

Alert | Antitrust Litigation & Competition Regulation



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Maryland Enacts Food-Sector Personalized Pricing Law

On April 28, 2026, Maryland Gov. Wes Moore signed HB 895, the [Protection from Predatory Pricing Act](#), into law. The Act makes Maryland the first state to enact a sector-specific restriction on certain personalized, or “surveillance,” pricing practices in the food retail context. Though this legislation is unprecedented, legislators limited its scope to prevent disruption of the targeted sector. The Act contains several carveouts designed to prevent businesses from incurring liability for standard commercial practices.

Legislative Background of Maryland’s Personalized Pricing Law

Gov. Moore and Maryland legislative leaders first proposed the Act in January 2026, pledging to prevent so-called “surveillance pricing” — the practice of using personal data to set individualized prices for shoppers. The legislation follows the [Maryland Online Data Privacy Act of 2024](#), which restricted businesses’ ability to monitor and collect customers’ personal information.

While some retailers use dynamic pricing in online commerce, it is unclear to what extent it has been adopted by grocery stores. Following the unveiling of the Act, Maryland retailers protested that grocery prices are the same for all customers, rendering the Act a solution in search of a problem. In response, the Act’s proponents cited reports that the grocery shopping app Instacart has used AI-based pricing software to raise prices for certain customers. Gov. Moore has also [pointed at digital price tags](#), which allow retailers to change prices automatically.

In the months between the Act's introduction and its passage into law, legislators narrowed its scope. Language initially present in the bill would have applied pricing restrictions to all "merchants" dealing in consumer goods and services; this was removed. Similarly, language present in the original version of the Act, since removed, would have required retailers to keep prices the same for the full duration of each business day.

Covered Businesses, Prohibited Practices, and Statutory Exceptions

The Act applies to business establishments of at least 15,000 square feet that sell groceries on premises, as well as to services that deliver groceries to consumers. This effectively limits its coverage to supermarkets and grocery delivery apps, such as Instacart. Covered businesses may not use "dynamic pricing," defined as the practice of using a consumer's personal data to set a personalized price for a good or service, to set a *higher* price for food items. Covered entities are also prohibited from using "protected class data," defined as information that identifies a legally protected characteristic such as race or sex, where such use would have the effect of withholding or denying an accommodation, advantage, or privilege accorded to others.

The Act contains several exclusions, including for promotional pricing, loyalty and rewards programs, subscription pricing, geography- or cost-based price differences, price changes arising from consumer-consented data exchanges, pricing-error corrections, and outage-related price resets. These carveouts appear to be intended to prevent businesses operating in Maryland from facing liability under the Act for commonplace, non-discriminatory business practices.

Violations are treated as unfair, abusive, or deceptive trade practices under the Maryland Consumer Protection Act, but the statute requires the Maryland Attorney General's office to issue notices of violation before initiating enforcement and provides a 45-day cure period for businesses to address alleged violations. Notably, the Act does not create a private right of action.

Implications for Food Retailers

The Act takes effect on Oct. 1, 2026. Food retailers, grocery stores, and grocery delivery services operating in Maryland should consider reviewing whether their pricing systems use personal data, behavioral segmentation, location data, loyalty-program data, or AI-enabled pricing in ways that could result in higher prices for particular consumers or groups. The law's practical impact may turn on how businesses document the basis for price differences and whether those differences fit within the statute's enumerated exceptions.

Finally, as other states are currently considering similar initiatives, businesses outside Maryland should pay attention to how this law is interpreted and enforced moving forward.

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