



Nov 10, 2025

Consumer Protection, Technology and Utilities Committee
Room 60, East Wing
Pennsylvania House of Representatives
501 N 3rd St
Harrisburg, PA 17120

Re: HB 1942 Surveillance Pricing - Support

Dear Honorable Chair Burgos, Republican Chair Walker Metzgar, and members of the committee,

Consumer Reports¹ writes in support of HB 1942. This bill is focused on a pocketbook issue that is an immense source of frustration for consumers: surveillance pricing. Surveillance pricing, also sometimes referred to as “personalized” pricing, is when a company uses personal data that they’ve gathered about a consumer—like data about their online search history, or inferences about family structure, health conditions, or income—to set the price of a product or the discount offered to a consumer. Consumer Reports has heard from our members, 51,000 of whom live in Pennsylvania, about their frustrations with opaque pricing tactics. HB 1942 would prohibit this practice, while exempting transparent discounts. We urge an ‘aye’ vote.

What is surveillance pricing?

Not long ago, before the rise of online shopping and mass data collection, consumers could shop anonymously, confident that the price tag they saw on the shelf wasn’t influenced by the store’s knowledge of their family, shopping habits, online browsing, ability to pay, or any particular situation that could increase their urgency to purchase. That is no longer the case.

Companies can gather data on consumers’ purchase histories, speed of click through, history of clicks, search history, ‘likes’ on social media, geolocation, IP address, device type, and more, to create a detailed portrait of a consumer. They can use artificial intelligence to make detailed inferences about consumers based on this data. These detailed profiles, combined with technology that enables companies to display different prices to different consumers online—or

¹ Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today’s consumers, and provides ad-free content and tools to 6 million members across the U.S.

send discounts on an individualized basis—means that companies have all the tools they need to implement surveillance pricing. Companies can understand when a consumer might be desperate enough to tolerate a higher price or when a loyal customer will keep coming back even in the absence of discounts.

Surveillance pricing can be difficult to detect, because consumers rarely have a view into what information a company has about them, or what the prices they see are based on. Still, enterprising journalists have discovered examples:

- An investigative journalist writing for SFGate looked at the prices offered for a hotel room in Manhattan for a specific date, and varied his operating system, browser, cookies, and location (his computer's IP address).² He found that when he changed his IP address from a Bay Area location to locations in Phoenix and Kansas City, the prices dropped by more than \$200 per night in one instance, and more than \$511 in another instance.
- ProPublica found that test-prep company Princeton Review was offering different prices for its tutoring services depending on a customer's zipcode.³ The result, they found, was that Asian customers were nearly twice as likely to receive a higher price.
- The Wall Street Journal reported that Orbitz, the travel aggregation company, determined that Mac users spent more per night on hotels than Windows users, and began steering Mac users towards pricier hotels.⁴
- A Minnesota local news site discovered that Target changed the prices displayed on its app for certain products based on whether the customer—and their device—was physically inside a Target store. When the reporters looked at the Target app while inside a store, they found that a Graco car seat was \$72 more expensive than when they had been sitting on the far side of the Target parking lot, and a Dyson vacuum was \$148 more expensive.⁵

What HB 1942 does

House Bill 1942 prohibits the use of a consumer's personal data gathered by electronic surveillance technology to set a customized price. This includes, for example, data about a consumer's race or weight, their parenthood status, the political affiliations, their genetic information, the geometry of their face, and their web-browsing history. HB 1942 also prohibits

² Keith A. Spencer, "Hotel booking sites show higher prices to travelers from Bay Area," *SFGate*, Feb. 3, 2025. <https://www.sfgate.com/travel/article/hotel-booking-sites-overcharge-bay-area-travelers-20025145.php>

³ Julia Angwin, Surya Mattu and Jeff Larson, "The Tiger Mom Tax: Asians Are Nearly Twice as Likely to Get a Higher Price from Princeton Review," *ProPublica*, Sept. 1, 2015 <https://www.propublica.org/article/asians-nearly-twice-as-likely-to-get-higher-price-from-princeton-review>

⁴ Dana Mattioli, "On Orbitz, Mac Users Steered to Pricier Hotels," *Wall Street Journal*, Aug. 23, 2012 <https://www.wsj.com/articles/SB10001424052702304458604577488822667325882>

⁵ Chris Hrapsky, "The Target app price switch: What you need to know" *Kare 11*, Jan. 27, 2019 <https://www.kare11.com/article/money/consumer/the-target-app-price-switch-what-you-need-to-know/89-9ef4106a-895d-4522-8a00-c15cff0a0514>

the secret and automated use of personal data to target groups of individuals with prices. This is important because the fine-grained data that companies possess about consumers enables them to place individuals into highly specific groups, such as “mothers of toddlers without higher education earning less than \$75k” or “likely conservative male over 35 earning more than \$150k.”

HB 1942 also has several reasonable exemptions. If a company offers different prices to different people based on differences in the cost of providing a good or service—like higher prices in regions with higher labor costs—that practice is not prohibited. The bill also does not apply to discounts that are offered transparently, and that customers can access equally if they meet the clearly disclosed criteria. Additionally, insurers complying with the insurance code and companies that deny credit or do not transact with a consumer based on information contained in a consumer report covered by the Fair Credit Reporting Act—such as credit checks for potential renters—are exempt.

However, HB 1942 should be strengthened in a few places to offer the level of protection that Pennsylvanians deserve. First, the definition of “personal information” that HB 1942 references is outdated; it requires that data be linked to an individual's first or last name. Companies now collect many forms of personal data that are linked to other unique identifiers, and can easily be linked to specific individuals even if the company doesn't associate that data with the consumer's name in their databases. As such, this definition would only cover a narrow slice of personal data that companies collect and track about consumers. Instead, we recommend the definition of personal data in Consumer Reports and the Electronic Privacy Information Center's model privacy bill:⁶

“Personal data” means any information, including derived data and 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 or publicly available information.

Second, the discount exemption in Section 3(b)(2) is expansive, and would permit businesses to offer personalized “discounts” that in effect function as personalized prices. For example, a business could offer a generous discount to only to consumers it determines live within a 20 minute drive of a competitor, and that pay close attention to discounts, while offering a much smaller discount to consumers it infers have few other options and therefore are more loyal – so

⁶ Consumer Reports, “Consumer Reports and the Electronic Privacy Information Center unveil new model legislation to protect the privacy of American consumers” September 24, 2024, https://advocacy.consumerreports.org/press_release/consumer-reports-and-the-electronic-privacy-information-center-unveil-new-model-legislation-to-protect-the-privacy-of-american-consumers/

long as it meets the disclosure requirements in (d). Instead, CR recommends that HB 1942 exempt three categories of discounts:

- (1) Discounted prices are available to all consumers, where*
 - (a) the terms of the discount are readily publicly available, and*
 - (b) any consumer can obtain the discount;*

- (2) Discounted prices are offered or provided to a commonly understood social grouping, such as teachers, veterans, senior citizens, or students, where*
 - (a) the terms of the discount are readily publicly available and*
 - (b) any consumer can obtain the discount if they can demonstrate they are part of the group;*

- (3) Discounted prices are offered as part of a loyalty program, including lower prices for consumers for repeat purchases and patronage, where*
 - (a) the terms of the loyalty program, including any discounted prices and conditions for loyalty rewards, are publicly accessible to all consumers on equal terms*
 - (b) the terms of the loyalty program are applied consistently across the program and prices are not individualized for consumers as part of the program;*

CR would be happy to meet with legislators who are interested in discussing the bill further. We thank the legislature for taking on this critical cost of living issue, and urge an 'aye' vote.

Sincerely,
Grace Gedye
Senior AI Policy Analyst
Consumer Reports