

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



RYAN I. YAMANE  
DIRECTOR  
KA LUNA HO'ŌKELE

JOSEPH CAMPOS II  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'ŌKELE

STATE OF HAWAII  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF HUMAN SERVICES**  
KA 'OIHANA MĀLAMA LAWELAWE KANAKA  
Office of the Director  
P. O. Box 339  
Honolulu, Hawaii 96809-0339

TRISTA SPEER  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'ŌKELE

February 15, 2026

TO: The Honorable Representative Scot Z. Matayoshi, Chair  
House Committee on Consumer Protection & Commerce

FROM: Ryan I. Yamane, Director

SUBJECT: **HB 2458 HD1 – RELATING TO SURVEILLANCE PRICING.**

Hearing: Wednesday, February 18, 2026, Time 2:00 p.m.  
Conference Room 329, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the intent of the bill, to prohibit retailers from using surveillance pricing in the sale of food that is sold, or qualifies to be sold, as part of the Supplemental Nutrition Assistance Program (SNAP) or Special Supplemental Foods Program For Women, Infants, and Children (WIC), and provides comments. The Department defers to the Department of Health on the WIC program and to the Department of Commerce & Consumer Affairs regarding its resource needs to enforce this proposed consumer protection initiative.

Currently, SNAP-authorized retailers must treat SNAP participants the same as cash purchasers. SNAP-Electronic Benefit Transfer (EBT) authorized retailers must enter into an agreement with the United States Department of Agriculture (USDA) Food and Nutrition Services (FNS) as a requirement to process SNAP purchases. A condition of their retailer agreement is to comply with the SNAP Equal Treatment Rule.

In accordance with 7 CFR 278.2(b), all SNAP customers must receive equal treatment when making SNAP purchases. Further, it states, "Coupons [SNAP benefits] shall be accepted for eligible foods at the same prices and on the same terms and conditions applicable to cash

purchases of the same foods at the same store except that tax shall not be charged on eligible foods purchased with coupons. However, nothing in this part may be construed as authorizing FNS to specify the prices at which retail food stores may sell food...“ Consequently, the proposed measure creates an additional regulatory framework and penalties on retailers.

Further guidance, including potential disqualifications, fines, and other consequences for violations of the terms of the agreement with FNS, is provided to all retailers in the FNS-330, a retailer training guide, available on the USDA website [www.fns.usda.gov/snap/retailer/training/guide](http://www.fns.usda.gov/snap/retailer/training/guide).

Thank you for the opportunity to provide testimony on this measure.



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
KA 'OIHANA PILI KĀLEPA  
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JOSH GREEN, M.D.  
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SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

NADINE Y. ANDO  
DIRECTOR | KA LUNA HO'OKELE

DEAN I. HAZAMA  
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
House Committee on Consumer Protection & Commerce  
Wednesday, February 18, 2026  
2:00 p.m.  
Via Videoconference  
Conference Room 329**

**On the following measure:  
H.B. 2458 H.D.1, RELATING TO SURVEILLANCE PRICING**

Chair Matayoshi and Members of the Committee:

My name is Dominic Jancaterino, and I am an Enforcement Attorney for the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department appreciates the intent of this bill and offers comments.

The purposes of this bill are to prohibit retailers from using surveillance pricing in the sale of food that is sold, or qualifies to be sold, as part of the supplemental nutrition assistance program or special supplemental foods program for women, infants, and children and establishes fines.

We have concerns about exempting loyalty programs from regulatory scrutiny, as loyalty programs have become testing grounds for surveillance pricing programs and models. "Loyalty programs" have evolved into data-harvesting machines that should be

scrutinized”<sup>1</sup>. Loyalty programs “track not just what consumers buy, but who we are, what we search for, and even how we move our cursors across a screen.” *Id.*

Pricing models that use surveillance data to charge consumers the maximum they will tolerate without changing competition are enabled by loyalty program data. In a Delta Airlines earnings call last year, the airline explained to shareholders that “by mining customer data and external market signals, the airline can engage in what its consultant Fetcherr calls 'hyper-personalization' -- a euphemism for charging each traveler the maximum they will tolerate, without losing share to rivals.” *Id.* at 33. As a result, exempting loyalty programs, as this bill proposes, creates a significant loophole that could allow businesses to use and exploit surveillance data. (Page 3, line 21.)

Should the Committee wish to pass this bill, we respectfully request the following amendments:

- (1) Remove redundant language regarding enforcement by deleting page 3, lines 4 -8;
- (2) Remove the loyalty program exemption by deleting page 3, line 21; and
- (3) Insert an unspecified general fund appropriation for a new technologist position and a new staff attorney position to be placed within the Office of Consumer Protection.

The responsibility to investigate and bring civil enforcement actions challenging prohibited surveillance pricing requires staff resources to meet the challenge, including technologists. A technologist is a professional who would provide essential expertise to help attorneys and investigators understand how AI systems function and how data is used and weighed. This expertise could help us evaluate technical evidence, identify unfair or deceptive practices, and draft targeted subpoenas, effectively assisting our efforts to enforce the statute in a rapidly evolving and highly technical area.

Thank you for the opportunity to testify on this bill.

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<sup>1</sup> 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, UC Berkeley Center for Consumer Law & Economic Justice (Oct. 2025).



# HAWAII APPLESEED

CENTER FOR LAW & ECONOMIC JUSTICE

Testimony of the Hawai‘i Appleseed Center for Law and Economic Justice  
Support for HB 2458 – Relating to Food Security  
House Committee on Consumer Protection and Commerce  
Wednesday, February 18, 2026, at 2:00 PM

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Dear Chair Matayoshi, Vice Chair Grandinetti, and members of the Committee:

Thank you for the opportunity to submit testimony in support of **HB 2458**, which would prohibit retailers from using surveillance pricing for food sold in the Supplemental Nutrition Assistance Program (SNAP) or Special Supplemental Foods Program for Women, Infants, and Children (WIC).

Hawai‘i Appleseed is committed to advancing a food system that is equitable, accessible, and affordable for all residents. With recent figures showing one in three Hawai‘i residents struggle to afford enough food,<sup>1</sup> supplemental nutrition programs are more important than ever to support working families, individuals with disabilities, and others living on fixed or limited incomes.

Surveillance pricing, where prices are adjusted based on consumer data, behavior, or technology use, threatens affordability and predictability for any consumer—especially for over 160,000 Hawai‘i residents<sup>2</sup> relying on SNAP and 25,000 pregnant people, infants, and young children served by WIC.<sup>3</sup> These practices are more than just inconsistent pricing, they are a way for large companies to use personal, demographic, consumer, workplace, and contextual data to charge higher prices for essential foods.<sup>4</sup>

Other states such as Maryland, California, and New York have proposed similar bans on these forms of predatory pricing for groceries, citing concerns about unfair and unpredictable costs for consumers.<sup>5</sup> Hawai‘i has the opportunity to join these states in getting ahead of exploitative pricing practices while protecting SNAP and WIC participants.

Thank you for the opportunity to provide testimony in support of HB 2458. We are pleased that the Hawai‘i legislature is paying attention to measures that improve food security across the state.

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<sup>1</sup> Hawai‘i Foodbank, “The State of Food Insecurity in Hawai‘i 2024-2025: Executive Summary,” Hawai‘i Foodbank, November 2025. [https://hawaiifoodbank.org/wp-content/uploads/2025/12/HFB\\_ExecutiveSummary2025\\_Web-FINAL.pdf](https://hawaiifoodbank.org/wp-content/uploads/2025/12/HFB_ExecutiveSummary2025_Web-FINAL.pdf)

<sup>2</sup> U.S. Department of Agriculture, “SNAP Data Tables: National and/or State Level Monthly and/or Annual Data,” Food and Nutrition Service, 2025. <https://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap>

<sup>3</sup> U.S. Department of Agriculture, “WIC Data Tables: Monthly Data – State Level Participation by Category and Program Costs,” Food and Nutrition Service, 2025. <https://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap>  
<https://www.fns.usda.gov/pd/wic-program>

<sup>4</sup> AI Now Institute, et al. *Prohibiting Surveillance Prices and Wages*. February 2025, American Economic Liberties Project, <https://www.economicliberties.us/wp-content/uploads/2025/02/Real-Surveillance-Prices-and-Wages-Report.pdf>

<sup>5</sup> Tan, Cheyenne. *How U.S. States Are Tackling Algorithmic Pricing: 2025 Bill Tracker and Analysis*. *Innovation at Consumer Reports*, 1 Aug. 2025, <https://innovation.consumerreports.org/how-u-s-states-are-tackling-algorithmic-pricing-2025-bill-tracker-and-analysis/>.



## HIPHI Board

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Hawaiian Research Office

Danette Wong Tomiyasu, MBA  
Retired, Hawai'i State Department of  
Health

## HIPHI Initiatives

Coalition for a  
Tobacco-Free Hawai'i

Community-Based Research &  
Evaluation

Community Health  
Worker Initiatives

Environmental Health

Hawai'i Climate Change and Health  
Working Group

Hawai'i Drug & Alcohol-Free Coalitions

Hawai'i Immunization Coalition

Hawai'i Oral Health Coalition

Hawai'i Public Health Training Hui

Healthy Eating + Active Living

Kūpuna Collective/Healthy Aging &  
Community Living

Public Health Workforce Development

Date: February 15, 2026

To: Representative Lisa Marten, Chair  
Representative Ikaika Olds, Vice Chair  
Members of the Committee on Consumer Protection and Commerce

Re: Support for HB 2458 HD1 Relating To Surveillance Pricing

Hrg: February 18, 2026, at 2:00 pm, Conference Room 329

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Hawai'i Public Health Institute (HIPHI)<sup>1</sup> and the Healthy Eating + Active Living<sup>2</sup> (HEAL) Statewide Coalition are in **support of HB 2458**, which would prohibit retailers from using "surveillance pricing," the practice of setting customized prices for food purchases based on consumers' personal data in the sale of food that is sold, or qualifies to be sold, under SNAP and WIC. The measure also establishes enforceable protections, while allowing reasonable exemptions for discounts and traditional loyalty programs.

### Same Item, Vastly Different Prices for Different People

Surveillance pricing enables companies to use personal information such as purchasing history, browsing behavior, and demographic data to charge different consumers different prices for the same products. **Studies have shown price differences as large as 23% for the same item.**<sup>3</sup>

This practice lacks transparency and can disproportionately harm low-income families who rely on SNAP and WIC benefits, effectively penalizing them through algorithmic profiling rather than reflecting actual market costs.

I hope we would be appalled if we saw a cashier charge one customer more, and explained that it was because the customer's purchase history and price sensitivity allowed it. However, we are allowing this to occur behind an invisible algorithm.

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<sup>1</sup> Hawai'i Public Health Institute's mission is to advance health and wellness for the people and islands of Hawai'i. We do this through expanding our understanding of what creates health of people and place, fostering partnerships, and cultivating programs to improve policies, systems, and the environments where people live, learn, work, age, and play.

<sup>2</sup> The Healthy Eating + Active Living (HEAL) Coalition, formerly known as the Obesity Prevention Task Force, was created by the legislature in 2012 and is comprised of over 60 statewide organizations. The HEAL Coalition works to make recommendations to reshape Hawai'i's school, work, community, and health care environments, making healthier lifestyles obtainable for all Hawai'i residents.

<sup>3</sup> [Consumer Reports Investigation](#) Instacart's AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill.



### **Increased Prices Make Hawai'i Even Less Affordable**

While 1 in 3 households face food insecurity each year, it's important we take every step necessary to keep grocery prices from rising. Allowing corporate profits to rise at the expense of our grocery budgets is not a sign of progress. The state is tasked with protecting our residents from exploitative practices, and charging some people more for the same bag of rice or carton of eggs needs to be stopped.

### **The Public is in Clear Opposition to Surveillance Pricing**

72% of those who use an online grocery delivery service believe that different users should not be charged different prices for any reason.<sup>4</sup> It's clear what the people want, and we have the opportunity to represent their wishes by banning this practice.

Mahalo for helping to protect our residents working to create a more affordable Hawai'i for us all.

A handwritten signature in black ink that reads 'Nate Hix'.

Nate Hix  
Director of Policy and Advocacy

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<sup>4</sup> [American Experiences Survey](#). Consumer Reports. September 2025.



Date of Hearing: 18 February, 2026

To: Chair Scot Z. Matayoshi, Vice Chair Tina Nakada Grandinetti, the House Committee on Consumer Protection & Commerce

Subject: **HB2458 HD1**, Relating to Surveillance Pricing

Aloha,

Hawai'i Food+ Policy **strongly supports HB2458 HD1** which seeks to prohibit and fine the practice of surveillance pricing deployed against qualifying foods sold in retailers. One in three households in Hawaii are experiencing difficulty in securing consistent access to food and two-thirds of these families are experiencing the most extreme version of this – reducing food intake, skipping meals, or going whole days without eating. Uncertainty in pricing within the market makes it difficult/impossible to budget in an already constrained area of life.

From an FTC report on surveillance pricing<sup>1</sup>, findings revealed that “consumer behaviors ranging from mouse movements on a webpage to the type of products that consumers leave unpurchased in an online shopping cart can be tracked and used by retailers to tailor consumer pricing.” As a legislative body, when community members do not have the ability to opt-out and delete this collected data, consumers have no protections beyond legislated consumer protections. It is important that the legislature establishes safeguards for individuals against practices to prevent decreased food security and food access.

The argument that surveillance pricing can be used to lower the cost of goods, as identified by the legislature, is not substantiated by data which shows retailers often change prices to raise their own profits while leaving consumers to pay. The possibility of benevolence is not a reason to forgo protection through policy.

We urge the committee to pass the bill seeking to prohibit 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 (SNAP) or special supplemental food program for women, infants, and children (WIC).

We appreciate the amendment specifying the fine amount of \$5,000.00 per item per day rather than \$500 for the first offense and we continue to support amendments to expand the prohibition on surveillance pricing for all sales of food, including those items beyond those foods which qualify for SNAP and WIC.

Mahalo,  
Brandon Kinard & the Food+ Policy Team  
#fixourfoodsystem

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[1] Federal Trade Commission. (2025, January). FTC surveillance pricing study indicates wide range of personal data used to set individualized consumer prices [Press release].  
<https://www.ftc.gov/news-events/news/press-releases/2025/01/ftc-surveillance-pricing-study-indicates-wide-range-personal-data-used-set-individualized-consumer>

**The Food+ Policy internship** develops student advocates who learn work skills while increasing civic engagement to become emerging leaders. We focus on good food systems policy because we see the importance and potential of the food system in combating climate change and increasing the health, equity, and resiliency of Hawai'i communities.

In 2026, the cohort of interns are undergraduate and graduate students and young professionals working in the food system. They are a mix of traditional and nontraditional students, including parents and veterans, who have backgrounds in education, farming, public health, nutrition, and Hawaiian culture.



**2026 Network Members**

Aloha Harvest  
Aloha United Way  
Chef Hui  
City and County of Honolulu  
County of Hawai'i  
Hawai'i Alliance for  
Progressive Action (HAPA)  
Hawai'i Appleseed  
Hawai'i Children's Action  
Network  
Hawai'i Dept. of Agriculture  
Hawai'i Dept. of Health  
Hawai'i Food Bank  
Hawai'i Food Bank - Kaua'i  
Branch  
Hawai'i Good Food Alliance  
Hawai'i Public Health Institute  
Kōkua Kalihi Valley  
Lanakila Pacific  
Mālama Kaua'i  
Maui Department of  
Agriculture  
Maui Food Bank  
Parents and Children Together  
Supersistence  
The Food Basket  
The Pantry, by Feeding Hawai'i  
Together  
Wai'anae Coast  
Comprehensive Health Center

[hawaiihungeraction.org](http://hawaiihungeraction.org)

## House Committee on Consumer Protection and Commerce

Wednesday, February 18, 2026, at 2:00PM

**RE: Support for HB 2458, Relating to Food Security**

Dear Chair Matayoshi, Vice Chair Grandinetti, and members of the Committee,

The Hawai'i Hunger Action Network, a coalition of more than twenty local organizations with the mission to advocate for food security for Hawai'i households, would like to express support for HB 2458. This bill would prohibit retailers from using surveillance pricing for food sold in the Supplemental Nutrition Assistance Program (SNAP) or Special Supplemental Foods Program for Women, Infants, and Children (WIC)

With one in three Hawai'i residents struggling to afford enough to eat, protecting food affordability is more important than ever. Pricing practices that allow companies to adjust food costs based on personal data or shopping behavior create uncertainty and make it even harder for families to budget. Not only do these practices make the price of essential groceries unpredictable, but it provides access to use personal, demographic, consumer, and workplace, and contextual data to charge higher prices for foods.

Hawai'i has an opportunity to join other states and stand up for consumers and help ensure that the cost of basic necessities remains fair and transparent. Mahalo for your leadership and your consideration of HB 2458.

With aloha,  
Hawai'i Hunger Action Network membership

To: House Committee on Consumer Protection & Commerce  
Re: **HB2458 HD1 – Relating to Surveillance Pricing**  
Hawai'i State Capitol & Via Videoconference  
February 18, 2026, 2:00 PM

**LATE**

Dear Chair Matayoshi, Vice Chair Grandinetti, and Committee Members,

On behalf of Hawai'i Children's Action Network Speaks!, I am writing in **SUPPORT of HB2458 HD1**, which would 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 (SNAP) or Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).

Surveillance pricing is the practice of using personal data such as location, browsing history, and purchase behavior to charge different prices based on what an algorithm predicts a family is willing or able to pay. A 2025 Consumer Reports investigation found that Instacart's algorithmic pricing led to grocery prices differing by as much as 23% for the same item depending on the customer, and these pricing experiments could cost families more than \$1,200 per year.<sup>1</sup>

This is especially concerning in Hawai'i, where families already face the highest cost of living in the nation and limited retail competition—particularly on neighbor islands where families often have few alternatives. Surveillance pricing allows companies to quietly charge higher prices to families who cannot easily shop elsewhere, worsening the affordability crisis for local households.

More than half of SNAP recipients in Hawai'i are in families with children.<sup>2</sup> And nearly half (49%) of Hawai'i's pregnant and postpartum women and children under age 5 are eligible for WIC food assistance.<sup>3</sup> At the least, our most economically vulnerable SNAP and WIC families should be protected from surveillance pricing.

With this bill, Hawai'i would join a growing national movement to protect consumers from surveillance pricing. New York and California recently passed bans on algorithmic price colluding, and at least 19 states are considering legislation to curb similar practices.<sup>4</sup>

Mahalo for the opportunity to provide this testimony. Please pass this bill.

Thank you,

Nicole Woo  
Director of Research and Economic Policy

<sup>1</sup> <https://www.consumerreports.org/media-room/press-releases/2025/12/new-report-exposes-instacarts-hidden-price-games/>

<sup>2</sup> [https://www.cbpp.org/sites/default/files/atoms/files/snap\\_factsheet\\_hawaii.pdf](https://www.cbpp.org/sites/default/files/atoms/files/snap_factsheet_hawaii.pdf)

<sup>3</sup> <https://www.fns.usda.gov/research/wic/eer/2023>

<sup>4</sup> <https://www.reuters.com/sustainability/boards-policy-regulation/us-states-take-aim-data-driven-pricing-ease-consumer-pain-2025-11-21/>



**LATE**

**House Committee on Consumer Protection & Commerce**

**Hawai'i Alliance for Progressive Action (HAPA) Strongly Supports: HB2458 HD1**

February 18th, 2026 at 2:00pm; Conference Room 329

Aloha Chair Matayoshi, Vice Chair Grandinetti and Members of the Committee,

HAPA is writing in **support of HB2458 HD1** which seeks to prohibit retailers from using surveillance pricing in the sale of food that is sold, or qualifies to be sold, as part of the supplemental nutrition assistance program or special supplemental foods program for women, infants, and children.

As of fiscal year 2022, 141,259 people were on SNAP.<sup>1</sup> Additionally, Hawai'i Food Bank reports one in three households in Hawaii reporting food insecurity, and two-thirds of these families are experiencing the most extreme version of this in the form of reducing food intake, skipping meals, or going whole days without eating.

The increasing cost of groceries and basic necessities continues to place a strain on Hawaii's residents. In Hawaii, some residents must spend over seventeen per cent of their household budget to put a meal on the table, which is significantly higher than the national average of twelve per cent, according to the United States Bureau of Labor Statistics.

Protections for the consumer need proactive action via policy. As recognized by the legislature, surveillance pricing can obscure the base price of everyday items and can lessen the power that consumers wield to make responsible and financially sound decisions. In an ever increasingly challenging economy, introducing this practice increases the complexity of preparing a meal budget when you can not know how much something will cost at checkout.

While retailers can use surveillance pricing to lower the cost of goods, data has shown that instead, retailers often change prices to raise their own profits. Permitting loyalty programs to offer discounted prices to the entire group and not individualized allows retailers to lower the cost of goods without needing customers' individual data.

Measures to prevent individualized pricing on qualifying food purchases are steps to protecting our community members. With respect to our communities privacy, we also want to acknowledge the request for clarification on the definition for "personally identifiable information" by the Department of Commerce and Consumer Affairs (DCCA) and the amendment clarifying the qualifying information in addition to including language around mandating the encryption of collected personal information.

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<sup>1</sup> U.S. Department of Agriculture, Food and Nutrition Service. (2022). *Hawaii: Supplemental Nutrition Assistance Program (SNAP) fact sheet* [Fact sheet].



**LATE**

Please support HB2458 HD1. Mahalo for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anne Frederick', written in a cursive style.

Anne Frederick,  
Executive Director

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<sup>1</sup> U.S. Department of Agriculture, Food and Nutrition Service. (2022). *Hawaii: Supplemental Nutrition Assistance Program (SNAP) fact sheet* [Fact sheet].  
<https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-state-factsheet-hi.pdf>

**HB-2458-HD-1**

Submitted on: 2/14/2026 12:18:20 AM

Testimony for CPC on 2/18/2026 2:00:00 PM

| <b>Submitted By</b>  | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|----------------------|---------------------|---------------------------|---------------------------|
| Johnnie-Mae L. Perry | Individual          | Support                   | Written Testimony<br>Only |

Comments:

I, Johnnie-Mae L. Perry, Support

2458 HB RELATING TO SURVEILLANCE PRICING.

**HB-2458-HD-1**

Submitted on: 2/14/2026 10:54:32 AM

Testimony for CPC on 2/18/2026 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Caroline Azelski    | Individual          | Support                   | Written Testimony<br>Only |

Comments:

In support of. Thank you.

## **HB-2458-HD-1**

Submitted on: 2/15/2026 9:38:13 AM

Testimony for CPC on 2/18/2026 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| William Caron       | Individual          | Support                   | Written Testimony Only |

Comments:

Aloha Chair, Vice Chair, and members of the committee,

I am testifying in strong support of HB2458, which prohibits retailers from using surveillance pricing in the sale of food eligible for purchase through SNAP and WIC. This bill protects the most vulnerable members of our community from a predatory and opaque pricing practice that has no place in the sale of essential nutrition.

### **The Stakes Could Not Be Higher**

Recent figures show that **one in three Hawai'i residents** struggles to afford enough food. For working families, individuals with disabilities, and kūpuna on fixed incomes, every dollar spent on groceries matters. More than **155,000 Hawai'i residents rely on SNAP** to put food on the table, and over **25,000 pregnant people, infants, and young children** depend on WIC for access to critical nutrition during the most developmentally important years of life.

These programs exist because we recognize as a society that no one should go hungry. HB2458 ensures that when participants use these benefits, they are not also being exploited by algorithmic price manipulation.

### **What Surveillance Pricing Is**

Surveillance pricing is not dynamic pricing based on supply and demand; it is something far more insidious. It refers to the practice of adjusting prices based on consumer data, behavior, or technology use—tracking where you shop, what you buy, how long you linger, what device you use, even your demographic profile—and using that information to charge you more for the same item someone else purchases for less.

Large corporations are already investing heavily in this technology. They are building profiles on consumers to identify who can be charged higher prices and who might not notice. For essential goods like food, this is not innovation; it is exploitation.

### **Why This Bill Is Necessary**

SNAP and WIC participants are uniquely vulnerable to surveillance pricing. Their purchasing patterns are trackable, and they often lack the flexibility to comparison shop across multiple

stores when transportation is limited or schedules are tight. Allowing retailers to mine their data and adjust prices accordingly is not just unfair; it is a form of predation on those already struggling.

Other states are already moving to address this threat. **Maryland, California, and New York** have proposed or enacted similar bans on surveillance pricing for groceries, citing concerns about unpredictable costs and consumer exploitation. Hawai‘i has the opportunity to join them in getting ahead of this practice before it becomes entrenched.

### **The Bill Is Targeted and Reasonable**

HB2458 is not a broad attack on retail pricing or loyalty programs. It explicitly exempts legitimate discounts and loyalty programs that offer consistent, transparent savings to all participants. It targets only the practice of using surveillance data to charge individualized, higher prices for food purchased with public nutrition assistance. Retailers remain free to set prices; they simply may not use surveillance data to inflate them for SNAP and WIC purchases.

### **A Matter of Dignity and Fairness**

When a mother uses her WIC benefits to buy milk for her infant, she should not have to wonder whether the store's algorithm has determined she can be charged more. When a kupuna on a fixed income uses SNAP to buy bread, they should not be penalized for shopping at the same store each week. HB2458 says: not here. Not in Hawai‘i.

### **The Case for Going Further: Ban Surveillance Pricing Outright**

While HB2458 rightly focuses on protecting our most vulnerable neighbors who rely on SNAP and WIC, we must also recognize that **surveillance pricing is inherently predatory for all consumers**. The practice does not become fair simply because the purchaser is not using public benefits. Charging one person more than another for the exact same item based on data gathered without their meaningful consent is a fundamental violation of trust and fairness in the marketplace.

This is price discrimination enabled by surveillance. It punishes loyalty, exploits convenience, and turns the most intimate details of our lives—where we go, what we buy, how we move through the world—into weapons used against our wallets. It undermines the very concept of a transparent market where price reflects value, not vulnerability.

If a practice is harmful enough to ban for those relying on food assistance, we should ask why it is acceptable for everyone else. The same algorithmic exploitation that targets SNAP participants will be used on working families, on students, on kūpuna who happen to shop at predictable times, on anyone whose data profile suggests they can absorb a higher price or won't notice the difference.

HB2458 is a critical first step. But as this technology spreads and becomes more sophisticated, the legislature should seriously consider expanding this protection to **all consumers**. Hawai‘i has

the opportunity to lead—not just in protecting the most vulnerable, but in establishing a principle that surveillance pricing has no legitimate place in a just and transparent economy.

For now, passing HB2458 is urgent and necessary. But let us be clear-eyed about where this path leads. The practice is wrong for SNAP participants. It is wrong for WIC participants. And it is wrong for everyone else, too.

I urge you to pass HB2458 and commit to building on this foundation until every consumer in Hawai‘i is protected from algorithmic price discrimination.

Mahalo for the opportunity to testify.

**HB-2458-HD-1**

Submitted on: 2/16/2026 8:11:11 AM

Testimony for CPC on 2/18/2026 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Dawn Wakukawa       | Individual          | Support                   | Written Testimony<br>Only |

Comments:

It's on our lawmakers to stop huge corporations and companies from profiting especially off those in the lowest socioeconomic class. As we have seen, they aren't able to regulate themselves.

**HB-2458-HD-1**

Submitted on: 2/17/2026 11:51:03 AM

Testimony for CPC on 2/18/2026 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Mariana Monasi      | Individual          | Support                   | Written Testimony Only |

Comments:

Aloha,

I write today in strong support of this bill. With skyrocketing cost-of-living prices that hit Hawai'i residents the hardest, we must regulate the cruel and inhumane ai systems that use surveillance pricing tactics. Imagine already being a poor parent that sees their formula costs go up every week because the store has your personal data and uses it to surge price the items you need most for your family to survive.

Please support this bill to bann this horrible practice,

Mahalo.

**LATE**

**HB-2458-HD-1**

Submitted on: 2/17/2026 3:35:16 PM

Testimony for CPC on 2/18/2026 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Cardenas Pintor     | Individual          | Support                   | Written Testimony Only |

Comments:

Aloha,

I support this bill.

Mahalo nui,

Cardenas Pintor

**LATE**

**HB-2458-HD-1**

Submitted on: 2/17/2026 6:48:45 PM

Testimony for CPC on 2/18/2026 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------|---------------------------|------------------------|
| Michael Olderr      | Individual          | Support                   | Written Testimony Only |

Comments:

I support this common-sense bill.