



Rep. Maura Hirschauer

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10400HB4248ham001

LRB104 16598 SPS 34912 a

1 AMENDMENT TO HOUSE BILL 4248

2 AMENDMENT NO. _____. Amend House Bill 4248 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Algorithmic Pricing Transparency Act.

6 Section 5. Legislative findings. The General Assembly
7 finds and declares:

8 (1) Consumers increasingly purchase goods and services
9 through online platforms that collect and process browsing
10 behavior, geolocation data, purchase history, and other
11 personal data.

12 (2) Businesses use automated systems and data-driven
13 algorithms to generate prices that may vary among
14 consumers for the same goods or services.

15 (3) These practices, sometimes referred to as
16 "surveillance pricing", may limit a consumer's ability to

1 comparison-shop and may enable pricing based on a
2 consumer's perceived willingness to pay.

3 (4) Transparency regarding the use of personal data in
4 pricing practices is necessary to promote fair dealing,
5 consumer protection, and market integrity.

6 Section 10. Definitions. In this Act:

7 "Algorithmic pricing" means a price for goods or services
8 generated, in whole or in part, using an automated decision
9 system, machine-learning model, or data-driven algorithm.

10 "Baseline price" means the price for goods or services
11 made available to consumers by a covered entity, excluding any
12 discounts, coupons, promotional offers, limited-time sales,
13 rebates, loyalty or club member pricing, or other reductions
14 or incentives offered to the consumer that lower the total
15 amount the consumer pays for the goods or services. "Baseline
16 price" does not include a higher price for goods or services
17 made available to consumers by a covered entity for the
18 purpose of offering a lower price through surveillance pricing
19 or algorithmic pricing. "Baseline price" does not include any
20 additional fees for premium or additional features.

21 "Clear and conspicuous" means a disclosure that is easily
22 noticeable, understandable, and proximate to the pricing
23 information presented to the consumer.

24 "Covered entity" means any person or entity that sells or
25 offers to sell goods or services through an online platform to

1 consumers in this State.

2 "Personal data" means information linked or reasonably
3 linkable to a consumer, including, but not limited to,
4 browsing history, search queries, geolocation data, prior
5 purchases, digital identifiers, or demographic profile data.

6 "Personalized price increase" means a price for goods or
7 services that is higher than the baseline price and is set for
8 a consumer based on the consumer's personal data.

9 "Surveillance pricing" means algorithmic pricing that uses
10 a consumer's personal data to generate a personalized price
11 increase. "Surveillance pricing" does not include any methods
12 of lowering the baseline price for goods or services,
13 including, but not limited to:

14 (1) the application of any discounts, coupons,
15 promotional offers, rebates, limited-time sales, loyalty
16 or club member pricing, or other reductions or incentives
17 offered to the consumer that lower the total amount the
18 consumer pays;

19 (2) price comparison tools, competitor price matching,
20 or other comparison-based pricing mechanisms; or

21 (3) any other price reduction method that does not
22 increase the baseline price to the consumer.

23 Section 15. Mandatory disclosure of surveillance pricing.

24 (a) A covered entity shall provide a clear and conspicuous
25 disclosure if the baseline price for a specific consumer is

1 personalized and generated using surveillance pricing. The
2 disclosure must state: THIS PRICE WAS SET BY AN ALGORITHM
3 USING YOUR PERSONAL DATA.

4 (b) The disclosure required under subsection (a) shall be
5 considered proximate to the pricing information if it is
6 presented next to the price, at the point of checkout, or
7 through a notice presented before completion of the
8 transaction.

9 Section 20. Consumer rights.

10 (a) A consumer may opt out of surveillance pricing.

11 (b) Upon request, a covered entity shall provide the
12 consumer with a non-personalized baseline price for the goods
13 or services.

14 Section 25. Prohibited conduct.

15 (a) A covered entity shall not use the following
16 information to generate algorithmic pricing:

- 17 (1) race;
- 18 (2) religion;
- 19 (3) sexual orientation;
- 20 (4) immigration status;
- 21 (5) medical information; or
- 22 (6) criminal history.

23 (b) A covered entity shall not engage in deceptive or
24 misleading personalized pricing practices.

1 (c) A covered entity shall not inflate baseline prices or
2 impose penalties on consumers who opt out of surveillance
3 pricing under subsection (a) of Section 20.

4 Section 30. Exceptions.

5 (a) This Act does not apply to price changes that are the
6 result of:

7 (1) fluctuations in the cost of acquiring, producing,
8 transporting, or distributing inventory, including, but
9 not limited to, changes in wholesale prices, manufacturing
10 costs, labor, insurance, or other input costs associated
11 with providing goods or services to different consumers;

12 (2) objective cost differences directly related to the
13 provision, supply, or sale of goods or services to
14 consumers in different geographic areas, market regions,
15 or delivery locations, including, but not limited to,
16 reasonable variations reflecting the costs or conditions
17 associated with serving particular areas or responding to
18 differing levels of supply or demand;

19 (3) supply chain disruptions, including, but not
20 limited to, delays, shortages, allocation by suppliers,
21 changes in shipping modes or routes, or other logistical
22 constraints that reasonably affect the seller's costs or
23 available quantities;

24 (4) time-limited sales, promotions, or discounts that
25 are offered in good faith and in the usual course of the

1 seller's business, including introductory pricing,
2 seasonal or clearance sales, and advertised promotional
3 events;

4 (5) the imposition, repeal, or adjustment of any tax,
5 fee, surcharge, or assessment imposed by federal, State,
6 or local law, or any pass-through of such amounts to the
7 consumer;

8 (6) variations in shipping, delivery, or handling
9 costs, including fuel surcharges and carrier rate changes,
10 and any pass-through of such costs to the consumer;

11 (7) loyalty, membership, or rewards programs,
12 including differentiated pricing based on participation in
13 the programs, use of digital coupons, or accumulation or
14 redemption of rewards, if the terms are disclosed and
15 applied in a non-discriminatory manner;

16 (8) special discount programs, including
17 differentiated pricing offered to individuals who meet
18 publicly disclosed eligibility criteria, such as teachers,
19 employees, active-duty or retired military personnel,
20 senior citizens, and students;

21 (9) any fees, surcharges, or other charges that are
22 imposed or set by third parties, including payment
23 processors, delivery platforms, or other intermediaries,
24 and any pass-through of such amounts to the consumer; or

25 (10) any other bona fide price change that is
26 reasonably attributable to legitimate business

1 considerations, including changes in market demand,
2 competitive conditions, or the seller's cost structure, if
3 the price change is applied in a non-discriminatory manner
4 to similarly situated consumers.

5 (b) This Act does not apply to algorithmic pricing models
6 that do not use personal data, including models based on
7 aggregate market demand.

8 (c) This Act does not apply to:

9 (1) any insurer or affiliate of the insurer or any
10 artificial intelligence system, algorithmic pricing
11 system, or surveillance pricing system deployed by or on
12 behalf of an insurer or affiliate of the insurer; or

13 (2) providers of financial services, including, but
14 not limited to, financial institutions, financial
15 institution affiliates, broker-dealers, registered
16 investment advisors, and entities that provide consumer
17 credit products, including credit cards, personal loans,
18 and mortgages.

19 The provisions of paragraph (1) apply to any insurer or
20 affiliate of the insurer that is regulated by the Department
21 of Insurance. Nothing in the paragraph shall be construed to
22 delegate regulatory oversight over any insurer or affiliate of
23 an insurer to any State agency other than the Department of
24 Insurance.

25 Section 35. Enforcement. A violation of any of the

1 provisions of this Act is an unlawful practice under the
2 Consumer Fraud and Deceptive Business Practices Act. All
3 remedies, penalties, and authority granted to the Attorney
4 General by that Act shall be available to him or her for the
5 enforcement of this Act.

6 Section 40. Home rule. The regulation of algorithmic
7 pricing, surveillance pricing, or any other similar pricing
8 mechanism is an exclusive power and function of the State. A
9 home rule unit may not regulate algorithmic pricing,
10 surveillance pricing, or any other similar pricing mechanism.
11 This Section is a denial and limitation of home rule powers and
12 functions under subsection (h) of Section 6 of Article VII of
13 the Illinois Constitution.

14 Section 45. Rulemaking. The Attorney General shall adopt
15 rules to implement and administer this Act.

16 Section 50. Relation to other laws. Nothing in this Act
17 shall be construed to limit any federal or State law.

18 Section 90. The Consumer Fraud and Deceptive Business
19 Practices Act is amended by adding Section 2MMMM as follows:

20 (815 ILCS 505/2MMMM new)

21 Sec. 2MMMM. Violations of the Algorithmic Pricing

1 Transparency Act.

2 (a) A person who violates the Algorithmic Pricing
3 Transparency Act commits an unlawful practice within the
4 meaning of this Act.

5 (b) The provisions of Section 10a do not apply to a
6 violation of this Section.

7 Section 99. Effective date. This Act takes effect January
8 1, 2028."