
A BILL FOR AN ACT

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 These kinds of retail practices can obscure the base price of
4 everyday items and can lessen the power that consumers wield to
5 make responsible and financially sound decisions. Although
6 retailers contend that surveillance pricing can be used to lower
7 the cost of goods, data has shown that instead, retailers often
8 change prices to raise their own profits while leaving consumers
9 to pay.

10 Accordingly, the purpose of this Act is to prohibit persons
11 from using surveillance pricing in the sale of food.

12 SECTION 2. Chapter 481B, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 **"§481B- Surveillance pricing; prohibition; fines. (a)**

16 No person shall use surveillance pricing in the sale of food.

17 (b) Each item sold in violation of this section shall
18 constitute a distinct and separate offense. Each day of a
19 continued violation of this section shall constitute a distinct
20 and separate offense.

21 (c) This section shall not apply to:



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

5 (2) Common group discounts;

6 (3) Loyalty programs; or

7 (4) Restaurants or other establishments that prepare and
8 sell food directly to consumers for immediate
9 consumption, including such locations located within
10 retail establishments.

11 (d) As used in this section:

12 "Common group discounts" means discounts that are offered
13 or provided to a cognizable group, such as teachers, students,
14 senior citizens, or veterans and:

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

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



1 "Electronic surveillance technology" means the use of
2 technological methods, systems, or tools, including but not
3 limited to sensors, cameras, device tracking biometric
4 monitoring, or other forms of observation or data collection,
5 that are capable of gathering personally identifiable
6 information about a consumer's behavior, characteristics,
7 location, or other personal attributes, whether in physical or
8 digital environments.

9 "Food" means:

- 10 (1) Articles used for food or drink by humans;
11 (2) Chewing gum; or
12 (3) Articles used for components of any such article.

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

- 16 (1) The terms of the loyalty program, including any
17 discounted prices and conditions for loyalty rewards,
18 are readily available to the public and posted in an
19 easily accessible area of a company's website or
20 mobile application; and



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

4 "Personally identifiable information" means:

5 (1) Any of the following:

6 (A) An individual's social security number, either in
7 its entirety or the last four or more digits;

8 (B) Driver's license number, federal or state
9 identification card number, or passport number;

10 (C) A federal individual taxpayer identification
11 number;

12 (D) A military identification number;

13 (E) An individual's financial account number, or
14 credit or debit card number, unless redacted;

15 (F) A security code, access code, personal
16 identification number, or password that would
17 allow access to an individual's account;

18 (G) Unique biometric data generated from a
19 measurement or analysis of human body
20 characteristics used for authentication purposes,
21 including a fingerprint, voice print, retina or



1 iris image, or other unique physical or digital
2 representation of biometric data;

3 (H) A private key that is unique to an individual and
4 is used to authenticate or sign an electronic
5 record; or

6 (I) Health insurance policy number, subscriber
7 identification number, medical identification
8 number, or any other unique number used by a
9 health insurer to identify a person; and

10 (2) In combination with any one or more of the following
11 when the information in paragraph (1) is not
12 encrypted, redacted, or otherwise protected by another
13 method that renders the information unreadable or
14 unusable:

15 (A) An individual's first initial or first name, and
16 last name;

17 (B) A user name or electronic mail address, in
18 combination with a password or security question
19 and answer that would permit access to an online
20 account;



1 (C) A name used by an individual, including the
2 combination of the first name, any initials in
3 the name, whether at the beginning or middle of
4 the name, or a nickname combined with the last
5 name;

6 (D) A user name for an online account;

7 (E) A mobile or home phone number; or

8 (F) An electronic mail address specific to the
9 individual.

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

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

18 SECTION 4. New statutory material is underscored.

19 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Surveillance Pricing; Food; Prohibition; Fines; Exceptions

Description:

Prohibits persons from using surveillance pricing in the sale of food. Exemptions certain discounts, loyalty programs, and restaurants. Effective 7/1/3000. (HD2)

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