

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 3612 and 3717**

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 24, 2026

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill Nos. 3612 and 3717 SCS.

As amended and reported, the 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. This provision would take effect one year after the date of enactment.

As amended, the committee substitute 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) bona fide discounts for which eligibility conditions or criteria are publicly 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) bona fide discounts 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 amended committee substitute establishes a one-year moratorium on the new use of electronic shelf labels in this State. Upon the expiration of the moratorium, the new 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 provisions of the committee substitute do not prohibit a person from purchasing, installing, or deploying new electronic shelf labels solely for the purpose of repairing or replacing existing

electronic shelf labels that were in operation at the same place of business prior to the effective date of the moratorium.

Before and during the moratorium, the New Jersey Innovation Authority, in consultation with the Division of Consumer Affairs, is required to 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. The committee substitute requires the New Jersey Innovation Authority to submit, no later than six months before the expiration of the moratorium, the study's findings and conclusions in a report, together with any recommendations for legislative or administrative action to the Governor and to the Legislature.

As amended, the committee substitute provides that the provisions of the substitute do not apply to the pricing, advertisement, offer, or sale of food or beverages by an establishment primarily engaged in the preparation and sale of food or beverages for immediate consumption, whether the food or beverages are consumed on or off the premises.

The Attorney General may bring a civil action to enjoin an act or practice that is in violation of the provisions of the committee substitute, 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.

The committee's intent is to protect consumers from surveillance pricing practices where the use of personal data is utilized to increase costs based on a consumer's characteristics, purchasing history, or consumer activity. It is the committee's understanding that this legislation would: (1) not preclude consumers from benefiting from discounts offered to broad groups of individuals, such as teachers, veterans, seniors, students, or other groups eligible for comparable discounts; (2) not prohibit the implementation of loyalty programs; and (3) permit the practice of individualized discounts and savings opportunities within those programs. By promoting greater transparency in pricing practices, it is the committee's intent to enhance consumer protections and ensure that the use of personal data does not result in unfair or discriminatory pricing that undermines affordability.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) clarify the definitions of “bona fide discount,” “electronic shelving label,” “groceries and other foodstuffs,” “location,” “personal data,” and “surveillance pricing”;

(2) define “price” to mean “a stated monetary amount advertised or offered to a consumer, including prior to the application of a discount, when a hypothetical discount is proposed, after a discount has been applied, or after all related costs, fees, and other material terms of the transaction that directly affect the amount paid by the consumer have been applied”;

(3) remove the definition of “personalized algorithmic pricing”;

(4) clarify permitted circumstances for offering a different price on groceries and other foodstuffs, including allowing consumers to opt-in to loyalty programs on a voluntary basis and having all members of the loyalty program receive pricing benefits in accordance to uniform terms and conditions;

(5) clarify that, under certain circumstances and upon request, a person is required to make certain loyalty program disclosures available to the Division of Consumer Affairs in the Department of Law and Public Safety no later than 14 days from the date the request was made;

(6) clarify that a loyalty program is to have all terms and conditions, and data practices disclosed to the public;

(7) establish a one-year moratorium on the new use of electronic shelf labels in this State and clarify that the provisions of the committee substitute do not prohibit a person from purchasing, installing, or deploying new electronic shelf labels solely for the purpose of repairing or replacing existing electronic shelf labels that were in operation at the same place of business prior to the effective date of the moratorium;

(8) clarify that before and during the moratorium, the New Jersey Innovation Authority, in consultation with the Division of Consumer Affairs, is required to conduct a study on the use of electronic shelf labels examining the effects of electronic shelf labels and the impact of electronic shelf labels on surveillance pricing;

(9) require the New Jersey Innovation Authority to submit, no later than six months before the expiration of the moratorium, the study’s findings and conclusions in a report, together with any recommendations for legislative or administrative action, to the Governor and to the Legislature;

(10) change the effective date of the bill from the seventh to the 13th month next following the date of enactment;

(11) clarify that the provision establishing the one-year moratorium is to take effect on the first day of the seventh month next following the date of enactment;

(12) clarify that the provision requiring the New Jersey Innovation Authority, in consultation with the Division of Consumer Affairs, to

conduct a study on the use of electronic shelf labels is to take effect immediately; and

(13) make other technical and clarifying changes.

FISCAL IMPACT:

Fiscal information for this bill is currently unavailable.