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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

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House Consumer Protection, Technology and Utilities Committee

Public Hearing Agenda – HB 1942 and Surveillance Pricing

November 18, 2025

10:00am

60 East Wing of the Main Capitol

Call to Order

Chairman Burgos

Opening Remarks

Majority Chairman Burgos

Republican Chairman, Rep. Metzgar

Panel #1

Stephanie Nguyen, Former Chief Technologist, Federal Trade Commission.

Dr. Lindsay Owens, Executive Director, Groundwork Collaborative.

Grace Gedye, AI Policy Analyst, Consumer Reports.

George Slover, Senior Counsel for Competition Policy, Center for Democracy and Technology.

Panel #2

Aaron Riggleman, Manager of Government Relations, PA Chamber of Business and Industry.

Margaret Durkin, Executive Director for PA and the Mid-Atlantic Region, TechNet.

Member Q and A

Any Other Business

Adjournment

CENTER FOR DEMOCRACY & TECHNOLOGY

Testimony of George Slover
Center for Democracy & Technology

HB 1942 – Surveillance Pricing Act

Pennsylvania House Consumer Protection, Technology & Utilities Committee

November 18, 2025

Chair Burgos, Chair Metzgar, and Members of the Committee –

I appreciate the opportunity to testify on behalf of the Center for Democracy & Technology in support of HB 1942, the Surveillance Pricing Act. This bill would prohibit the use of surveillance pricing, setting a customized price for a specific consumer based on personally identifiable information collected regarding that consumer, using electronic surveillance technology. We urge the Committee to approve the bill and send it to the House floor.

CDT is a nonprofit, nonpartisan organization that works to advance civil rights and civil liberties in the digital age, for everyone. A key part of that mission, since our founding 30 years ago, when the internet was in its infancy, is working to protect consumers against invasion of their privacy, and misuse of their private personal information, to exploit them or discriminate against them.

The digital collection, sorting, processing, and selling of vast amounts of this private personal information – unbounded by any comprehensive data privacy law – has enabled businesses, and data brokers who serve them, to create intimate portraits of individual consumers, which can be used to "size them up" for their susceptibility to pay more – without their knowledge, let alone their consent.

Sellers can now access personal data including the consumer's previous purchases and searches; income, assets, debts, and financial condition and history; personal and family life; employment, work life, and career history; political, social, and other activities the consumer and the consumer's family members and friends have engaged in; web-browsing and social media history; and broadly, anything about the consumer recorded or tracked and fed into the big data maw.

This "surveillance pricing" – what we refer to as "bespoke pricing," as the price is "tailor fitted" to the individual consumer, made to measure[1] – is a rank abandonment of the transparent "list price" approach that has served consumers well, and has justified free enterprise as best benefitting consumers and the economy. And it is a betrayal of the touted promise of the internet as a boon for shoppers. It exploits a stark information advantage that sellers using online technology can wield over consumers. It risks reducing what economists refer to as "consumer surplus" – the benefit received by consumers who would have been willing to pay more than the list price, but don't have to – to zero. It's Adam Smith's "invisible hand" turned against consumers, picking their pocket.

Any claim that sellers would use bespoke pricing to benefit their consumers is simply not credible. They are in business to make a profit. Their incentives for obscuring the market price work in the direction of *increasing* the price for consumers identified as gullible, desperate, or otherwise susceptible to being overcharged. Because consumers will be kept in the dark, they are far more apt to be taken advantage of than to benefit.

HB 1942 would responsibly and effectively address this potential for widespread consumer harm. It prohibits exploitative bespoke pricing, while carefully

[1] Slover, Bespoke Pricing – What Is the Invisible Hand Up To?, CDT, Sept. 24, 2024, https://cdt.org/insights/bespoke-pricing-what-is-the-invisible-hand-up-to/.

distinguishing and permitting the kinds of discounting offered transparently and uniformly to identified groups.

The technology is readily available to sellers, and is becoming easier to use and more powerful with the advance of artificial intelligence. The temptation to use it will be irresistible. We need to rein it in before it becomes a widespread feature of online commerce.

Enacting this bill will help ensure that the online marketplace works in the interest of consumers.

Thank you.

Nov 10, 2025
Consumer Protection, Technology and Utilities Committee
Room 60, East Wing
Pennsylvania House of Representatives
501 N 3rd St
Harrisburg, PA 17120

Re: HB 1942 Surveillance Pricing - Support

Dear Honorable Chair Burgos, Republican Chair Walker Metzgar, and members of the committee,

Consumer Reports[1] writes in support of HB 1942. This bill is focused on a pocketbook issue that is an immense source of frustration for consumers: surveillance pricing. Surveillance pricing, also sometimes referred to as "personalized" pricing, is when a company uses personal data that they've gathered about a consumer—like data about their online search history, or inferences about family structure, health conditions, or income—to set the price of a product or the discount offered to a consumer. Consumer Reports has heard from our members, 51,000 of whom live in Pennsylvania, about their frustrations with opaque pricing tactics. HB 1942 would prohibit this practice, while exempting transparent discounts. We urge an 'aye' vote.

What is surveillance pricing?

Not long ago, before the rise of online shopping and mass data collection, consumers could shop anonymously, confident that the price tag they saw on the shelf wasn't influenced by the store's knowledge of their family, shopping habits, online browsing, ability to pay, or any particular situation that could increase their urgency to purchase. That is no longer the case.

Companies can gather data on consumers' purchase histories, speed of click through, history of clicks, search history, 'likes' on social media, geolocation, IP address, device type, and more, to create a detailed portrait of a consumer. They can use artificial intelligence to make detailed inferences about consumers based on this data. These detailed profiles, combined with technology that enables companies to display different prices to different consumers online—or

[1] Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

send discounts on an individualized basis—means that companies have all the tools they need to implement surveillance pricing. Companies can understand when a consumer might be desperate enough to tolerate a higher price or when a loyal customer will keep coming back even in the absence of discounts.

Surveillance pricing can be difficult to detect, because consumers rarely have a view into what information a company has about them, or what the prices they see are based on. Still, enterprising journalists have discovered examples:

- An investigative journalist writing for SFGate looked at the prices offered for a hotel room in Manhattan for a specific date, and varied his operating system, browser, cookies, and location (his computer's IP address).[2] He found that when he changed his IP address from a Bay Area location to locations in Phoenix and Kansas City, the prices dropped by more than $200 per night in one instance, and more than $511 in another instance.
- ProPublica found that test-prep company Princeton Review was offering different prices for its tutoring services depending on a customer's zipcode.[3] The result, they found, was that Asian customers were nearly twice as likely to receive a higher price.
- The Wall Street Journal reported that Orbitz, the travel aggregation company, determined that Mac users spent more per night on hotels than Windows users, and began steering Mac users towards pricier hotels.[4]
- A Minnesota local news site discovered that Target changed the prices displayed on its app for certain products based on whether the customer—and their device—was physically inside a Target store. When the reporters looked at the Target app while inside a store, they found that a Graco car seat was $72 more expensive than when they had been sitting on the far side of the Target parking lot, and a Dyson vacuum was $148 more expensive.[5]

What HB 1942 does

House Bill 1942 prohibits the use of a consumer's personal data gathered by electronic surveillance technology to set a customized price. This includes, for example, data about a consumer's race or weight, their parenthood status, the political affiliations, their genetic information, the geometry of their face, and their web-browsing history. HB 1942 also prohibits

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[2] Keith A. Spencer, "Hotel booking sites show higher prices to travelers from Bay Area," *SFGate,* Feb. 3, 2025. https://www.sfgate.com/travel/article/hotel-booking-sites-overcharge-bay-area-travelers-20025145.php

[3] Julia Angwin, Surya Mattu and Jeff Larson, "The Tiger Mom Tax: Asians Are Nearly Twice as Likely to Get a Higher Price from Princeton Review," *ProPublica,* Sept. 1, 2015 https://www.propublica.org/article/asians-nearly-twice-as-likely-to-get-higher-price-from-princeton-review

[4] *Dana Mattioli,* "On Orbitz, Mac Users Steered to Pricier Hotels," *Wall Street Journal,* Aug. 23, 2012 https://www.wsj.com/articles/SB10001424052702304458604577488822667325882

[5] Chris Hrapsky, "The Target app price switch: What you need to know" *Kare 11,* Jan. 27, 2019 https://www.kare11.com/article/money/consumer/the-target-app-price-switch-what-you-need-to-know/89-9ef4106a-895d-4522-8a00-c15cff0a0514

the secret and automated use of personal data to target groups of individuals with prices. This is important because the fine-grained data that companies possess about consumers enables them to place individuals into highly specific groups, such as "mothers of toddlers without higher education earning less than $75k" or "likely conservative male over 35 earning more than $150k."

HB 1942 also has several reasonable exemptions. If a company offers different prices to different people based on differences in the cost of providing a good or service—like higher prices in regions with higher labor costs—that practice is not prohibited. The bill also does not apply to discounts that are offered transparently, and that customers can access equally if they meet the clearly disclosed criteria. Additionally, insurers complying with the insurance code and companies that deny credit or do not transact with a consumer based on information contained in a consumer report covered by the Fair Credit Reporting Act—such as credit checks for potential renters—are exempt.

However, HB 1942 should be strengthened in a few places to offer the level of protection that Pennsylvanians deserve. First, the definition of "personal information" that HB 1942 references is outdated; it requires that data be linked to an individual's first or last name. Companies now collect many forms of personal data that are linked to other unique identifiers, and can easily be linked to specific individuals even if the company doesn't associate that data with the consumer's name in their databases. As such, this definition would only cover a narrow slice of personal data that companies collect and track about consumers. Instead, we recommend the definition of personal data in Consumer Reports and the Electronic Privacy Information Center's model privacy bill:[6]

> *"Personal data" means any information, including derived data and unique identifiers, that is linked or reasonably linkable, alone or in combination with other information, to an identified or identifiable individual or a device that identifies or is linked or reasonably linkable to an individual. "Personal data" does not include de-identified data or publicly available information.*

Second, the discount exemption in Section 3(b)(2) is expansive, and would permit businesses to offer personalized "discounts" that in effect function as personalized prices. For example, a business could offer a generous discount to only to consumers it determines live within a 20 minute drive of a competitor, and that pay close attention to discounts, while offering a much smaller discount to consumers it infers have few other options and therefore are more loyal – so

[6] Consumer Reports, "Consumer Reports and the Electronic Privacy Information Center unveil new model legislation to protect the privacy of American consumers" September 24, 2024, https://advocacy.consumerreports.org/press_release/consumer-reports-and-the-electronic-privacy-information-center-unveil-new-model-legislation-to-protect-the-privacy-of-american-consumers/

long as it meets the disclosure requirements in (d). Instead, CR recommends that HB 1942 exempt three categories of discounts:

> *(1) Discounted prices are available to all consumers, where*
> *(a) the terms of the discount are readily publicly available, and*
> *(b) any consumer can obtain the discount;*
>
> *(2) Discounted prices are offered or provided to a commonly understood social grouping, such as teachers, veterans, senior citizens, or students, where*
> *(a) the terms of the discount are readily publicly available and*
> *(b) any consumer can obtain the discount if they can demonstrate they are part of the group;*
>
> *(3) Discounted prices are offered as part of a loyalty program, including lower prices for consumers for repeat purchases and patronage, where*
> *(a) the terms of the loyalty program, including any discounted prices and conditions for loyalty rewards, are publicly accessible to all consumers on equal terms*
> *(b) the terms of the loyalty program are applied consistently across the program and prices are not individualized for consumers as part of the program;*

CR would be happy to meet with legislators who are interested in discussing the bill further. We thank the legislature for taking on this critical cost of living issue, and urge an ‘aye’ vote.

Sincerely,
Grace Gedye
Policy Analyst
Consumer Reports

Written Testimony of Dr. Lindsay Owens, PhD, Executive Director of Groundwork Collaborative: House Consumer Protection, Technology & Utilities Committee

I. Introduction

Chairman Burgos, Ranking Member Walker Metzgar, and Members of the Committee,

Thank you for the opportunity to testify before you today on this important topic. My name is Dr. Lindsay Owens. I am the Executive Director of the Groundwork Collaborative, an economic policy think tank based in Washington, DC. I am also the author of the forthcoming book Gouged: The End of a Fair Price and What That Means for Your Wallet, which examines how companies use new technology and sophisticated pricing strategies to overcharge consumers.

At its core, today's hearing concerns a simple principle: Americans deserve fair pricing. By definition, surveillance pricing, or charging different people different prices for the same item based on personal data, is a direct contravention of that principle. The opaque, manipulative pricing strategy undermines consumer autonomy and price transparency, driving up costs for everyday necessities that too many Americans already struggle to afford.

The Pennsylvania General Assembly has an opportunity to protect working Pennsylvanians from this emerging form of personalized price gouging, stopping corporations from squeezing working families to boost profits. As the Committee weighs the path forward on this vital legislation, I appreciate the opportunity to outline how surveillance pricing works, the immense risks it poses for consumer privacy and market fairness, and why prohibiting its use is both necessary and urgent.

II. The Emergence of Surveillance Pricing: A Brief History

To fully grasp the implications of surveillance pricing, it is helpful to place this practice in the broader historical evolution of pricing writ large. For thousands of years, personalized – rather than fixed – pricing was the norm. Buyers and sellers negotiated the value of a good directly, haggling and then exchanging the amount that was agreed to.[1] In fact, the notion of a fixed, clearly displayed price — a simple number on a tag — is a relatively modern phenomena, only emerging in the nineteenth century.[2] In the shadow of the Industrial Revolution and mass production, the Quaker's concerns about the fairness as well as the inefficiency of haggling spurred the advent of fixed prices, and ultimately, the invention of the ubiquitous price tag. In

[1] Davies, G. (2002). A History of Money from Ancient Times to the Present Day. 3rd ed. Cardiff: University of Wales Press, 720 pages. Paperback: ISBN 0 7083 1717 0.
[2] "Lost Art of Haggling a Casualty of Retail Modernization - Bloomberg," Opinion, Bloomberg, September 27, 2012, https://www.bloomberg.com/opinion/articles/2012-09-27/lost-art-of-haggling-a-casualty-of-retail-modernization.

fact, price tags were first introduced right here in Pennsylvania at Wannamaker's department store in Philadelphia.[3]

For more than a century thereafter, sellers set prices according to the "cost-plus model."[4] Under this model, a company calculates the amount required to manufacture a good or deliver a service (i.e., the cost), and then adds their desired profit margin on (i.e., the plus). Together, these two components determine the price consumers ultimately pay. While this model was not immune to abuses like price gouging or price fixing, it established a baseline of transparency and predictability that allowed consumers to make informed choices about their purchases.

However, beginning in the 2000s, this baseline of transparency began to deteriorate.[5] Corporations, driven by a new generation of consultants and executives that I like to call "profit evangelists," began to embrace a different theory of pricing: the so-called 'value-based' model. Under this approach, prices are no longer tethered to the cost of production or to competition in the marketplace, but instead to what companies believe they can persuade consumers to pay. Put simply, the value-based model directs firms to capture the full extent of each consumer's individual willingness to pay.

Two major developments, one in market structure and the other in technological capacity, have since accelerated this shift, allowing the new "value-based" pricing paradigm to undermine transparency, predictability, and fairness across our economy.

First, decades of deregulation, weak antitrust enforcement, and deference to corporate power fostered runaway corporate consolidation. Since 1997, at least 75% of U.S. industries have consolidated.[6] Mergers and acquisitions also eliminated nearly 3,000 public firms tracked by S&P since 2000.[7] As a result, many markets lack meaningful competition and consumers are left with far fewer choices. Today, the US has just four major airlines and three major cellphone companies.[8]

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[3] Bronson Arcuri and Benjamin Naddaff-Hafrey, The Price Tag Hasn't Always Existed, It Had To Be Invented, Planet Money Shorts, n.d., 3:13, accessed November 10, 2025, https://www.npr.org/sections/money/2018/02/28/589278258/planet-money-shorts-the-invention-of-the-price-tag.
[4] Utpal M. Dholakia, "When Cost-Plus Pricing Is a Good Idea," Harvard Business Review, July 12, 2018, https://hbr.org/2018/07/when-cost-plus-pricing-is-a-good-idea.
[5] Paul Krugman, "Reckonings; What Price Fairness? - The New York Times," Opinion, New York Times, October 4, 2000, https://www.nytimes.com/2000/10/04/opinion/reckonings-what-price-fairness.html.
[6] Gustavo Grullon et al., "Are U.S. Industries Becoming More Concentrated?," SSRN Scholarly Paper 2612047 (Social Science Research Network, September 11, 2019), https://doi.org/10.2139/ssrn.2612047.
[7] Chris Hudgins and Peter Brennan, "Market-Leading US Companies Consolidate Power in Era of 'superstar' Firms," S&P Global, January 17, 2023, https://www.spglobal.com/market-intelligence/en/news-insights/articles/2023/1/market-leading-us-companies-consolidate-power-in-era-of-superstar-firms-73773141.
[8] The Editorial Board, "Americans Pay a Price for Corporate Consolidation," Opinion, New York Times, August 26, 2023, https://www.nytimes.com/2023/08/26/opinion/biden-lina-khan-ftc.html.

Consolidation grants the remaining corporate giants the freedom to hike prices without fear of being undercut by the competition. As a result, corporate profits have skyrocketed. In the final quarter of 2024, corporate profits reached $4.0 trillion,[9] a more than two-fold increase over the last decade and fourteen-fold increase since 1980.[10]

In addition to market dominance, rapid technological innovation has enabled companies to turn pricing into a highly engineered science. Innovation in digital technologies and displays allow companies to change price tags instantaneously.[11] Kroger[12] and Walmart[13] have both announced their intention to expand electronic shelving labels throughout their stores, among other US grocery retailers.[14] With this technology in hand, stores can adjust prices depending on the time of day, the day of the week, the location of the shopper, the number of other customers, the weather outside, or any other criteria imaginable

These forms of variable pricing are expanding rapidly. According to Arival, a tourism market research and events firm, only 1% of attractions (museums, amusement parks, etc.) used variable pricing prior to 2021. Today, it's 17%.[15]

Furthermore, powered by advances in cloud computing, data collection, surveillance technologies, and artificial intelligence, companies can now purchase, track, store, and analyze your personal data at a scale that would have been unimaginable a decade ago. Often, this data harvesting occurs without the explicit consent or even the understanding of consumers.[16] Loyalty programs are a key culprit. Companies lure consumers in with the Trojan horse of

[9] Ricardo Marto, "What's Driving the Surge in U.S. Corporate Profits?," On the Economy Blog Federal Reserve Bank of St. Louis, April 21, 2025, https://www.stlouisfed.org/on-the-economy/2025/apr/whats-driving-surge-us-corporate-profits.
[10] "National Income: Corporate Profits before Tax (without IVA and CCAdj) (A053RC1Q027SBE)," St. Louis Federal Reserve, September 25, 2025, https://fred.stlouisfed.org/series/A053RC1Q027SBEA.
[11] Elizabeth Warren and Robert P. Casey, Jr, "Warren, Casey Investigate Kroger's Use of Digital Price Tags, Warn of Grocery Giant's 'Surge Pricing' Causing Price Gouging and Hurting Consumers," August 7, 2024, https://www.warren.senate.gov/imo/media/doc/warren_casey_letter_to_kroger_re_electronic_shelving_and_price_gouging.pdf.
[12] Alexander Coolidge, "We Found Some of Kroger's Controversial Digital Price Tags. Here's How They Worked.," Grocery Stores, USA TODAY, n.d., accessed November 10, 2025, https://www.usatoday.com/story/grocery/stores/2025/10/14/how-kroger-digital-price-tags-work/86687099007/.
[13] Daniela Boscan, "New Tech, Better Outcomes: Digital Shelf Labels Are a Win for Customers and Associates," Walmart, June 6, 2024, https://corporate.walmart.com/news/2024/06/06/new-tech-better-outcomes-digital-shelf-labels-are-a-win-for-customers-and-associates.
[14] Macklin Fishman, "How Digital Price Tags Could Change the Future of Grocery Shopping," Retail, CNBC, October 3, 2025, https://www.cnbc.com/2025/10/03/electronic-shelf-labels-are-taking-over-us-grocery-stores.html.
[15] Harriet Baskas, "Welcome to the Zoo. That'll Be $47 Today — Ask Again Tomorrow.," Economy, NBC News, June 14, 2025, https://www.nbcnews.com/business/economy/museums-zoos-aquariums-are-embracing-dynamic-pricing-rcna210877.
[16] Dave Dayen and Lindsay Owens, "The Age of Recoupment," The American Prospect, June 3, 2024, https://prospect.org/2024/06/03/2024-06-03-age-of-recoupment/;Theodore Rostow, "What Happens When an Acquaintance Buys Your Data?: A New Privacy Harm in the Age of Data Brokers," SSRN Electronic Journal, ahead of print, 2016, https://doi.org/10.2139/ssrn.2870044.

seemingly generous perks, then use the program to scrape personal data, experiment with pricing and behavior, and then quietly flip the bargain by hiking fees or trimming benefits.[17]

Armed with advanced market and technological power, companies deploy a dizzying array of tactics designed to extract the maximum profit from each consumer. They tack on hidden fees,[18] tacitly collude with their competitors on price increases,[19] and individualize prices for consumers that can rise on granular, personal data.[20] The sharpest edge of the "value-based" pricing landscape, and what brings us here today, is surveillance pricing.

III. Surveillance Pricing in Practice

Also known as personalized pricing, surveillance pricing describes the burgeoning process of using personal data to craft consumer-specific prices.[21] Put plainly, drawing on information companies collect on your income, your location, your online behavior, and even how long you linger over a product online before buying it, companies can now identify the highest price each consumer is willing to pay, and charge not a penny less.[22]

This proliferation of surveillance pricing tactics represents a direct affront to long-standing principles of consumer autonomy, market fairness, and price transparency. The vast majority of Americans (83%) believe that businesses should charge all customers the same price for the same item.[23] Yet with surveillance pricing, every consumer interaction becomes an opportunity for exploitation — from grocery aisles to airline tickets, hotel bookings, and taxi rides.

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[17] Stephanie T. Nguyen and Samuel A.A. Levine, *The Loyalty Trap: How Loyalty Programs Hook Us with Deals, Hack Our Brains, and Hike Our Prices* (Vanderbilt Policy Accelerator and the UC Berkeley Center for Consumer Law & Economic Justice, 2025), https://cdn.vanderbilt.edu/vu-URL/wp-content/uploads/sites/412/2025/10/17195957/The-Loyalty-Trap.pdf.

[18] Katie Scheuch, "News Release: Utah And the FTC Sue Live Nation and Ticketmaster for Deceptively Hiding Ticket Fees," Utah Commerce Blog, September 18, 2025, https://blog.commerce.utah.gov/2025/09/18/news-release-utah-and-the-ftc-sue-live-nation-and-ticketmaster-for-deceptively-hiding-ticket-fees/; Kevin T. Dugan, "The Year Food-Delivery Prices Went Insane," Intelligencer, December 26, 2023, https://nymag.com/intelligencer/2023/12/food-delivery-apps-like-doordash-got-so-expensive-in-2023.html.

[19] Noelle Mateer, "FTC, DOJ Consider Hotel Price-Fixing Case," Dive Brief, Hotel Dive, n.d., accessed November 10, 2025, https://www.hoteldive.com/news/ftc-doj-hotel-price-fixing/712134/; Office of Public Affairs, "Justice Department Sues RealPage for Algorithmic Pricing Scheme That Harms Millions of American Renters," U.S. Department of Justice Press Release, August 23, 2024, https://www.justice.gov/archives/opa/pr/justice-department-sues-realpage-algorithmic-pricing-scheme-harms-millions-american-renters.

[20] Keith A. Spencer, "Hotel Booking Sites Show Higher Prices to Travelers from Bay Area," Travel, SFGATE (San Francisco), January 13, 2025, https://www.sfgate.com/travel/article/hotel-booking-sites-overcharge-bay-area-travelers-20025145.php.

[21] Abbey Stemler, "Surveillance Pricing," SSRN Scholarly Paper 5159387 (Social Science Research Network, March 21, 2025), https://doi.org/10.2139/ssrn.5159387.

[22] Stemler, "Surveillance Pricing."

[23]" Polling," Groundwork Collaborative and Data for Progress, June 23, 2025, https://www.filesforprogress.org/datasets/2025/5/dfp_gwc_25_05_prices_diff_tabs.pdf.

A recent Federal Trade Commission report confirms that corporations are already deploying these invasive and exploitative tools across major industries.[24] Examples of the sensitive data companies collect and use to personalize prices include:

- **Location:** Consider something as banal as where you are standing. Target's app charges more when you're sitting in store parking lots, and lowers the price once you've driven off.[25] On Lowe's website, the same refrigerator costs $449 for users in Chicago and Los Angeles, but runs $50 more in other cities.[26] Similarly, trip booking platforms such as Expedia, Hotels.com, and Booking.com raise prices for users based on their IP addresses. For instance, a New York City hotel room was listed for more than $800 per night for users browsing from San Francisco, while the same room on the same dates was offered at just $318 to users in Kansas City.[27]

- **Demographic Data:** Firms are increasingly leveraging demographic data, such as race and ethnicity, in pricing models, replicating and amplifying existing social and algorithmic biases.[28] According to a study of more than 100,000 rideshare trips, riders are charged a higher price if their pick-up or drop-off point is in a neighborhood that has a higher proportion of Black residents.[29] Additionally, The Princeton Review charged higher prices for SAT prep in ZIP codes with large Asian populations.[30]

- **Biometric Data:** Biometric data, once largely confined to science fiction, is now influencing prices in ways consumers seldom realize. Kroger, for example, has explored facial recognition technology that could one day be used to target consumers with tailored prices, and is reportedly building detailed consumer profiles and customizing discounts accordingly.[31] Additionally, Clear, a service once limited to airport security

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[24] "FTC Surveillance Pricing 6(b) Study: Research Summaries; A Staff Perspective," Federal Trade Comission, January 17, 2025, https://www.ftc.gov/system/files/ftc_gov/pdf/p246202_surveillancepricing6bstudy_researchsummaries_redacted.pdf.
[25] Casey Bond, "Target Is Tracking You And Changing Prices Based On Your Location," Money, HuffPost, March 3, 2021, https://www.huffpost.com/entry/target-tracking-location-changing-prices_l_603fd12bc5b6ff75ac410a38.
[26] Jennifer Valentino-DeVries et al., "Websites Vary Prices, Deals Based on Users' Information," Tech, Wall Street Journal, December 24, 2012, https://www.wsj.com/articles/SB10001424127887323777204578189391813881534.
[27] Spencer, "Hotel Booking Sites Show Higher Prices to Travelers from Bay Area."
[28] Valentin Hofmann et al., "AI Generates Covertly Racist Decisions about People Based on Their Dialect," Nature 633, no. 8028 (2024): 147–54, https://doi.org/10.1038/s41586-024-07856-5.
[29] Akshat Pandey and Aylin Caliskan, "Disparate Impact of Artificial Intelligence Bias in Ridehailing Economy's Price Discrimination Algorithms," Proceedings of the 2021 AAAI/ACM Conference on AI, Ethics, and Society, July 21, 2021, 822–33, https://doi.org/10.1145/3461702.3462561.
[30] Julia Angwin et al., "The Tiger Mom Tax: Asians Are Nearly Twice as Likely to Get a Higher Price from Princeton Review," Racial Justice, ProPublica, September 1, 2015, https://www.propublica.org/article/asians-nearly-twice-as-likely-to-get-higher-price-from-princeton-review.
[31] "Kroger and Microsoft Partner to Redefine the Customer Experience and Introduce Digital Solutions for the Retail Industry," Microsoft, January 7, 2019, https://news.microsoft.com/source/2019/01/07/kroger-and-microsoft-partner-to-redefine-customer-experience-introduce-digital-solutions-for-retail-industry/; Mayu Tobin-Miyaji, "Kroger's Surveillance Pricing Harms Consumers and Raises Prices, With or Without Facial Recognition," EPIC - Electronic Privacy Information Center, February 14, 2025, https://epic.org/krogers-surveillance-pricing-harms-consumers-and-raises-prices-with-or-without-facial-recognition

lines, has rapidly expanded its biometric identification platform. Its technology is now used to verify identities for Home Depot rentals, LinkedIn job profiles, and Uber rides, with ambitions to move further into retail, banking, and even health care.[32]

- **Personal Devices:** Companies collect data on consumers at a level so granular and a scale so vast that every click of the mouse becomes an opportunity to be charged more. Uber's algorithms, for example, don't just adjust prices based on location and demand — they raise prices for riders with dwindling phone battery phones, assuming these riders are more desperate to get home. Similarly, Orbitz, a travel-deals site, discovered that users of Mac computers tend to spend more per night on hotels. The company then used this information to display different, often more expensive, travel options to Mac users compared to those browsing on a PC computer.[33]

Beyond violating norms of fairness, this erosion of pricing transparency and predictability puts both households and markets in a precarious position. Our economy depends on stability. Families must be able to plan a budget and trust that prices for essentials like groceries, housing, and insurance won't shift arbitrarily.

Personalized prices aren't the only way corporations profit from our personal data. Often marketed as "price optimization" the data itself has become a business. For example, Kroger collects data on the shopping habits of its 63 million customers, which not only enables the company to execute targeted pricing campaigns, but also to monetize and sell their customer's data to third parties and affiliates.[34] These vast databases of your personal information are very lucrative, and Kroger reports its "alternative profits" business — which includes its precision marketing arm — as accounting for over 35% of net income.[35]

Kroger is not alone in its attempt to monetize customers' personal data. The global market for personal data is projected to surge to $700 billion in revenue by the end of the decade.[36] Additionally, a market of middlemen has emerged, sourcing data and implementing price changes on behalf of other companies. One such firm, Fetchrr, is plainspoken about the invasive nature of their business model, noting that the "secret sauce" is "all the data we can get our

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/; Suzanne Smalley, "Kroger's Facial Recognition Plans Draw Increasing Concern from Lawmakers," The Record, October 17, 2024, https://therecord.media/kroger-facial-recognition-lawmakers-concerns.

[32] Eileen Guo, "Inside Clear's Ambitions to Manage Your Identity beyond the Airport," MIT Technology Review, November 20, 2024, https://www.technologyreview.com/2024/11/20/1107002/clear-airport-identity-management-biometrics-facial-recognition/.

[33] Dana Mattioli, "On Orbitz, Mac Users Steered to Pricier Hotels," Tech, Wall Street Journal, June 26, 2012, https://www.wsj.com/articles/SB10001424052702304458604577488822667325882.

[34] Derek Kravitz, *Inside Kroger's Secret Shopper Profiles: Why You May Be Paying More Than Your Neighbors, Make the Price Right* (Consumer Reports, 2025), https://www.consumerreports.org/money/questionable-business-practices/kroger-secret-grocery-shopper-loyalty-profiles-unfair-a1011215563/.

[35] Kravitz, *Inside Kroger's Secret Shopper Profiles: Why You May Be Paying More Than Your Neighbors.*

[36] Joe Wilkins, "Facebook Allegedly Detected When Teen Girls Deleted Selfies So It Could Serve Them Beauty Ads," Futurism, May 3, 2025, https://futurism.com/facebook-beauty-targeted-ads.

hands on," and that "we are very stealth about how they work."[37] It's a sweet deal for corporations: consumers are both the product being sold and the ones paying the price.

For consumers there is almost no way to push back. In the past, you could comparison shop or clip coupons to find a better deal. But online, shoppers are isolated from each other. Most people have no idea they've been targeted with personalized prices, and uncovering it would require comparing prices across users, devices, and locations all at once — an impossible task for most consumers. In the end, consumers are often paying more without ever knowing it.

IV. HB 1942 and Other Policy Recommendations

The answer isn't to teach everyone how to beat the machine. It's to set clear rules of the road so the machine plays fair.

I applaud legislators here in Pennsylvania for taking a meaningful step in that direction — prohibiting companies from using personal surveillance data such as browsing history, purchase behavior, and location to set individualized prices. This move would restore the public price and build on Pennsylvania's historic leadership in ensuring fair and transparent pricing.

Still, there is more that can and must be done to ensure that Americans receive a fair price. In future, it is imperative for privacy laws to extend further. By design, surveillance pricing pushes companies to spy more on their customers—collecting ever more data to wring out every possible dollar of profit. We should tightly regulate or ban personal data harvesting as well as prohibit data pooling, blocking mergers or partnerships like Kroger–Albertsons or Walmart–Vizio where a primary synergy was combining massive datasets to enable personalized pricing.

Furthermore, the existing legal framework is insufficient to effectively regulate individualized pricing discrimination. Though equal protection laws provide a starting ground, they fail to address pricing practices that respond to the full spectrum of factors influencing consumers' perceived willingness to pay. High costs are already taking a toll on Americans, particularly low-income ones. Surveillance pricing only increases the leverage corporations have over consumers to extract profit. New regulation, like the legislation we are here to discuss today, is imperative to prevent the continued exploitation of working families and help Americans receive a fair price for everyday necessities.

[37] Ted Reed, "Airline Pricing Systems Are 'Ancient.' Here's How AI Can Help," Forbes, August 21, 2024, https://www.forbes.com/sites/tedreed/2024/08/21/airline-pricing-systems-are-ancient-heres-how-ai-can-help/.

Testimony

Submitted on behalf of the
Pennsylvania Chamber of Business and Industry

Before the:
House Consumer Protection, Technology & Utilities Committee

Presented by:
Aaron Riggleman
Manager, Government Affairs

PA House of Representatives
Harrisburg, PA
November 18th, 2025

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Chairman Burgos, Chairman Metzgar, and Honorable Members of the House Consumer Protection, Technology, & Utilities Committee,

Thank you for the opportunity to testify before you today. My name is Aaron Riggleman, and I serve as the Manager of Government Affairs for the Pennsylvania Chamber of Business and Industry. The PA Chamber represents roughly 10,000 employers across every region and industry in the Commonwealth, with a mission to make Pennsylvania the most competitive state in the nation to do business.

Businesses in Pennsylvania remain firmly committed to maintaining strong consumer protections and trust in the marketplace. However, the broad language, unclear definitions, and significant litigation risks within H.B. 1942 raise serious concerns for the business community. While the stated goal of preventing unfair or discriminatory pricing is well-intentioned, the bill's scope extends far beyond that purpose and would capture routine, beneficial business practices that consumers value and rely on every day.

H.B. 1942 seeks to prohibit what it terms "surveillance pricing," defined as the use of electronic surveillance technology or personal information to determine, set, vary, or influence the price of goods or services offered to a consumer. It further defines "electronic surveillance technology" as any method used to observe, monitor, or collect information related to a person, including their actions, habits, residence, preferences, interests, web-browsing history, purchase history, financial circumstances, or other consumer behaviors.

This bill poses significant problems for both businesses and consumers. Its definitions are excessively broad. As drafted, nearly any difference in price based on a

consumer's habits or actions could fall under the definition of prohibited "surveillance pricing." Many businesses rely on customer behavior data to better serve consumers and, in many cases, to lower prices—such as sending discounts to hesitant buyers or rewarding repeat customers. These well-established practices could inadvertently fall within the bill's prohibitions if enacted.

Every day, Pennsylvania businesses use simple, transparent programs to help customers save, like a grocery store sending coupons for favorite products, a restaurant rewarding loyal diners, or a gas station offering app-based discounts to frequent drivers. Online retailers use promotional codes to re-engage shoppers who left items in their carts, while local coffee shops give a free drink after ten visits. Yet under this bill, each of these programs could be considered "surveillance pricing" because they rely on limited consumer data to tailor offers or determine discounts. Rather than protecting consumers, the law would likely force businesses to eliminate these savings programs altogether to avoid legal exposure.

Because the bill prohibits any pricing difference "based in whole or in part" on personal information, businesses would struggle to prove that a discount or promotion was not influenced by consumer data. Even a simple rewards program could be construed as varying price based on personal behavior, creating confusion, risk, and likely the end of many cost-saving programs.

The impact would extend across Pennsylvania's business community. Small businesses increasingly depend on basic digital tools and customer data to stay competitive. A

neighborhood pizza shop might text a discount code to regular customers, or a local boutique might email a birthday coupon to loyal shoppers. These efforts are not invasive surveillance; they are practical, affordable ways to connect with customers. If enacted, H.B. 1942 would likely force many small businesses to abandon such programs due to compliance costs and the threat of lawsuits.

Existing Pennsylvania law already prohibits deceptive or unfair business practices and establishes clear standards for consumer protection. H.B. 1942 goes far beyond those standards by banning any price difference that could be influenced by personal data, even when that data is used solely to benefit consumers through voluntary programs. The result would be significant uncertainty and compliance burdens that few businesses could reasonably meet.

Compounding these concerns, the bill would create a new private right of action by declaring that "a violation of this act shall constitute an unfair method of competition and an unfair or deceptive act or practice under the Unfair Trade Practices and Consumer Protection Law." This provision would open the door to private lawsuits, including class actions, even when no consumer was harmed. A business could be sued merely for offering a discount or personalizing promotions. Enforcement of consumer protection laws should remain with the Attorney General, who can address genuine misconduct consistently and fairly.

Ironically, legislation intended to protect consumers could instead lead to higher prices and fewer choices. If enacted, many businesses would discontinue rewards

programs, membership discounts, and regional pricing to minimize legal risk. Families would lose access to grocery coupons, restaurant deals, airline miles, gas rewards, and other programs that stretch household budgets—creating a one-size-fits-all marketplace with fewer savings and less competition.

The challenge with this legislation lies not in its intent, but in its execution. Its broad and ambiguous definitions threaten to chill legitimate business activities that help consumers save money every day. Policymakers can achieve the goal of preventing unfair pricing without outlawing ordinary marketing and discount programs that promote affordability and competition.

In its current form, this bill would harm Pennsylvania consumers by putting rewards programs, digital coupons, and personalized discounts in legal limbo. These are not examples of "surveillance pricing." They represent innovation, efficiency, and customer service in a modern economy. Consumers value these programs because they help them spend less—not more. The General Assembly should ensure that Pennsylvania law protects both fairness and affordability, not one at the expense of the other.

Thank you for the opportunity to testify. I am happy to answer any questions.

TECHNET
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November 6, 2025

The Honorable Danilo Burgos
Chair
House Consumer Protection, Technology & Utilities Committee
Pennsylvania House of Representatives
106 Irvis Office Building
Harrisburg, PA 17120

RE: HB 1942, PN 2451 (Burgos) – Surveillance Pricing Act

Dear Chairman Burgos and Members of the Committee,

On behalf of TechNet, I'm writing to share concerns on HB 1942.

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. Many of these tools have been used responsibly for years to support marketing, pricing, and other data-driven business practices that enhance the consumer experience and competitiveness. States across the country have been carefully studying how to balance innovation with consumer protection, but none have enacted legislation resembling HB 1942. 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.

Customers benefit from the use of personalized pricing in a variety of ways. Personalized pricing offers unique deals and promotions that are tailored based on a customer's interests and buying habits. Our member companies use this data to build features that provide customers discounted coupons and early access to deals. Further, regionalized offers based on customers' location encourage competitive pricing in the area. Targeted marketing via emails and ads are customized to

highlight promotions and offers most likely to appeal to each individual customer. Streamlined ordering also makes it easier for consumers to reorder frequently purchased items at lower prices.

HB 1942 presents several problems for businesses and consumers in the Commonwealth. The definitions are extremely broad. As written, the definition of "Surveillance Pricing" defines any differences in price based on a consumer's habits and/or traits as potential "surveillance pricing" and subsequently prohibits such practices. Our members use these types of information surrounding customer behaviors and actions to set prices. In some instances, these companies will even lower prices to try to convince an infrequent or hesitant customer to use their service, and companies are concerned that these actions will violate the bill should it pass.

Due to the bill's broad language, along with a narrow exemption list, companies would be unable to offer widely accepted and widely used pricing practices that benefit consumers. Examples of these practices that would be prohibited include:

- Different pricing in different areas. Because HB 1942 lists "residence" among its broad list of protected areas, it would appear that setting a price differently for customers who are harder to reach, such as those in a remote area, would qualify as "surveillance pricing".
- Lending or other consumer-specific transactions. Lending transactions are inherently based on a consumer's unique information, including financial loans or insurance rates, and would seem to therefore qualify as "surveillance pricing".
- Discounts. We are concerned about how HB 1942 will impact a business's ability to use customer data to generate discounts and promotions due to the bill's burdensome requirements.
    - Needs-based discounts. A consumer's financial ability to pay would fall under the Breach of Personal Information Notification Act's definition of "Personal Information", which HB 1942 includes under "Electronic Surveillance Technology". This would prohibit discounts based on a consumer's financial situation.
    - Discounts offered because of interest in a similar product. Companies often offer discounts to a frequent purchaser to incentivize them to try a new product. If those purchases are made online, there is a prior search history to indicate past purchases, or behaviors, and therefore, this would fall under "Surveillance Pricing" and lead to penalties.
    - "Win-back" discounts. These types of discounts are targeted to consumers who were former customers. Oftentimes, these offers involve a discounted price to encourage former customers to reconsider or return to purchasing from the company. These types of discounts cannot be widely advertised because it may not be financially feasible or could encourage present customers to stop purchasing in order to acquire those "win-back" discounts. HB 1942 would require this practice to be disclosed on a business's website.
    - There are also concerns about how this bill will impact smaller businesses. Some businesses, especially small businesses, do not

necessarily have the time or resources to keep up to date websites. For example, some sites may only contain details on location and contact information. Any discount offered that the business failed to clearly and conspicuously disclose on their website would be a violation of law and expose the company to civil penalties. These provisions will also impact larger businesses. If a business wants to offer a quick sale - for instance on perishable items - that business would have to update their website or face potential civil suits.

Regarding the bill's legislative findings, the recent study referenced at the top of the legislation is from a December 2024 Consumer Watchdog summary with no apparent scientific methodology or verification of its claims. Furthermore, the study contained numerous references that were outdated and went back to 2015 and 2012, as examples.

The penalty structure in HB 1942 is onerous to businesses and will negatively impact how our member companies do business in the Commonwealth. The bill also provides for a private right of action or PRA. PRAs lead to frivolous lawsuits that take resources away from other consumer protection measures and only benefit a small subset of industry operating in the litigation space. Instead, any enforcement should be solely with the Attorney General. Finally, the effective date of 60 days is not enough time for companies to comply with this bill should it advance.

Earlier this year in California, lawmakers attempted to move AB 446, legislation very similar to the current version of HB 1942; 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.

While TechNet supports the intent of the bill - to ensure Pennsylvania 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 HB 1942. Please don't hesitate to reach out with any questions.

Sincerely,

Margaret Durkin

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TechNet Executive Director, Pennsylvania & the Mid-Atlantic

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House Consumer Protection, Technology and Utilities Committee
November 10, 2025
In Support of HB1942, a prohibition on surveillance pricing

The Consumer Federation of America (CFA) is an association of non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education. Our members include over 200 local, state, and national non-profit groups and consumer protection agencies. **CFA urges passage of HB1942, which would prohibit the unfair, confusing, frustrating, and discriminatory practice of surveillance pricing for Pennsylvanians.**

Algorithms increasingly mediate critical determinations for Pennsylvanians – housing eligibility, hiring decisions, credit rate determinations, what content they're shown, and more. This is often done with no transparency or choice for consumers, and to the detriment of their opportunities and bank accounts. Surveillance pricing comes in many forms, but creates cost uncertainty, leaves consumers powerless, entrench inequality, and is often plain unfair and annoying. It further incentivizes the invasive and pervasive sensitive data collection present throughout the economy.

HB1942 is a straightforward protection for Pennsylvania consumers, and help create a level playing field for businesses setting prices as well. We urge the committee to pass it, and are eager to answer any questions as you consider it.

/s/ Ben Winters
Director of AI and Privacy
bwinters@consumerfed.org

Written Testimony of Stephanie T. Nguyen
Senior Fellow | Vanderbilt Policy Accelerator & Former Chief Technologist | FTC
House Consumer Protection, Technology, and Utilities Committee
Pennsylvania General Assembly
Hearing on House Bill 1942 – The Surveillance Pricing Act
November 18, 2025

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Chairman Burgos and Members of the Committee,

Thank you for the opportunity to submit testimony on the Surveillance Pricing Act (House Bill 1942).[1]

My name is Stephanie Nguyen, and I previously served as the Chief Technologist at the Federal Trade Commission from 2021 to 2025.[2] There, I built and led the agency's first Office of Technology,[3] strengthening and supporting matters across consumer protection and competition – including the Surveillance Pricing Inquiry and Report.[4] I am currently a Senior Fellow at Vanderbilt Policy Accelerator, where we work on research and policy around network, platform, and utility regulation; industrial policy and economic security; and public options and governance. Experts at VPA have recently released work on the cost-of-living crisis – including price gouging,[5] loyalty programs,[6] credit card rates,[7] and surveillance pricing in the airline industry.[8] My testimony draws on my professional experience and represents my personal opinions.

[1] "House Bill 1942: An Act providing for prohibition on surveillance pricing; and imposing penalties," 2025-2026 Regular Session, Pa. H.R., PN 2451 (Oct. 16 2025), https://www.palegis.us/legislation/bills/2025/hb1942.
[2] "Stephanie T. Nguyen" U.S. Federal Trade Commission, accessed November 11, 2025, https://www.ftc.gov/about-ftc/commissioners-staff/stephanie-nguyen
[3] "FTC Launches New Office of Technology to Bolster Agency's Work," Federal Trade Commission, February 17 2023, https://www.ftc.gov/news-events/news/press-releases/2023/02/ftc-launches-new-office-technology-bolster-agencys-work
[4] "Surveillance Pricing Update & The Work Ahead," Federal Trade Commission, January 17 2025, https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2025/01/surveillance-pricing-update-work-ahead; "FTC Surveillance Pricing Study Indicates Wide Range of Personal Data Used to Set Individualized Consumer Prices," Federal Trade Commission, January 17, 2025, https://www.ftc.gov/news-events/news/press-releases/2025/01/ftc-surveillance-pricing-study-indicates-wide-range-personal-data-used-set-individualized-consumer
[5] Brian Shearer, Price Gouging Captive Customers, Vanderbilt Policy Accelerator (Nov. 2025), https://cdn.vanderbilt.edu/vu-URL/wp-content/uploads/sites/412/2025/11/06170435/Price-Gouging-Captive-Customers.pdf
[6] Samuel A.A. Levine & Stephanie T. Nguyen, The Loyalty Trap: How Loyalty Programs Hook Us with Deals, Hack Our Brains, and Hike Our Prices (Vanderbilt Policy Accelerator, Oct. 2025), https://cdn.vanderbilt.edu/vu-URL/wp-content/uploads/sites/412/2025/10/17195957/The-Loyalty-Trap.pdf
[7] Brian Shearer, Capping Credit Card Rates, Vanderbilt Policy Accelerator (Sept. 2025), https://cdn.vanderbilt.edu/vu-URL/wp-content/uploads/sites/412/2025/10/01144344/Capping-Credit-Card-Rates.pdf
[8] "Examining Competition in America's Skies," Subcommittee on Antitrust, Competition Policy, and Consumer Rights of the U.S. Senate Committee on the Judiciary, September 30, 2025, https://www.judiciary.senate.gov/committee-activity/hearings/examining-competition-in-americas-skies

The issues addressed by the Surveillance Pricing Act strike at the heart of a pressing issue: the collection and use of personal and behavioral data to set individualized prices – often referred to as surveillance pricing.[9]

Increasingly, companies are moving away from mass pricing and crude group segmentation to individualized pricing[10] where data can be used to extract the maximum a consumer is willing to pay. Today, the surge of data generated by connected devices and the rise of AI[11] systems trained on troves of user data[12] has created new opportunities for companies to target individuals with greater precision.[13] Retailers and online platforms can now collect and analyze vast troves of personal information – browsing history,[14] location data,[15] keystroke data,[16] purchasing behavior,[17] and even device type[18] – to set individual prices.

Surveillance pricing related practices can lead to harms[19] including: higher prices[20], threats to unauthorized disclosure of information to third-parties,[21] discrimination in access to housing[22] or employment opportunities,[23] and potential harms to competition.[24] Most recently, my colleague,

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[9] "FTC Issues Orders to Eight Companies Seeking Information on Surveillance Pricing," Federal Trade Commission, July 23, 2024, https://www.ftc.gov/news-events/news/press-releases/2024/07/ftc-issues-orders-eight-companies-seeking-information-surveillance-pricing
[10] Stephanie T. Nguyen, "The Price of Surveillance: The Parallel Evolution of Targeted Ads to Targeted Prices," Yale Journal on Regulation – Notice & Comment, Sept. 17, 2025, https://www.yalejreg.com/nc/the-price-of-surveillance-the-parallel-evolution-of-targeted-ads-to-targeted-prices-by-stephanie-t-nguyen/.
[11] Kara Williams & Ben Winters, "Specific Terms for Specific Risks: The Need for Accurate Definitions of AI Systems in Policymaking," Electronic Privacy Information Center (Oct. 1, 2025), https://www.epic.org/specific-terms-for-specific-risks-the-need-for-accurate-definitions-of-ai-systems-in-policymaking/.
[12] "AI (and other) Companies: Quietly Changing Your Terms of Service Could Be Unfair or Deceptive," Federal Trade Commission, February 13 2024, https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/02/ai-other-companies-quietly-changing-your-terms-service-could-be-unfair-or-deceptive.
[13] Stephanie T. Nguyen, "The Next Frontier of Surveillance: Investigating Pricing Systems," Yale Journal on Regulation – Notice & Comment, September 21, 2025, https://www.yalejreg.com/nc/the-next-frontier-of-surveillance-investigating-pricing-systems-by-stephanie-t-nguyen/.
[14] "FTC Finalizes Order with Avast Banning it from Selling or Licensing Web Browsing Data for Advertising and Requiring it to Pay $16.5 Million," Federal Trade Commission, June 27, 2024, https://www.ftc.gov/news-events/news/press-releases/2024/06/ftc-finalizes-order-avast-banning-it-selling-or-licensing-web-browsing-data-advertising-requiring-it.
[15]"Complaint, In re Mobilewalla, Inc., File No. 202-3196," Federal Trade Commission, https://www.ftc.gov/system/files/ftc_gov/pdf/2023196mobilewallacomplaint.pdf.
[16] Lina M. Khan, Remarks at the IAPP Global Privacy Summit 2022 (Apr. 11, 2022), Federal Trade Commission, https://www.ftc.gov/system/files/ftc_gov/pdf/Remarks%20of%20Chair%20Lina%20M.%20Khan%20at%20IAPP%20Global%20Privacy%20Summit%202022%20-%20Final%20Version.pdf.
[17] "Complaint, In re Avast Ltd., et al., File No. 202-3033," Federal Trade Commission, https://www.ftc.gov/system/files/ftc_gov/pdf/Complaint-Avast.pdf.
[18] Christo Wilson, "If you use a Mac or an Android, e-commerce sites may be charging you more," The Washington Post, November 3, 2014, https://www.washingtonpost.com/posteverything/wp/2014/11/03/if-you-use-a-mac-or-an-android-e-commerce-sites-may-be-charging-you-more/
[19] Alan Mislove et al., *Issue Spotlight: The Rise of Surveillance Pricing* (Federal Trade Commission Staff, Jan. 17 2025), https://www.ftc.gov/system/files/ftc_gov/pdf/sp6b-issue-spotlight.pdf.
[20] Keith A. Spencer, "Hotel Booking Sites Caught Overcharging Travelers from the Bay Area," SFGate, January 13, 2025, https://www.sfgate.com/travel/article/hotel-booking-sites-overcharge-bay-area-travelers-20025145.php.
[21] Drew Harwell, Is Your Pregnancy App Sharing Your Intimate Data with Your Boss?, Wash. Post, Apr. 10, 2019, https://www.washingtonpost.com/technology/2019/04/10/tracking-your-pregnancy-an-app-may-be-more-publicthan-you-think/.
[22] Joshua Asplund et al., Auditing Race and Gender Discrimination in Online Housing Markets, 14(1) Proceedings of the International AAAI Conference on Web and Social 24 (May 2020), https://ojs.aaai.org/index.php/ICWSM/article/view/7276.
[23] See Anja Lambrecht & Catherine Tucker, Algorithmic Bias? An Empirical Study of Apparent Gender-Based Discrimination in the Display of STEM Career Ads, , 65(7) Management Science 2966 (2019), https://pubsonline.informs.org/doi/10.1287/mnsc.2018.3093.
Basileal Imana et al., Auditing for Discrimination in Algorithms Delivering Job Ads, in Proceedings of the 30th International Conference on World Wide Web 3767 (Apr. 2021), https://dl.acm.org/doi/10.1145/3442381.3450077.
[24] Ginger Zhe Jin, Liad Wagman & Mengyi Zhong, "Surveillance Pricing: A Cautionary Summary of Potential Harms and Solutions," International Center for Law & Economics, July 14 2025, https://www.laweconcenter.org/resources/surveillance-pricing-a-cautionary-summary-of-potential-harms-and-solutions/.

Sam Levine and I released a report outlining the surveillance pricing tactics companies employ through loyalty programs.[25] For years, researchers,[26] investigative journalists,[27] advocacy organizations,[28] and regulators[29] have also sounded the alarm on areas related to this issue.

House Bill 1942 recognizes these risks and prohibits surveillance-based pricing that uses personal data without consumer awareness or consent. As the Committee continues to evaluate HB 1942, I would encourage the Committee to consider the following concepts:

1. **Public prices and price ranges.** A business offering goods or services to the public should be required to disclose a public price and a public price range available to all consumers in the relevant market. The disclosed price and price range should represent the actual price(s) paid by a substantial portion of consumers during a defined period, and not an artificial one intended to create the appearance of discounts and benefits.
2. **No charging higher than the public price.** No consumer should be charged a price *higher* than the publicly advertised price for the same good or service. To ensure this rule is meaningful, the "public price" should not be buried in fine print or hidden behind multiple clicks. In addition, it should reflect what most consumers actually pay.
3. **Behavioral data ban or limitations.** There should be default restrictions on collecting and using behavioral data to set individualized prices. Businesses should be prohibited from collecting or using browsing, search, biometric, or behavioral data to set individualized prices or discounts, or to infer a consumer's "willingness to pay."
4. **Preserve bona fide loyalty programs.[30] No broad carveouts for loyalty, membership, or rewards programs.** Loyalty and rewards programs can benefit consumers, but they must not serve as loopholes for surveillance-based pricing. Any exception should be narrowly tailored to legitimate uses. Discounts or rewards should rely on clear, verifiable

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[25] Samuel A.A. Levine & Stephanie T. Nguyen, The Loyalty Trap: How Loyalty Programs Hook Us with Deals, Hack Our Brains, and Hike Our Prices (Vanderbilt Policy Accelerator, Oct. 2025), https://cdn.vanderbilt.edu/vu-URL/wp-content/uploads/sites/412/2025/10/17195957/The-Loyalty-Trap.pdf.

[26] Ian Lovett, "Target Is Tracking You and Changing Prices Based on Your Location," HuffPost, March 4 2021, https://www.huffpost.com/entry/target-tracking-location-changing-prices_l_603fd12bc5b6ff75ac410a38.

[27] Julia Angwin, Surya Mattu & Jeff Larson, "The Tiger Mom Tax: Asians Are Nearly Twice as Likely to Get a Higher Price from The Princeton Review," *ProPublica*, September 1, 2015, https://www.propublica.org/article/asians-nearly-twice-as-likely-to-get-higher-price-from-princeton-reviewhttps://www.wsj.com/articles/SB10001
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[28] Derek Kravitz, "Are Kroger's Secret Shopper Profiles Costing You Money?," Consumer Reports, May 21 2025, https://www.consumerreports.org/money/questionable-business-practices/kroger-secret-grocery-shopper-loyalty-profiles-unfair-a1011215563/

[29] See, e.g., Changes Needed to Protect Consumers Using Customer Loyalty Schemes, Australian Competition & Consumer Comm'n, (Dec. 3, 2019), https://www.accc.gov.au/media-release/changes-needed-toprotect-consumers-using-customer-loyalty-schemes.
Jonathan Bishop, Customer Loyalty Programs: Are Rules Needed?, Innovation, Science and Economic Development Can. (2013, modified Sep. 4, 2023), https://ised-isde.canada.ca/site/search-research-database/en/node/14460.
CFPB Report Highlights Consumer Frustrations with Credit Card Rewards Programs, CFPB (May 9, 2024), https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-highlights-consumer-frustrationswith-credit-card-rewards-programs/.
USDOT Seeks to Protect Consumers' Airline Rewards in Probe of Four Largest U.S. Airlines' Rewards Practices, U.S. DEP'T OF TRANSPORTATION (Sep. 5, 2024), https://www.transportation.gov/briefing-room/usdot-seeks-protect-consumers-airline-rewards-probefour-largest-us-airlines-rewards.

[30] Geoffrey A. Fowler, "The hidden way using a rewards card can cost you more — Starbucks tracked my every purchase; then gave me fewer deals. It's called surveillance pricing," The Washington Post, October 18 2025, https://www.washingtonpost.com/technology/2025/10/18/starbucks-loyalty-program-surveillance-pricing/

criteria – such as documented past purchases – as opposed to behavioral profiling or the sale of consumer data to third parties.

States like Pennsylvania have a critical opportunity to establish clear and resilient rules to ensure fairness and transparency in the marketplace. By advancing this legislation, Pennsylvania has an opportunity to set a nationwide example of how technology can serve consumers, rather than exploit them.

Thank you for your leadership on this issue and for inviting me to share my perspective. I would be happy to provide follow-up materials or data supporting these recommendations and to answer any questions from the committee.

**

I am grateful to the many colleagues and experts who I have collaborated with on this topic – and to those who have provided feedback and insights that informed these remarks: Asad Ramzanali, Brian Shearer, Sam Levine, Lee Hepner, Erie Meyer

November 18, 2025

The Honorable Danilo Burgos
Chair
House Committee on Consumer Protection, Technology & Utilities
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The Honorable Carl Walker Metzgar
Chair
House Committee on Consumer Protection, Technology & Utilities
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RE: Oppose H.B. 1942 - *An Act providing for prohibition on surveillance pricing; and imposing penalties.*

Dear Chairs Burgos and Metzgar, and members of the Committee:

Thank you for the opportunity to submit testimony regarding H.B. 1942 for the record. On behalf of Chamber of Progress, a tech industry association supporting public policies to build a society in which all people benefit from technological advances, **I respectfully urge you to *oppose* H.B. 1942, which would harm consumers in Pennsylvania.**

This bill would restrict the use of innovative, data-driven pricing strategies that help deliver lower prices, personalized offers, discounts, and rewards, and greater convenience to consumers. Chamber of Progress opposes H.B. 1942 because it threatens widely accepted, pro-consumer practices and could undermine competition and affordability in digital markets.

H.B. 1942 bans pro-consumer practices that deliver tangible value to Pennsylvanians

Using customer data to personalize deals, discounts, and shopping experiences delivers real value to consumers, particularly those with fixed budgets. A parent who regularly buys children's cereal might receive a timely discount when a new brand hits the shelves, while an expectant mother might see tailored offers on prenatal vitamins or maternity wear. These are not examples of “surveillance pricing.” They’re examples of the smart, responsible use of customer information to make everyday products more affordable. A recent global survey of 23,000 consumers found that the vast majority are not only

comfortable with personalized offers but expect them, saying that personalization helps them find better prices, save time, and make the shopping experience more enjoyable.[1]

Yet under H.B. 1942's sweeping definition of "surveillance pricing," even these basic promotions would be illegal. The bill doesn't distinguish between manipulative or discriminatory practices and ordinary, data-driven discounts that consumers know and enjoy. By banning pricing informed by extraordinarily broad categories of information, including a customer's "actions," "interests," or "preferences," the legislation would outlaw the digital coupons, loyalty offers, and personalized savings that help Pennsylvania families stretch their budgets.

Doing so would come at a real cost. Digital coupons alone save the average household $1,465 each year,[2] before even counting the benefits of loyalty programs and targeted promotions. The burden would fall hardest on low-income families, especially those with children, who are among the most active deal-seekers and coupon users.[3]

Price targeting is a necessary and widely-supported practice

Terms like "surveillance pricing" and even "price discrimination" may arouse concern, but the underlying practice is both common and pro-consumer. Personalized pricing is already part of daily life: students and seniors receive discounts, software costs more for businesses than individuals, and airlines and hotels adjust prices based on demand and timing. Bars offer happy hour specials, insurance companies charge safer drivers less, and colleges vary tuition based on family income or merit. These are all forms of price targeting that make goods and services more accessible to a broader range of people.

Economists widely recognize that in industries with high fixed costs and low marginal costs, such as pharmaceuticals, software, and telecommunications, price targeting isn't just common, it's essential. It allows companies to recover investments while serving price-sensitive customers who might otherwise be priced out of the market.[4] What's new today is not the principle, but the tools being used. Algorithms and data make these same inclusive practices easier to scale, allowing businesses to expand discounts to more groups automatically and more consistently.

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[1] Mark Abraham, TR Geng, Florian Kogler, and Lauren Taylor, "What Consumers Want from Personalization," Boston Consulting Group (December 12, 2024), https://www.bcg.com/publications/2024/what-consumers-want-from-personalization.

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

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

[4] Juan M. Elegido, "The Ethics of Price Discrimination," Business Ethics Quarterly 21, no. 4 (October 2011): 636, https://doi.org/10.5840/beq201121439.

Critics who say that "everyone should pay the same price" overlook that flat pricing can actually be less fair. Without personalization, low-income students would pay full tuition, off-peak commuters would subsidize rush-hour riders, and loyal customers would never be rewarded for their commitment. Consumers benefit when they are offered opportunities that match their circumstance. These principles don't change simply because pricing decisions are now made with the support of digital tools.

Innovative price targeting strategies can make markets more efficient

Algorithms that deliver personalized deals allow companies to tailor prices and promotions in ways that expand access and make markets work better for everyone. Economic modeling consistently shows that data-driven pricing improves efficiency and social welfare, and real-world examples prove the point.

A Harvard Business School study found that when restaurant chains adopted algorithmic pricing, they reduced demand volatility, increased output, and ultimately lowered prices.[5] Uber offers another clear example: by using real-time data to match supply with demand, it improves both affordability and reliability. One study estimated that Uber generates about $100 million in annual consumer surplus in San Francisco alone, highlighting the tangible value innovative pricing delivers.[6]

By offering lower prices to cost-sensitive consumers while still covering costs from those willing to pay more, businesses can serve more people without sacrificing sustainability. That reduces waste, fills empty seats, and brings down overall prices. Economists call this reducing "deadweight loss," but in plain terms, it means fewer people are priced out of what they need. Done responsibly, these innovations make markets more equitable by shifting value from higher-income consumers to those who benefit most from discounts.[7]

H.B. 1942's exceptions concede the value of pricing innovation, but make it impossible in practice

Sections 3(b) and 3(d) of H.B. 1942 appear to recognize the value of personalized pricing to consumers by allowing narrow exceptions for publicly disclosed promotions, loyalty programs, and group-based discounts. However, the bill's accompanying disclosure and uniformity mandates are so stringent that they would make it nearly impossible for businesses to deliver personalized offers in practice, threatening many of the promotions Pennsylvania consumers enjoy.

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[5] Alexander MacKay, Dennis Svartbäck, and Anders G. Ekholm, "Dynamic Pricing, Intertemporal Spillovers, and Efficiency," Harvard Business School Strategy Unit Working Paper, December 14, 2023, https://ssrn.com/abstract=4164271.

[6] Jiehong Qiu, "What does Uber bring for consumers?" Data Science and Management Vol. 2 (June 2021): 20-27, https://doi.org/10.1016/j.dsm.2021.05.002

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

Section 3(d), for example, forces companies to disclose all eligibility criteria before collecting any data and to serve every eligible customer identically, effectively eliminating the very concept of a personalized offer. A working parent juggling bills and groceries might have once received a discount on diapers or school snacks from a new brand trying to win customers. Under H.B. 1942, that same parent would never see the offer, because the company couldn't identify who might benefit without publicly revealing its full pricing strategy. Instead, she'd be left with a limited stream of generic, untailored promotions that fail to match her needs or her family's budget.

Meeting these conditions would force companies to build costly new systems to track data, verify compliance, and manage eligibility. That is an excessive burden for practices that pose little risk to consumers. Smaller retailers and startups would struggle the most, while large firms with compliance teams could absorb the cost. The bill's requirement that companies disclose the data inputs and algorithms behind their pricing would also expose proprietary strategies that drive competition and keep prices low. These models allow businesses to match prices to demand, reward loyalty, and manage inventory efficiently. Forcing companies to reveal them would dull competition, discourage innovation,[8] and ultimately lead to higher prices and fewer choices for consumers.

For these reasons, **I respectfully urge you to oppose H.B. 1942.** By outlawing the discounts and personalized offers that families rely on to make ends meet, this bill would take away real savings from Pennsylvanians who can least afford it. Legislators should protect consumers, not prevent them from accessing the tailored deals that help hard working Pennsylvania families stretch every dollar.

Sincerely,

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

[8] Organisation for Economic Co-operation and Development. *Personalised Pricing in the Digital Era*. Paris: OECD Publishing, 2018. https://www.oecd.org/daf/competition/personalised-pricing-in-the-digital-era.htm.