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Sen. Robert Peters

Filed: 5/31/2026

AMENDMENT TO HOUSE BILL 4248

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

"Section 1. Short title. This Act may be cited as the Protection from Surveillance Pricing Act.

Section 5. Definitions. In this Act:

"De-identified data" means data that does not identify and cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable individual, or a device linked to the individual, if the controller that possesses the data:

(1) takes reasonable physical, administrative, and technical measures to ensure that the data cannot be associated with an individual or be used to re-identify any individual or device that identifies or is linked or reasonably linkable to an individual;

(2) publicly commits to process the data only in a de-identified fashion and not attempt to re-identify the data; and

(3) contractually obligates any recipients of the data to satisfy the requirements set forth in paragraphs (1) and (2) of this definition.

"Loyalty program" means a program that rewards consumers for repeat purchases, in which a consumer has separately and affirmatively enrolled prior to the point of sale, through a distinct enrollment process that is not bundled with or conditioned upon any individual purchase transaction.

"Person" means a natural person or an entity, including, but not limited to, a corporation, partnership, association, trust, limited liability company, cooperative, or other organization.

"Personal data" means any information, including unique identifiers, that is linked or reasonably linkable, alone or in combination with other information, to an identified or identifiable individual or a device that identifies or is linked or reasonably linkable to an individual. "Personal data" does not include de-identified data.

"Surveillance pricing" means offering or setting a customized price for goods or services for a specific consumer or group of consumers based, in whole or in part, on personal data. "Surveillance pricing" includes, but is not limited to, the use of technological methods, systems, or tools, such as sensors, cameras, device tracking, or other forms of observation or data collection, that are capable of gathering personal information about a consumer's behavior, characteristics, location, or other personal attributes. "Surveillance pricing" also includes offering random variations in prices to different customers using a website, mobile application, or comparable online technology. "Surveillance pricing" does not include a discounted price offered to a consumer terminating or taking steps to terminate a service or membership with a person.

Section 10. Ban on surveillance pricing.

(a) Except as provided in subsection (b), a person shall not engage in surveillance pricing.

(b) A person does not engage in surveillance pricing if the person can demonstrate that:

(1) The difference in pricing is based solely on different costs associated with providing the goods or services to different consumers, including variations in taxes, fees, and assessments imposed by federal, State, or local law, and differences in shipping or delivery costs.

(2) The difference in pricing is due to generally applicable price fluctuations over time.

(3) The difference in pricing is based solely on the offer of a good faith credit, refund, rebate, or discount issued in response to:

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

(B) a billing dispute; or

(C) a request for cancellation.

(4) The difference in pricing is based on publicly disclosed eligibility criteria that any consumer could potentially meet, including, but not limited to, signing up for a mailing list, registering for promotional communications, or participating in a promotional event and all differences in pricing and the terms and criteria for receiving the differences in pricing are conveyed clearly and conspicuously and are disclosed in clear and prominent terms on the company's website.

(5) The difference in pricing is offered or provided to a commonly understood social grouping, such as teachers, veterans, senior citizens, or students, if:

(A) all the differences in pricing and the terms and criteria for receiving the differences in pricing are publicly available, are disclosed and conveyed clearly and conspicuously on the company's website; and

(B) any consumer can obtain the difference in price if the consumer can demonstrate that the consumer is part of the group.

(6) The difference in pricing is offered as part of a loyalty, membership, or rewards program if:

(A) the price difference is available to any consumer who participates in the loyalty, membership, or rewards program and meets the publicly disclosed terms, eligibility criteria, or conditions, and prices are not individualized for consumers as part of the program; the consumer consents to participate in the program; and the program may offer discounts or promotional benefits under its terms and conditions if participation in the program does not result in the consumer paying a higher price than the price otherwise available;

(B) current discounts, promotions, rewards, or any other benefits provided to loyalty program members, and the conditions that must be met before obtaining them, are disclosed clearly and conspicuously on equal terms on the company's website; and

(C) any loyalty, membership, or rewards program that allows a user to accrue and exchange points, credits, or any similar nonmonetary system of value for a product or service does not charge a different price for those points, credits, or similar nonmonetary system of value to different consumers for the same or substantially similar product or service.

(7) That a refusal to extend credit at specific terms or the refusal to enter into a transaction with a specific consumer is based on data provided in a consumer report

covered by the federal Fair Credit Reporting Act.

(8) That the person operates as a bank, savings bank, credit union, or any financial institution certified, permitted, approved, chartered, registered, licensed, or otherwise authorized to engage in any profession, trade, occupation, or industry by the Division of Banking or the Division of Financial Institutions of the Department of Financial and Professional Regulation.

(c) This Act does not apply to an air carrier that provides air transportation, as those terms are used in 49 U.S.C. 41713.

(d) This Act does not apply to the pricing of insurance or insurance-related products issued by a risk-bearing entity under an Act administered by the Department of Insurance, unless the surveillance pricing is used to price the product based on a consumers willingness to pay or limits a consumer's ability to comparison shop.

Section 15. Enforcement.

(a) The Attorney General or the State's Attorney of any county in this State may bring an action in the name of the People of this State against any person to restrain and prevent any pattern or practice in violation of Section 10. In the enforcement of Section 10, the Attorney General or the State's Attorney may accept an assurance of voluntary compliance from anyone engaged in any conduct, act, or practice deemed in violation of Section 10. The failure to perform the terms of any such assurance constitutes prima facie evidence of a violation of Section 10.

(b) A violation of Section 10 constitutes an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. All remedies, penalties, and authority granted to the Attorney General or the State's Attorney by the Consumer Fraud and Deceptive Business Practices Act shall be available to the Attorney General or the State's Attorney for the enforcement of Section 10.

Section 20. Action for actual damages. Any person who suffers actual damage as a result of a violation of Section 10 may bring an action under Section 10a of the Consumer Fraud and Deceptive Business Practices Act.

Section 25. Waiver void and unenforceable. Any waiver of the provisions of this Act is void and unenforceable as contrary to public policy.

Section 30. Home rule. A home rule unit may not regulate surveillance pricing in a manner inconsistent with the regulation by the State of surveillance pricing under this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

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

(815 ILCS 505/2MMMM new)

Sec. 2MMMM. Violations of the Protection from Surveillance Pricing Act. Any person who violates Section 10 of the Protection from Surveillance Pricing Act commits an unlawful practice within the meaning of this Act.".