

ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 4085 and 4523

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 2026

The Assembly Commerce and Economic Development Committee reports favorably and with committee amendments Assembly Bill Nos. 4085 and 4523 ACS.

As amended, this committee substitute makes it an unlawful practice and a violation of the consumer fraud act for a person to use surveillance pricing or any other pricing strategy that determines or varies the sale price of groceries and other foodstuffs based, in whole or in part, on personal data.

The bill does not prohibit any person from offering a different price on groceries and other foodstuffs based upon:

(1) reasonable costs associated with providing groceries and other foodstuffs to different consumers, provided that a price is not changed more than once in a 24-hour period;

(2) a bona fide discount for which eligibility conditions or criteria are clearly and conspicuously disclosed and uniformly offered based upon those conditions or criteria, and to which any member of a broadly defined group, including, but not limited to a group of teachers or veterans, is eligible; or

(3) a bona fide discount offered, under certain circumstances, as part of a loyalty program, including loyalty programs that allow the accrual or exchange of points, credits, or any similar nonmonetary system of value, or loyalty programs that offer discounts, rebates, or coupons to individual consumers based on their purchases and loyalty programs that include pricing benefits offered by another person.

The bill also makes it an unlawful practice and a violation of the consumer fraud act for any person to use an electronic shelving label connected to any technology that employs surveillance pricing or any other pricing strategy that determines or varies the sale price of groceries and other foodstuffs based, in whole or in part, on personal data.

The bill establishes a one-year moratorium on the new use of electronic shelf labels in this State. Before and during the moratorium, the New Jersey Innovation Authority, in consultation with the Division

of Consumer Affairs, would conduct a study on the use of electronic shelf labels. The study is to examine, at a minimum, the effects of electronic shelf labels and the impact of electronic shelf labels on surveillance pricing.

Additionally, the New Jersey Innovation Authority is required by the bill to submit, no later than six months before the expiration of the moratorium, the study's findings and conclusions in a final report, together with any recommendations for legislative or administrative action to the Governor and to the Legislature. Upon the expiration of the moratorium, the use of electronic shelf labels is permitted, provided its use is in compliance with current law or promulgated regulation, unless the Legislature enacts a law to the contrary.

The Attorney General may bring a civil action to enjoin an act or practice that is in violation of the provisions of the bill, enforce compliance, and obtain actual monetary damages incurred from the violation or \$50,000, whichever is greater, as well as any other restitution, penalties, or relief the court may deem appropriate.

A violation of the consumer fraud act is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. In addition, violations may result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured party.

COMMITTEE AMENDMENTS:

The committee amendments:

- (1) clarify the definitions of "bona fide discount," "electronic shelving label," "location," "personal data," and "surveillance pricing";
- (2) define "price";
- (3) remove the definition of "personalized algorithmic pricing";
- (4) clarify permitted circumstances for offering a different price on groceries and other foodstuffs;
- (5) change the effective date of the bill from the seventh to the 13th month next following enactment; and
- (6) make other technical and clarifying changes.