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## A BILL FOR AN ACT

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RELATING TO SURVEILLANCE PRICING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that the increasing cost  
2 of groceries and basic necessities is placing a strain on  
3 Hawaii's residents. Many individuals often have to carefully  
4 weigh the cost of their purchases, whether it is an item like  
5 milk or fresh produce. In Hawaii, some residents must spend  
6 over seventeen per cent of their household budget to put a meal  
7 on the table, which is significantly higher than the national  
8 average of twelve per cent, according to the United States  
9 Bureau of Labor Statistics. Furthermore, the Hawaii Foodbank  
10 reports that nearly one in three households is food-insecure,  
11 meaning that they do not have access to sufficient or quality  
12 food to meet their basic needs.

13       The legislature further finds that surveillance  
14 pricing – which is a form of dynamic pricing where a consumer's  
15 personal data and behavior, including location, demographics,  
16 browsing patterns, and shopping history, is used to determine  
17 their willingness to pay for a good or service – can have an



1 adverse effect on consumers, especially for low-income  
2 individuals and households that rely on government assistance,  
3 such as the supplemental nutrition assistance program and  
4 special supplemental foods program for women, infants, and  
5 children. These kinds of retail practices can obscure the base  
6 price of everyday items and can lessen the power that consumers  
7 wield to make responsible and financially sound decisions.  
8 Although retailers contend that surveillance pricing can be used  
9 to lower the cost of goods, data has shown that instead,  
10 retailers often change prices to raise their own profits while  
11 leaving consumers to pay.

12 Accordingly, the purpose of this Act is to prohibit  
13 retailers from using surveillance pricing in the sale of food  
14 that is sold, or qualifies to be sold, as part of the  
15 supplemental nutrition assistance program or special  
16 supplemental foods program for women, infants, and children.

17 SECTION 2. Chapter 480, Hawaii Revised Statutes, is  
18 amended by adding a new section to be appropriately designated  
19 and to read as follows:

20 "§480- Surveillance pricing; prohibition; fines. (a)  
21 No retailer shall use surveillance pricing in the sale of food



1 that is sold, or qualifies to be sold, as part of the federal  
2 supplemental nutrition assistance program or special  
3 supplemental foods program for women, infants, and children.

4 (b) Any retailer that violates this section shall be  
5 subject to a civil fine of not more than \$5,000 per item per  
6 day. Each day of a continued violation of this section shall  
7 constitute a distinct and separate offense. The attorney  
8 general may bring an action to collect the fine.

9 (c) Any retailer that violates this section shall be  
10 subject to an administrative fine of not more than \$500 for the  
11 first offense and not more than \$1,000 for a second or  
12 subsequent offense and the actual costs of the investigation of  
13 the violation. Each day of a continued violation of this  
14 section shall constitute a distinct and separate offense. The  
15 director of commerce and consumer affairs may bring an action to  
16 collect the fine.

17 (d) This section shall not apply to:

18 (1) Discounts that are readily available to the public,  
19 posted in an easily accessible area of a company's  
20 website or mobile application, and may be obtained by  
21 any customer;



1        (2) Common group discounts; and

2        (3) Loyalty programs.

3        (d) As used in this section:

4        "Common group discounts" means discounts that are offered  
5 or provided to a cognizable group, such as teachers, students,  
6 senior citizens, or veterans and:

7        (1) The eligibility, type, quantity, or any other term of  
8 the discount is readily available to the public and  
9 posted in an easily accessible area of a company's  
10 website or mobile application; and

11       (2) Any consumer can obtain the discount if the consumer  
12 demonstrates they are part of the cognizable group.

13       "Electronic surveillance technology" means the use of  
14 technological methods, systems, or tools, including but not  
15 limited to sensors, cameras, device tracking biometric  
16 monitoring, or other forms of observation or data collection,  
17 that are capable of gathering personally identifiable  
18 information about a consumer's behavior, characteristics,  
19 location, or other personal attributes, whether in physical or  
20 digital environments.



1       "Loyalty program" means a program where discounted prices,  
2       including lower prices or other rewards, are offered to members  
3       of the program to encourage repeat purchases and patronage and:

4       (1) The terms of the loyalty program, including any  
5       discounted prices and conditions for loyalty rewards,  
6       are readily available to the public and posted in an  
7       easily accessible area of a company's website or  
8       mobile application; and

9       (2) The terms of the loyalty program are applied  
10       consistently to all consumers in the program and are  
11       not individualized for consumers.

12       "Surveillance pricing" means the practice of offering or  
13       setting a customized price for a good or service for a specific  
14       consumer or group of consumers based, in whole or in part, on  
15       personally identifiable information collected through electronic  
16       surveillance technology."

17       SECTION 3. This Act does not affect rights and duties that  
18       matured, penalties that were incurred, and proceedings that were  
19       begun before its effective date.

20       SECTION 4. New statutory material is underscored.

21       SECTION 5. This Act shall take effect upon its approval.



# H.B. NO. 2458

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INTRODUCED BY:

  
JAN 27 2026



# H.B. NO. 2458

**Report Title:**

Surveillance Pricing; Food; Prohibition; Fines; Exceptions

**Description:**

Prohibits retailers from using surveillance pricing in the sale of food that is sold, or qualifies to be sold, as part of the federal Supplemental Nutrition Assistance Program or Special Supplemental Foods Program for Women, Infants, and Children. Establishes fines. Exemptions certain discounts and loyalty programs.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

