
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 in the State is
11 food-insecure, meaning that they do not have access to
12 sufficient or quality 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, are used to determine
17 their willingness to pay for a good or service – can have an



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

10 Accordingly, the purpose of this Act is to require the
11 office of consumer protection of the department of commerce and
12 consumer affairs to conduct a study to determine the extent to
13 which companies operating in the State deploy surveillance
14 pricing practices.

15 SECTION 2. (a) The office of consumer protection of the
16 department of commerce and consumer affairs shall conduct a
17 study to determine the extent to which companies operating in
18 the State deploy surveillance pricing practices to adjust the
19 prices of goods and services for individual consumers.

20 (b) The study shall evaluate:



- 1 (1) Surveillance pricing practices deployed by companies
- 2 operating in the State, including the use of
- 3 electronic surveillance technology;
- 4 (2) Whether the State should enact legislation prohibiting
- 5 the use of surveillance pricing:
- 6 (A) In the sale of food; or
- 7 (B) Specifically for the offering or setting of a
- 8 customized price increase for a good or service
- 9 for a specific consumer or group of consumers
- 10 based on personally identifiable information
- 11 collected through electronic surveillance
- 12 technology;
- 13 (3) Potential exemptions from surveillance pricing
- 14 regulations, including but not limited to:
- 15 (A) Discounts that are readily available to the
- 16 public, posted in an easily accessible area of a
- 17 company's website or mobile application, and may
- 18 be obtained by any customer;
- 19 (B) Common group discounts; and
- 20 (C) Restaurants or other establishments that prepare
- 21 and sell food directly to consumers for immediate



1 consumption, including locations within retail
2 establishments; and

3 (4) Whether the enactment of comprehensive privacy laws is
4 necessary to protect the right to privacy of residents
5 of the State.

6 (c) The office of consumer protection of the department of
7 commerce and consumer affairs shall submit a report of its
8 findings and recommendations, including any proposed
9 legislation, to the legislature no later than twenty days prior
10 to the convening of the regular session of 2027.

11 (d) For the purposes of 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 that they are part of the cognizable
21 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 paragraphs (1) or (2).

13 "Personally identifiable information" means:

- 14 (1) Any of the following:
 - 15 (A) An individual's social security number, in its
 - 16 entirety or the last four or more digits;
 - 17 (B) Driver's license number, federal or state
 - 18 identification card number, or passport number;
 - 19 (C) A federal individual taxpayer identification
 - 20 number;
 - 21 (D) A military identification number;



- 1 (E) An individual's financial account number or
- 2 credit or debit card number, unless redacted;
- 3 (F) A security code, access code, personal
- 4 identification number, or password that would
- 5 allow access to an individual's account;
- 6 (G) Unique biometric data generated from a
- 7 measurement or analysis of human body
- 8 characteristics that is used for authentication
- 9 purposes, including a fingerprint, voice print,
- 10 retina or iris image, or other unique physical or
- 11 digital representation of biometric data;
- 12 (H) A private key that is unique to an individual and
- 13 is used to authenticate or sign an electronic
- 14 record; or
- 15 (I) Health insurance policy number, subscriber
- 16 identification number, medical identification
- 17 number, or any other unique number that is used
- 18 by a health insurer to identify a person; and
- 19 (2) In combination with any one or more of the following
- 20 when the information in paragraph (1) is not
- 21 encrypted, redacted, or otherwise protected by another



1 method that renders the information unreadable or
2 unusable:

3 (A) An individual's first initial or first name, and
4 last name;

5 (B) A username or electronic mail address, in
6 combination with a password or security question
7 and answer that would permit access to an online
8 account;

9 (C) A name used by an individual, including the
10 combination of the first name, any initials in
11 the name, whether at the beginning or middle of
12 the name, or a nickname combined with the last
13 name;

14 (D) A username for an online account;

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

16 (F) An electronic mail address specific to the
17 individual.

18 "Surveillance pricing" means the practice of offering or
19 setting a customized price for a good or service for a specific
20 consumer or group of consumers based, in whole or in part, on



1 personally identifiable information collected through electronic
2 surveillance technology.

3 SECTION 3. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2026-2027 for
6 the office of consumer protection of the department of commerce
7 and consumer affairs to conduct a study to determine the extent
8 to which companies operating in the State deploy surveillance
9 pricing practices to adjust the prices of goods and services for
10 individual consumers.

11 The sum appropriated shall be expended by the department of
12 commerce and consumer affairs for the purposes of this Act.

13 SECTION 4. This Act shall take effect on January 1, 2077.



Report Title:

DCCA; OCP; Surveillance Pricing; Study; Report; Appropriation

Description:

Requires the Office of Consumer Protection of the Department of Commerce and Consumer Affairs to conduct a study to determine the extent to which companies operating in the State deploy surveillance pricing practices. Requires a report to the Legislature. Appropriates funds. Effective 1/1/2077. (SD1)

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