

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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

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

8 (1) Consumers increasingly purchase goods and services  
9 from businesses 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  
17 comparison-shop and may enable pricing based on a  
18 consumer's perceived willingness to pay.

19 (4) Prohibiting these practices is necessary to  
20 promote fair dealing, consumer protection, and market  
21 integrity.

22 Section 10. Definitions. In this Act:

1 "Algorithmic pricing" means a price for consumer goods or  
2 services generated, in whole or in part, using an automated  
3 decision system, machine-learning model, or data-driven  
4 algorithm.

5 "Consumer" means a natural person who is an Illinois  
6 resident acting only in an individual or household context.

7 "Covered entity" means any person or entity that sells or  
8 offers to sell consumer goods or services to consumers in this  
9 State.

10 "Personal data" means information linked or reasonably  
11 linkable to a specific consumer, including, but not limited  
12 to, browsing history, search queries, geolocation data, prior  
13 purchases, digital identifiers, or demographic profile data.

14 "Personalized price" means a price for consumer goods or  
15 services that is set for a consumer based on the consumer's  
16 personal data.

17 "Surveillance pricing" means algorithmic pricing that uses  
18 a consumer's personal data to generate a personalized price.

19 Section 15. Surveillance pricing prohibition. A covered  
20 entity shall not engage in surveillance pricing.

21 Section 20. Application of law.

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

24 (1) fluctuations in the cost of acquiring, producing,

1 transporting, or distributing inventory, including, but  
2 not limited to, changes in wholesale prices, manufacturing  
3 costs, labor, insurance, or other input costs associated  
4 with providing goods or services to different consumers;

5 (2) objective cost differences directly related to the  
6 provision, supply, or sale of goods or services to  
7 consumers in different geographic areas, market regions,  
8 or delivery locations, including, but not limited to,  
9 reasonable variations reflecting the costs or conditions  
10 associated with serving particular areas or responding to  
11 differing levels of supply or demand;

12 (3) supply chain disruptions, including, but not  
13 limited to, delays, shortages, allocation by suppliers,  
14 changes in shipping modes or routes, or other logistical  
15 constraints that reasonably affect the seller's costs or  
16 available quantities;

17 (4) time-limited sales, promotions, or discounts that  
18 are offered in good faith and in the usual course of the  
19 seller's business, including introductory pricing,  
20 seasonal or clearance sales, and advertised promotional  
21 events;

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

26 (6) variations in shipping, delivery, or handling

1 costs, including fuel surcharges and carrier rate changes,  
2 and any pass-through of such costs to the consumer;

3 (7) application of any discounts, coupons, promotional  
4 offers, rebates, limited-time sales, loyalty or club  
5 member pricing, price comparison tools, competition price  
6 matching or other reductions or incentives offered to the  
7 consumer, including differentiated pricing based on  
8 participation in the programs, or accumulation or  
9 redemption of rewards;

10 (8) special discount programs, including  
11 differentiated pricing offered to individuals who meet  
12 publicly disclosed eligibility criteria, such as teachers,  
13 employees, active-duty or retired military personnel,  
14 senior citizens, and students;

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

19 (10) differential prices that are offered or provided  
20 to a consumer as a good faith credit, refund, rebate, or  
21 discount issued in response to:

22 (A) a service disruption, error, or other failure  
23 to deliver a good or service as promised or expected;

24 (B) a billing dispute or discrepancy;

25 (C) a request for account retention or  
26 cancellation; or

1           (D) any other customer service interaction in  
2           which the person provides a credit, refund, rebate, or  
3           discount to address a consumer's concerns or to  
4           maintain the consumer relationship.

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, which includes changes in market  
8           demand, competitive conditions, and the seller's cost  
9           structure.

10          (c) This Act does not apply to the use of consumer personal  
11          data for purposes of determining creditworthiness or  
12          underwriting a consumer's ability to repay.

13          (d) This Act does not apply to the pricing of any contract  
14          or policy of insurance that is subject to rules regarding  
15          pricing to consumers adopted by the Department of Insurance,  
16          including a surety contract, a dental service plan, a health  
17          care plan, a limited health care plan, or a voluntary health  
18          services plan.

19          (e) This Act does not apply to any provider of financial  
20          services, including a financial institution, a financial  
21          institution affiliate, a broker-dealer, a registered  
22          investment advisor, or an entity that provides consumer credit  
23          products, such as credit cards, personal loans, and mortgages,  
24          that is subject to rules adopted by the Department of  
25          Financial and Professional Regulation or rules or regulations  
26          adopted by any federal financial regulatory agency regarding

1 pricing or disclosures, including terms disclosed to  
2 consumers.

3 Section 25. Enforcement by Attorney General.

4 (a) The Attorney General may investigate a claim that a  
5 person violated this Act, including the following:

6 (1) require persons to file, on such terms as the  
7 Attorney General prescribes, a statement or report in  
8 writing under oath or otherwise, as to all information as  
9 the Attorney General may consider necessary;

10 (2) examine under oath any person in connection with  
11 the conduct of any trade or commerce;

12 (3) examine any merchandise or sample thereof, record,  
13 book, document, account, or paper as the Attorney General  
14 may consider necessary; and

15 (4) pursuant to an order of a circuit court, impound  
16 any record, book, document, account, paper, or sample of  
17 merchandise that is produced in accordance with this Act,  
18 and retain it in the Attorney General's possession until  
19 the completion of all proceedings in connection with which  
20 it is produced.

21 (b) The Attorney General may bring an action in the name of  
22 the People of this State to restrain or enjoin by preliminary  
23 or permanent injunction the person from violating this Act.

24 (c) In addition to bringing an action for injunctive  
25 relief under this Section, the Attorney General may seek

1 restitution and petition a circuit court for the assessment of  
2 a civil penalty as provided by this Section.

3 (d) A person who violates this Act is liable for a civil  
4 penalty of not more than \$50,000 for each violation.

5 (e) The Attorney General may recover all reasonable costs  
6 of bringing an action under this Section, including court  
7 costs, reasonable attorney's fees, and investigation costs.

8 Section 30. Home rule. The regulation of algorithmic  
9 pricing, surveillance pricing, or any other similar pricing  
10 mechanism is an exclusive power and function of the State. A  
11 home rule unit may not regulate algorithmic pricing,  
12 surveillance pricing, or any other similar pricing mechanism.  
13 This Section is a denial and limitation of home rule powers and  
14 functions under subsection (h) of Section 6 of Article VII of  
15 the Illinois Constitution.

16 Section 35. Relation to other laws. Nothing in this Act  
17 shall be construed to limit any federal or State law.