maryland businesses, employees, and families.

Senate Bill 889 (“SB 889”) would impose sweeping restrictions on commonly used technologies and business practices that are essential to modern retail operations and workforce management. As drafted, the bill would prohibit the use of electronic shelf labels in food retail establishments and restrict the use of data-driven systems to assist in price setting and wage determination. These provisions would create significant operational challenges for businesses, increase compliance costs, and ultimately harm consumers and workers alike.

Electronic shelf labels are used by retailers to improve efficiency, accuracy, and transparency in pricing. These systems allow businesses to update prices to reflect changes in supply costs, vendor pricing, and promotions while reducing pricing errors that can occur with manual labeling. Prohibiting their use in grocery stores would force retailers to rely solely on outdated manual processes that are more costly, less accurate, and less efficient.

The bill also broadly restricts the use of automated tools and data analytics in price setting. Retailers frequently use technology to analyze supply chain conditions, inventory levels, and market conditions in order to set competitive prices. These systems help businesses manage fluctuating costs and maintain affordable pricing for consumers. By placing broad limitations on the use of these tools, SB 889 could undermine retailers’ ability to respond to market conditions and maintain competitive pricing.

In addition, the provisions restricting the use of data-driven tools in wage determination raise significant concerns for employers across industries. Many companies rely on software and analytics to evaluate market wages, performance metrics, scheduling needs, and operational data in order to make informed compensation decisions. The bill’s sweeping restrictions could unintentionally prohibit widely accepted human resources practices and create uncertainty about what technologies employers may lawfully use. **For these reasons, the Maryland Chamber respectfully requests an unfavorable report on SB 889.**

Opposed SB889 – Uber.pdf

Uploaded by: LáVita Gardner

Position: UNF



Uber Technologies, Inc.
1725 3rd Street
San Francisco, CA 94158
uber.com

March 12, 2026

The Honorable Senator Pamela Beidle, Chair
The Honorable Senator Antonio Hayes, Vice Chair
Senate Finance Committee
Maryland General Assembly
Annapolis, MD 21401

Re: Opposed SB889 – Consumer Protection and Labor and Employment - Electronic Shelving Labels and Surveillance-Based Price and Wage Setting - Prohibitions

Dear Chair Beidle, Vice Chair Hayes, and distinguished members of the Senate Finance Committee.

Thank you for the opportunity to submit comments related to SB889 – Consumer Protection and Labor and Employment - Electronic Shelving Labels and Surveillance-Based Price and Wage Setting - Prohibitions. Uber supports the intent of SB889 — ensuring that residents of Maryland are treated fairly and are protected from discrimination or manipulation in pricing. While we share these values and support legislation that explicitly prohibits discriminatory practices, we must respectfully urge an unfavorable report on this specific bill.

At Uber, technology and data are at the core of our business. We use dynamic and algorithmic pricing models to efficiently match supply and demand, ensuring that riders can get a trip when they need one and that drivers can maximize their earning opportunities. These innovations have expanded access to transportation and economic opportunity for millions of people, while helping small businesses reach customers and sustain demand. But importantly, these core pricing models are not personalized - they generate price based on market dynamics, not on who the user is. Uber does **not** use a person's identity, personal characteristics, or the type of device they use to determine prices.

As currently written, SB889 risks going much further than intended by conflating discriminatory pricing (which should be banned) with dynamic market balancing (which is essential for reliability). The bill's broad and vague definitions could unintentionally restrict the use of dynamic, data-driven pricing tools that are critical to maintaining a functional marketplace, tools that benefit both drivers and riders, as well as small businesses and consumers. For Uber, this could mean increased wait times, stranded riders during peak hours, and reduced earnings for drivers.

Flexible Pricing Balances Supply and Demand

Dynamic pricing is essential to keeping the marketplace efficient and reliable. By responding to real-time supply and demand, this model helps ensure that riders can find a trip quickly even during periods of high demand, and that drivers are fairly compensated for providing their time and service.

When Nevada tried to cap surge pricing during the COVID-19 pandemic, passengers at airports were stranded because there weren't enough drivers willing to take trips under the restricted pricing model. The governor ultimately had to rescind the rule because it harmed both riders and drivers.

If Maryland were to limit or effectively ban dynamic pricing through the broad language in SB889, drivers' earnings would decline, wait times would increase, and availability would drop, particularly during major events like Music Festivals, the 50th Anniversary AFRAM, NFL Draft, or college championships hosted in the state.

No U.S. state has ever permanently banned surge or dynamic pricing, because the result is always the same: fewer rides, longer waits, and lower driver pay.

Using Basic Operational Data Is Necessary for Safe, Fair, and Functional Pricing

Restricting the use of operational data—such as pickup location, destination, or real-time traffic conditions—in pricing would have sweeping consequences that go far beyond dynamic pricing. These data points do not track individual consumer characteristics or behaviors; they are fundamental inputs required to run a transportation marketplace safely, efficiently, and fairly.

Pricing that accounts for location is critical for several reasons:

1. A Location-Blind Pricing Model Would Be Less Fair to Riders

Location-agnostic pricing sounds protective, but in practice it forces companies to average everyone's costs together. That means riders who take short, low-cost trips end up subsidizing higher-cost trips. Riders in rural, suburban, or lower-density areas—who already face challenges accessing transportation—would be hit especially hard if prices have to be raised across the board to compensate for the inability to tailor prices.

2. Drivers Depend on Accurate, Location-Aware Pricing to Be Paid Fairly

Drivers choose which trips to accept based on whether the price reflects the actual time and effort required. A law that prohibits the use of location in pricing would cause drivers to face more “underpriced” trips, encouraging them to cancel or avoid certain areas entirely. That reduces reliability for riders and reduces earnings opportunities for drivers.

Impact on Small Businesses and Local Innovation

Small, independent businesses, especially restaurants and retailers that use delivery platforms, rely on data-driven tools to offer discounts and promotions to loyal customers.

Under SB889, those common-sense practices could become unlawful if discounts are considered “differential pricing” based on past purchasing behavior. The result: fewer promotions, fewer sales, and less business for local entrepreneurs.

While large corporations may have the resources to navigate complex compliance frameworks, Maryland businesses would not.

Impact on Competition, Innovation, and Consumer Choice

By broadly restricting algorithmic pricing or data-informed offers, SB889 would also prevent companies from providing special discounts, running loyalty programs, or offering regional promotions — all of which benefit consumers and foster competition.

The loss of these low-risk, pro-consumer tools would harm innovation and limit consumer choice. Regulation should distinguish these low-risk, pro-consumer tools from discriminatory practices.

Better Ways to Protect Consumers

We agree that consumers should be protected from discriminatory or exploitative pricing. But rather than banning all data-informed pricing, we urge lawmakers to consider more targeted approaches.

Specifically, Maryland could:

- **Prohibit Discriminatory Inputs, Not Market Mechanics.** Legislation should explicitly prohibit the use of immutable personal characteristics such as race, gender, or religion, in pricing decisions. We support this ban unequivocally.
- **Ensure Workable Transparency Standards.** We support providing users with clear, understandable insights into how their data is used, consistent with global transparency and privacy principles. However, mandates must be compatible with the user experience. Overly prescriptive rules (e.g., forcing disclaimers to be in-app) are onerous, overly prescriptive, and degrade the user experience without providing much benefit to the user.
- **Align with Existing Privacy Frameworks.** Coordinate with existing privacy frameworks to avoid creating fragmented, state-specific rules that increase costs and complexity without improving outcomes or transparency for consumers.

Uber appreciates the opportunity to share our perspective on SB889. We support the underlying goal of fairness and transparency in pricing. However, banning tools that balance supply and demand and empower small businesses will only result in a more expensive, less reliable service that would harm consumers, drivers, and small businesses alike. We welcome the opportunity to work with lawmakers to refine this legislation so that it protects consumers while preserving the benefits of pro-consumer innovations like dynamic pricing.

Sincerely,
LaVita Gardner
Public Policy Manager
Uber Technologies, Inc.

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Uploaded by: margaret durkin

Position: UNF

March 10, 2026

The Honorable Pam Beidle
Chair
Senate Finance Committee
Maryland Senate
231 Taylor House Office Building
6 Bladen Street
Annapolis, MD 21401

RE: SB 889 (Lam) - Consumer Protection and Labor and Employment - Electronic Shelving Labels and Surveillance-Based Price and Wage Setting - Prohibitions - Unfavorable

Dear Chair Beidle and Members of the Committee,

On behalf of TechNet, I'm writing to share comments on SB 889.

TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes 104 dynamic American businesses ranging from startups to the most iconic companies on the planet and represents five million employees and countless customers in the fields of information technology, artificial intelligence, e-commerce, the sharing and gig economies, advanced energy, transportation, cybersecurity, venture capital, and finance.

TechNet recognizes that automated decision systems raise complex and evolving policy questions, and our member companies are committed to providing a positive customer experience that is transparent. We do not condone any targeting of consumers based on factors such as religion, race, sexuality, or political affiliation. States across the country have been carefully studying how to balance innovation with consumer protection, but none have enacted legislation resembling SB 889. The difficulty of getting this right has been demonstrated in other states, where similar proposals were ultimately withdrawn or rejected on a bipartisan basis after months of deliberation.

The definition of "Surveillance-Based Price Setting" is extremely broad, and the bill subsequently prohibits such practices. Yet these practices have been used responsibly for years to support marketing, pricing, and other data-driver business decisions that enhance the consumer experience and promote competition. In some instances, companies will even lower prices to try to convince an infrequent or hesitant customer to use their services. These broad terms threaten industry-

normative practices that are intuitive and understandable to the average customer and a force for competition and lower prices overall.

We are especially concerned about how SB 889 will impact a business's ability to use customer data to generate discounts and promotions due to the bill's burdensome requirements. Discounts offered because of interest in a similar product, or discounts given to frequent purchasers to incentivize them to try a new product, may be impacted by this legislation. These are opportunities to help consumers save on their purchases and maintain their personal and family budgets, while at the same time allowing the retailer to optimize their inventory to allow for better product selection that customers will further enjoy. If those purchases are made online, there is a prior search history to indicate past purchases, and therefore, this would fall under "surveillance-based price setting" and lead to penalties.

The bill also provides for a private right of action or PRA. PRAs lead to frivolous lawsuits and, in our view, only benefit a small subset of industry operating in the litigation space.

Last year in California, lawmakers attempted to move AB 446, legislation similar to the current version of SB 889; however, there was significant opposition from the business and technology industries and the final version only applied to price increases at brick-and-mortar grocery establishments. Ultimately the bill sponsor pulled their bill due to overwhelming concerns from industry. Our neighbors in Virginia also rejected a similar proposal, HB 121, earlier this year.

In our view, price setting is best left to the free market and customer demand. While TechNet supports the intent of the bill - to ensure Maryland consumers are treated fairly and without discrimination - we remain concerned about its negative consequences. Thank you for allowing us the opportunity to share our concerns on SB 889. Please don't hesitate to reach out with any questions.

Sincerely,



Margaret Durkin
TechNet Executive Director, Pennsylvania & the Mid-Atlantic