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POLICY ANALYSIS · UPDATED NOVEMBER 2026

New Jersey's Prohibition on Surveillance Pricing of Groceries

A Policy Analysis of the Fair Price Protection Act, P.L.2026, c.55, Its Consumer Fraud Act Enforcement Framework, the Federal Legal Context, and the Evidence Base

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1. Executive Summary

What the law is. The Fair Price Protection Act, approved on July 23, 2026 as P.L.2026, c.55, supplements New Jersey's Consumer Fraud Act rather than creating a new regulatory program.[1] Its central rule makes it "an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for a person to use surveillance pricing or any other pricing strategy that determines or varies the sale price of groceries and other foodstuffs based, in whole or in part, on personal data."[2] The duty binds any "person," with no threshold by size or sales, and the covered goods are a defined list that includes household and personal care products and excludes food prepared for immediate consumption.[3] Three grounds for different prices are preserved: reasonable costs, with no more than one price change in a 24-hour period; bona fide discounts open to broadly defined groups; and loyalty program discounts that meet four conditions of voluntariness, uniform terms, and disclosure.[4] The Act's only express civil action belongs to the Attorney General, and rulemaking by the Director of the Division of Consumer Affairs is permitted but not required.[5] It also imposes a one-year moratorium on the new use of electronic shelf labels and directs the New Jersey Innovation Authority to study them.[6] By this report's arithmetic, the study mandate took effect on approval, the moratorium takes effect on February 1, 2027, and the prohibition on August 1, 2027 (Section 3.7).[7]

Who may enforce it. The Act creates no private cause of action and contains no express bar on one.[8] Whether a consumer may sue depends on the Consumer Fraud Act's private action, which reaches an ascertainable loss caused by a practice "declared unlawful under this act or the act hereby amended and supplemented," and on how a court reads the Act's silence beside the Data Privacy Act, which routes its violations through the same statute and then excludes private actions in express words.[9] Section 3.5 states the strongest argument on each side and does not predict the answer.

The federal answer and the constitutional exposure. No federal statute reviewed for this report addresses the prices of consumer goods set or varied on a consumer's personal data.[10] The Federal Trade Commission's proposed enforcement policy statement of August 19, 2026, whose extended comment period closed on September 25, 2026 with no final statement issued as of November 9, 2026, states that it "does not confer any rights on any person and does not operate to bind the FTC or the public," and three bills pending in the 119th Congress have had no action after referral to committee.[11] On October 28,

2026, the Commission ordered nine companies, among them Instacart, Target, and Walmart, to provide information on whether and how they use personal data to set prices and, in ride-sharing and food delivery, compensation, in an information-gathering study under section 6(b) of the FTC Act.[12] No court in the materials reviewed has ruled on a statute that prohibits individualized pricing on personal data.[13] The closest decision dismissed a First Amendment challenge to New York's algorithmic pricing disclosure requirement, applying the standard for compelled commercial disclosure; the Second Circuit heard argument on the appeal on October 19, 2026, and no decision had issued as of November 9, 2026.[14] Section 5 sets out the First Amendment, dormant Commerce Clause, arbitration, and standing standards and declines to predict how a court would apply them.

The fiscal and administrative picture. The six fiscal estimates of the Office of Legislative Services, three on the Assembly substitute and three on the Senate substitute, report the measure's effects on State expenditures and revenues as "Indeterminate."[15] The FY2027 appropriations act funds the Division of Consumer Affairs at $11,305,000 in State funds and $2,000,000 in federal funds with no line for the Act, and the prohibition takes effect in the following fiscal year.[16]

The central methodological fact about the evidence base. The Act was enacted without an empirical record: none of the sixteen documents in the materials collected for this report that record its enactment (seven committee statements, six fiscal estimates, the Legislature's bill history and a commercial record of it, and the Governor's release) cites a study, dataset, survey, or price comparison on the practice it prohibits.[17] The wider literature finds the welfare effects of pricing on consumer information ambiguous in theory, and measurement studies document price variation and steering on particular websites in particular periods (Sections 8.3 and 8.4).[18] The only field measurement of grocery price differences among shoppers in the collection, a Consumer Reports and Groundwork Collaborative investigation of Instacart, does not establish that personal data set the prices it observed, and no source measures individualized grocery prices in New Jersey.[19]

The enactment as a finding. The Act passed by divided votes: 51 to 20 in the General Assembly, with 8 members not voting and 1 abstaining, and 22 to 14 in the Senate, with 4 not voting.[20] The collection holds stand-alone dated statements on the bill or the Act from five nongovernmental sources: one in support (a joint release of the United Food and Commercial Workers and affiliated unions) and four in opposition (the New Jersey Food Council, the Chamber of Progress, NetChoice, and the New Jersey Business and Industry Association); the Governor's release also quotes supporting statements from three civil society

organizations.[21] In committee the measure narrowed from A4085, which reached merchandise and services generally, and A4523, a grocery bill that gave consumers an express right to sue, to a grocery statute enforced on its face by the Attorney General (Section 4.3).[22]

KEY FINDINGS

The Act is a Consumer Fraud Act supplement enforced on its face by the Attorney General. It bars any person from setting or varying grocery prices on personal data, preserves cost-based price differences and conditioned group and loyalty discounts, and neither creates nor bars a private right of action.[23]

Whether consumers may sue is the Act's central open legal question. The answer turns on the Consumer Fraud Act's private action and on the contrast with the Data Privacy Act's express exclusion, and no decision in the materials reviewed addresses it.[24]

No federal statute reviewed addresses individualized pricing of consumer goods, and the constitutional standards are untested against a statute of this kind. The FTC's statement is a nonbinding proposal, the federal bills have not moved, and the closest decision concerns a disclosure law, not a prohibition.[25]

The fiscal estimates quantify neither the measure's cost nor its revenue, and the prohibition begins in a fiscal year not yet budgeted. Each of the six fiscal estimates reports the measure's effects as indeterminate, and the prohibition takes effect on August 1, 2027.[26]

The Act rests on no empirical record of the practice it prohibits, and no evidence yet exists on its effects. The legislative record cites no empirical evidence on surveillance pricing, and no source reviewed measures individualized grocery prices in New Jersey or any group's exposure to them.[27]

The Act regulates consumer prices and leaves algorithmic pay for grocery and delivery work unaddressed. No version of the measure addressed worker pay or wage setting, and the

collection contains no evidence on how New Jersey's app-based delivery workers are paid (Section 10.5).[28]

2. Introduction, Scope, and Method

On July 23, 2026, the Fair Price Protection Act was approved as P.L.2026, c.55, and the Office of the Governor announced the signing the same day.[1] The Act makes it an unlawful practice, and a violation of the Consumer Fraud Act, for a person to use surveillance pricing or any other "pricing strategy that determines or varies the sale price of groceries and other foodstuffs based, in whole or in part, on personal data." It also imposes a one-year moratorium on the new use of electronic shelf labels and directs the New Jersey Innovation Authority, in consultation with the Division of Consumer Affairs, to study those labels.[2]

The Act arrived amid federal attention to the use of personal data in pricing. In July 2024 the Federal Trade Commission announced orders to eight companies that it described as "offering surveillance pricing products and services," a characterization to which some respondents objected, and on November 9, 2026 the Commission's page for the study listed no final report; on October 28, 2026, the Commission opened a second study, ordering nine companies, among them Instacart, Target, and Walmart, to provide information on their own pricing and, in ride-sharing and food delivery, compensation (Section 5.2).[3] On August 19, 2026, the Commission published for comment a proposed enforcement policy statement on personalized pricing, which states that "Congress has not given the Commission the authority to prohibit personalized pricing in all circumstances," states that the Commission "intends to enforce the law aggressively against any deceptive or unfair personalized pricing practices that violate Section 5 of the FTC Act," and by its own terms binds neither the agency nor the public.[4] State legislatures have also taken up pricing legislation (Sections 4.1 and 6).[5]

This report applies the institutional design and conditions-of-work analysis of Agard Research Associates as a lens, not as a thesis: it asks where a statute places its duties, who carries the burden of enforcing it, how a person harmed would learn of a violation, and how the statute bears on the people whose work sustains grocery retail and delivery. The Act assigns public enforcement to the Attorney General, permits but does not require rulemaking by the Director of the Division of Consumer Affairs, places the electronic shelf label study with the Innovation Authority, and contains no provision on the pay of workers.[6]

Section 3 sets out what the Act requires. Sections 4 through 7 trace its enactment, its federal legal context, the approaches of other jurisdictions, and its fiscal and administrative record. Section 8 reviews the

evidence on personalized and surveillance pricing, Section 9 considers each affected party, Section 10 applies the institutional design and labor lens, Section 11 identifies implementation risks and watch items, and Section 12 states the principal findings and describes the companion products. Tables and figures are collected in the Appendix.

2.1 Method and Sourcing

The Act is quoted only from the Third Reprint of the Assembly Committee Substitute for Assembly Nos. 4085 and 4523, as reported by the Assembly Budget Committee on June 28, 2026; both houses passed that version on June 30, 2026, and the bill history records no further action before approval.[7] Each earlier version is cited by its own text and only to trace how the measure changed or to show what an earlier version contained.[8] The legislative record comprises the committee statements of both houses, the six fiscal estimates of the Office of Legislative Services, three on each house's substitute, the Legislature's bill histories, and the Legislative Digest of the Office of Legislative Services; the Governor's release is treated as the executive's characterization, not as a statement of what the Act provides.[9]

The materials collected for this report, referred to throughout as the collection, include the statutes, regulations, bills, legislative records, court decisions and filings, agency materials, foreign and international authorities, data, studies, journalism, and stakeholder statements and commentary gathered for the analysis; the Bibliography lists those cited. Each source was abstracted into a structured record of its verbatim passages with pin cites, its figures with their unit, period, and geography, and its stated limits, and each quotation in this report was checked against the source itself. Official records consulted online were read on or before November 9, 2026, the status date of this edition (Version 1.2; the first edition's status date was September 26, 2026, and the second's October 24, 2026), and nothing seen only through an automated summarizing reader or a web search result is relied on for any affirmative statement.[10] New Jersey and federal law are the subject; other jurisdictions appear as comparators or perspectives, and legislative trackers are cited as dated snapshots.

Statement of conventions. Citations follow the notes and bibliography system of *The Chicago Manual of Style*, 18th edition (2024). Legal authorities are cited in accordance with *The Bluebook: A Uniform System of Citation*, 22nd edition (2025), using the typeface conventions of its Bluepages. Web addresses appear in the Bibliography, not in the notes. The Fair Price Protection Act was enacted as P.L.2026, c.55, approved July 23, 2026; its text is quoted from the Third Reprint of the Assembly Committee Substitute

for Assembly Nos. 4085 and 4523, and the session law page and codified section numbers are omitted until the chapter law is published; the Advance Law the Legislature has posted prints the same text and, in its margin, a range of codified section numbers (Section 2.3). The Consumer Fraud Act sections and N.J.S.A. 2A:14-1 are quoted from texts verified word for word against the Legislature's statutes database, updated through P.L.2026, c.30, and are cited with that currency; the Data Privacy Act is cited as enacted, and the Administrative Procedure Act and the Local Mandates Act are quoted from compilations updated in March 2022 and on August 31, 2023. Citation elements that no source establishes are omitted rather than supplied by inference. The notes are endnotes, numbered anew in each section and collected in the Notes before the Bibliography; the first citation of a source in each section is given in full.

2.2 How the Report Treats Evidence

The report distinguishes throughout among three kinds of statement, and its wording marks which kind each is, including where one paragraph contains more than one kind.

What the record shows. Where a source or official record establishes a statement on its face (the words of a text; an action, vote, date, or status as the record states it; a figure as its publisher reports it; or the fact that a named person or body said something), the report states it directly and cites the source. Such a statement reports what the source says, not the truth of what the source asserts.

What is disputed or unsettled. Where sources disagree, where a statement is an interested party's allegation, argument, or characterization that another source disputes or the governing text does not bear out, or where a legal question has not been settled by a governing authority, the report attributes each claim to its speaker, presents each side, and does not resolve the disagreement.

What is projected. Statements about what will or may happen, and evidence carried from another jurisdiction, period, or market to New Jersey, are identified as such. Because the Act is not yet in effect, every statement about its enforcement, compliance, or effects is a projection, not a finding. Calculations, comparisons, and readings that are this report's own are identified as this report's.

2.3 Limitations and Materials Not Obtained

Absence from a search is not evidence of nonexistence: a document not found in the collection or on the official pages examined may exist elsewhere, and the report supplies no missing element by inference.

The most consequential gap is the published chapter law. On November 9, 2026, the Legislature's 2026 chapter-law index listed published chapters, designated "P.L.," only through c.50 and listed the Act as "A.L.2026, c.55," and the Act's bill page linked a document titled "Advance Law." That document, headed "P.L. 2026, CHAPTER 55, approved July 23, 2026," prints the text of the Third Reprint quoted in this report, with the reprint's amendment markers, and its margin reads "§§1-7 C.56:8-23.1 to 56:8-23.7," "§5 Note to C.52:18A-234.11," and "§9 Note."[11] Because the margin states a range rather than the number assigned to each section, and no session law page has been published, citations to the Act omit the session law page and the codified sections, which the published chapter law and the statutes database will supply.[12]

No committee testimony or witness list was obtained; the Legislature's archived-media list for the Assembly Consumer Affairs Committee's meeting of March 19, 2026 links an audio recording, which was not reviewed, and the meeting page lists no witnesses and links no written testimony.[13] The Journal of the Senate and the Minutes of the General Assembly for 2026 were not obtained: the Legislature states that its Legislative Information and Bill Room provides copies on request, and its page saying so links no 2026 volume. The tallies in this report are therefore the Legislature's bill pages' figures, and the Legislative Digest for June 30, 2026 prints floor yes, no, and abstaining figures that match them.[14] These are gaps in the materials obtained, not evidence of any irregularity in the Legislature's proceedings.

No rule under the Act was found, and the current text of N.J.A.C. 13:45A-9.1, whose terms the Act's definition of "price" incorporates, was not obtained; statements about those terms are current only to the Division's compilation last revised June 20, 2022.[15] No series of Consumer Fraud Act filings or settlements in New Jersey was found, the Judiciary's statistics reports were not opened, and no citator was available to check the subsequent history of the cases cited.[16] For the Second Circuit appeal in *National Retail Federation v. James*, the court's official electronic docket requires a PACER account and was not examined, and neither party's brief was obtained; the Free Law Project's copy of the docket, last updated October 19, 2026, lists filings through October 5, 2026, including the calendaring of the appeal for argument on October 19, 2026; the court's oral argument recordings list the appeal as argued that day, and on November 9, 2026 its searchable opinions and summary orders contained no decision in it.[17]

3. What the Law Requires

This section quotes the Act only from the third reprint of the Assembly Committee Substitute for A4085 and A4523, reported by the Assembly Budget Committee on June 28, 2026. According to the Legislature's bill history, both houses passed that version on June 30, 2026, and on July 23, 2026 it was "Approved P.L.2026, c.55."[1]

3.1 Statutory Architecture and Definitions

Status and architecture. On November 9, 2026, the Legislature's 2026 chapter law index listed the Act as "A.L.2026, c.55," with published chapters only through c.50; the Advance Law it links prints the third reprint's text under the heading "P.L. 2026, CHAPTER 55," and its margin assigns sections 1 through 7 the range C.56:8-23.1 to 56:8-23.7 without stating the number of each section (Section 2.3).[2] The Act's nine sections set out a short title, eight definitions, the prohibition and its exceptions, a moratorium on electronic shelf labels, a study, a food service exclusion, the Attorney General's civil action, rulemaking, and effective dates. Its long title states that it supplements P.L.1960, c.39 (C.56:8-1 et seq.), the Consumer Fraud Act.[3]

Key definitions. The operative term is "surveillance pricing," whose definition opens:

> "Surveillance pricing" means an action including a pricing strategy in which the price of groceries and other foodstuffs is, in whole or in part, determined, adjusted, optimized, or recommended by an algorithm or automated system, based, in whole or in part, on using personal data, including data derived, or inferred from other data, and that results in price variation for individual consumers or groups of consumers.[4]

A second sentence extends the term to pricing "based on data collected through electronic surveillance technology," such as "sensors, cameras, device tracking, biometric monitoring."[5] "Personal data" means "any information that is linked or is reasonably linkable to an identified or identifiable consumer." "Groceries and other foodstuffs" is a list running from "dairy products" to "pet foods and supplies, and any other edible product not previously listed," except food or beverages "prepared for immediate consumption on or off the premises of a food service establishment." "Person" means "any natural person or a legal representative, partnership, corporation, company, trust, business entity or association, and any

agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trustent thereof."[6]

Other definitions. "Price" means "a stated monetary amount advertised or offered to a consumer, including prior to the application of a discount, when a hypothetical discount is proposed, after a discount has been applied, or after all related costs, fees, and other material terms of the transaction that directly affect the amount paid by the consumer have been applied," and includes four terms defined in N.J.A.C. 13:45A-9.1 "or its successor regulation." Section 2 also defines "bona fide discount," "location," and "electronic shelving label."[7]

Observations on the text. Section 2 defines no "consumer," "retailer," "retail food store," "delivery platform," "loyalty program," "new use," or "consent," although "consumer" fixes the reach of "personal data." Section 3.a. reaches "the sale price," while section 2 defines only "price." The defined term "location" recurs only within the definition of "surveillance pricing," and the text does not say whether the defined meaning governs there. Prepared food is excluded twice, by product in section 2 and by type of seller in section 6 ("an establishment primarily engaged in the preparation and sale of food or beverages for immediate consumption"), and neither formulation is defined. Section 2 defines "electronic shelving label" for grocery displays, while sections 4 and 5 regulate undefined "electronic shelf labels," and section 4.a. speaks of new use "in this State." Section 4 does not declare a breach of the moratorium an unlawful practice, as the provision it replaced did for use of a label connected to technology employing a covered pricing strategy.[8] This report records these features of the text and does not resolve them.

3.2 The Prohibition: What Conduct Is Barred

Section 3.a. states the central rule:

> Notwithstanding any law, regulation, or rule to the contrary, it shall be considered an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for a person to use surveillance pricing or any other pricing strategy that determines or varies the sale price of groceries and other foodstuffs based, in whole or in part, on personal data.[9]

The rule has two limbs: the defined term, which centers on algorithmic or automated pricing that results in "price variation for individual consumers or groups of consumers" and extends to pricing on surveillance data, and "any other pricing strategy" that determines or varies the sale price on personal

data, a limb that names no algorithm or surveillance technology.[10] The rule states no sanction of its own; it operates by declaring covered conduct an unlawful practice under the Consumer Fraud Act, whose general definition of an unlawful practice, N.J.S.A. 56:8-2, contains no clause reaching violations of other statutes.[11] The Act imposes no duty to tell a shopper that a price was individualized or that an algorithm set it (Section 10.2).[12]

3.3 Covered Goods, Entities, and Data

Goods and entities. The defined list of "groceries and other foodstuffs" is not confined to food: it names paper products, household cleaning items, health and beauty products, and pet foods and supplies.[13] The duty runs to "a person," with no threshold by size or sales. A4523 as introduced regulated a "third-party grocery delivery platform"; the enacted text uses no such term, so a platform's coverage turns on the definition of "person" (Sections 9.6 and 9.7).[14] How the definition will apply to particular business models remains a question for future enforcement.

The Governor's characterization. The Governor's release states that the Act "prohibits retailers from using personal data to set individualized prices on groceries and other necessities for New Jersey shoppers but does not ban loyalty programs or discounts."[15] The text, which controls, binds "a person," reaches "groceries and other foodstuffs" without using the word "necessities," and exempts loyalty programs and discounts only on conditions (Section 3.4).[16] The release is the executive's characterization, not a statement of what the Act provides.

Personal data and "consumer." Like the Act, the Consumer Fraud Act's definitions section does not define "consumer," the term on which the Act's "personal data" turns.[17] The Data Privacy Act, whose violations are also declared unlawful practices under the Consumer Fraud Act, defines both terms: as enacted in 2024, a "consumer" is "an identified person who is a resident of this State acting only in an individual or household context," and "personal data," unlike the Act's definition, excludes "de-identified data or publicly available information."[18] The Act does not cross-reference that act, and whether a court would look elsewhere for the meaning of "consumer" is a question the text leaves open.[19]

3.4 The Loyalty and Discount Program Exemption, and Where Its Boundary Lies

The exceptions. Section 3.b. preserves "offering a different price on groceries and other foodstuffs based upon" three grounds: the reasonable costs of supplying different consumers, with no more than one price change in a 24-hour period; a bona fide discount with publicly and conspicuously disclosed, uniformly offered eligibility conditions, open to any member of a broadly defined group such as teachers or veterans; and a bona fide discount under a loyalty program.[20] The loyalty exception covers points programs, programs that offer "discounts, rebates, or coupons to individual consumers based on their purchases," and programs with pricing benefits offered by another person, but only if (a) consumers opt in voluntarily, (b) all members receive pricing benefits "pursuant to uniform terms and conditions," (c) the program clearly and conspicuously discloses its pricing benefits, available discounts, and data practices to participants and gives those disclosures to the Division of Consumer Affairs within 14 days of a request, and (d) it discloses its terms and conditions and data practices to the public.[21] Under section 3.c., personal data used for a permitted price difference "shall not be used for any other purpose without the consumer's consent"; the third-reprint amendments added the words "without the consumer's consent."[22]

Where the boundary lies. Two features leave the line between an exempt loyalty discount and a prohibited strategy unstated. First, "price" includes a "targeted discount" as defined in N.J.A.C. 13:45A-9.1, which, in the Division's compilation last revised June 20, 2022, is a price reduction "restricted to customers designated by the advertiser, such as those who possess a card or other device bearing a scanner-readable code"; card-based discounts thus fall both within "price" and within the loyalty exception, and the text does not reconcile the two.[23] Second, the exception admits offers to "individual consumers based on their purchases" yet requires benefits "pursuant to uniform terms and conditions," without saying when a tailored offer becomes a strategy that varies the sale price on personal data.[24] The Senate Budget and Appropriations Committee's statements on the Senate substitute, whose final text matches the enacted text, state the committee's understanding that the legislation would "permit the practice of individualized discounts and savings opportunities within those programs"; no other committee statement in the collection contains that sentence, and the statements accompany the Senate bill, for which the Assembly bill was substituted.[25] The text leaves both points to rulemaking under section 8, if the Division acts, and to construction.[26]

Three standards. A loyalty program may also be measured against the Data Privacy Act, which, as enacted in 2024, preserves loyalty programs where the controller has "clearly and conspicuously

disclosed" that they involve the sale or processing of personal data, and the Division's advertising rule, which, in the compilation last revised June 20, 2022, requires targeted discount advertisements to "conspicuously state that the offer is limited to a certain category of consumer."[27] How the three standards interact is unsettled, and this report does not conclude that any one standard displaces another (Sections 9.6 and 11).

3.5 Enforcement: Public Enforcement, the Private Right of Action, Remedies, and Integration with the Consumer Fraud Act

Public enforcement. Section 7 authorizes the Attorney General, "In addition to any other authority provided by law or regulation," to sue on behalf of the State's residents, for any violation of the Act or its rules or whenever the Attorney General deems it in the public interest, to enjoin the practice, enforce compliance, obtain restitution, penalties, or other relief, and recover actual monetary damages "for each negligent or greater violation."[28] The third-reprint amendments struck the alternative recovery "or $50,000, whichever is greater."[29] Section 3.a. declares covered conduct a violation of the Consumer Fraud Act, whose penalty section reaches "Any person who violates any of the provisions of the act to which this act is a supplement," with penalties of not more than $10,000 for the first offense and $20,000 for each later offense.[30] The committee statements describe that penalty and add cease and desist orders, punitive damages, and treble damages and costs to the injured party; trebling, costs, and mandatory attorneys' fees come from N.J.S.A. 56:8-19, and no statute or opinion in the collection provides a separate punitive award.[31] The source of the punitive damages the statements describe is therefore unresolved on the materials reviewed.

Mental state. Section 3.a. states no mental state, and section 7.c. requires a "negligent or greater violation" for the Attorney General's damages.[32] In *Cox v. Sears Roebuck & Co.*, Justice Clifford, for the Court, held that intent is not an element of an affirmative act and that regulation violations carry strict liability; no opinion in the collection classes a violation of the Act or says whether the section 7.c. threshold reaches further.[33]

The texts on private enforcement. The Act creates no private cause of action and contains no express bar on one.[34] Section 56:8-19 of the Consumer Fraud Act provides:

> Any person who suffers any ascertainable loss of moneys or property, real or personal, as a result of the use or employment by another person of any method, act, or practice declared unlawful under this act or the act hereby amended and supplemented may bring an action or assert a counterclaim therefor in any court of competent jurisdiction.[35]

The section makes trebled damages, attorneys' fees, and costs mandatory.[36] The Data Privacy Act, which also declares its violations "an unlawful practice and violation of P.L.1960, c.39 (C.56:8-1 et seq.)," gives the Office of the Attorney General "sole and exclusive authority to enforce" it and provides that nothing in it "shall be construed as providing the basis for, or subject to, a private right of action."[37] The Act has no such clause.

The Supreme Court's construction. Writing for a unanimous Supreme Court of New Jersey in *Lee v. Carter-Reed Co.*, Justice Albin stated the elements as "(1) an unlawful practice, (2) an ascertainable loss, and (3) a causal relationship between the unlawful conduct and the ascertainable loss."[38] On loss, Justice LaVecchia, writing for the majority in *Weinberg v. Sprint Corp.*, held that "to have standing under the Act a private party must plead a claim of ascertainable loss that is capable of surviving a motion for summary judgment" and stated that "In effect, the Act permits only the Attorney General to bring actions for purely injunctive relief."[39] Writing for the Court in *Thiedemann v. Mercedes-Benz USA, LLC*, Justice LaVecchia held that the loss must be "quantifiable or measurable," "not hypothetical or illusory," and shown by "some specific proof."[40] On causation, *Lee* stated that "causation under the CFA is not the equivalent of reliance."[41] On remedies, *Cox* held treble damages and fees "mandatory" once a plaintiff proves an unlawful practice and an ascertainable loss.[42] None of these opinions concerns individualized pricing or a separate statute that declares conduct an unlawful practice under the Consumer Fraud Act.[43]

The question, posed. Whether the Consumer Fraud Act's private action reaches a violation of the Act is unsettled. The Act, which describes itself as supplementing P.L.1960, c.39, declares covered conduct "an unlawful practice and a violation of" that act; section 56:8-19 reaches losses caused by a practice "declared unlawful under this act or the act hereby amended and supplemented."[44] Whether a declaration made in a later enactment that supplements the Consumer Fraud Act is a declaration "under this act" is the question, and no decision in the collection answers it.

That a private action lies. The following is a statement of the strongest available argument, not a finding. The Act uses the Consumer Fraud Act's own vocabulary and describes itself as supplementing that act, language that tracks section 56:8-19's reference to "the act hereby amended and supplemented."[45] The

Legislature knew how to foreclose a private action for a statute routed through the Consumer Fraud Act, having done so expressly in the Data Privacy Act, and wrote no such bar into the Act, whose enforcement section is additional to "any other authority provided by law or regulation."[46] The committee statements of both houses, from those of the Senate Commerce and Assembly Consumer Affairs Committees on the substitutes to those of the two budget committees on the last amended texts, list treble damages and costs to the injured party among the consequences of a violation, the remedy that section 56:8-19 supplies.[47] And in *Cox*, Justice Clifford, for the Court, wrote that courts have emphasized that "like most remedial legislation, the Act should be construed liberally in favor of consumers."[48]

That no private action lies. The following is a statement of the strongest available argument, not a finding. A4523 as introduced would have given consumers an express action, with a $3,000 alternative recovery, a discretionary increase of up to three times the award for willful violations, a rebuttable presumption of violation on proof of differing prices, fees, and a five-year period from discovery, and the Legislature carried none of it into either committee substitute or any later version; S3717, which the Legislature lists as identical to A4523, contained none of it.[49] The Act instead vests its civil action in the Attorney General, limits its damages remedy, and, at the last committee stage, removed the $50,000 alternative; on this reading, section 7 is the enforcement design the Legislature chose, and a private action with trebling and fees mandatory on proof of an unlawful practice and an ascertainable loss would exceed it.[50] The committee statements and fiscal estimates describe enforcement through the Attorney General's action, each fiscal estimate places the expected cost of investigations, civil enforcement actions, and potential litigation with the Department of Law and Public Safety, and the references in those statements and estimates to treble damages and costs to the injured party do not address who may sue under the Act.[51]

The governing standards and the deciding body. The governing standards are section 3.a. and N.J.S.A. 56:8-19, read with the Supreme Court's construction: an unlawful practice, a quantifiable or measurable ascertainable loss, and a causal relationship that does not require reliance, under a statute construed liberally in favor of consumers.[52] Because section 56:8-19 places the action in "any court of competent jurisdiction," the question would first be decided by the court in which a consumer pleads the Act through that section, applying that construction.[53] Federal standing is examined in Section 5.3(D). This report does not predict the answer; the first such suit is a watch item (Section 11).

3.6 Other Provisions, Including the Electronic Shelf Label Provision, and Rulemaking Authority

The moratorium. Section 4.a. imposes "a one-year moratorium on the new use of electronic shelf labels in this State," after which new use is permitted if it complies with the Consumer Fraud Act, other applicable law, and any rule of the Director of the Division of Consumer Affairs, unless the Legislature enacts a law to the contrary. Section 4.b. permits purchasing, installing, or deploying new labels solely to repair or replace labels in operation at the same place of business before the moratorium's effective date.[54] The second-reprint amendments produced this section: they deleted the earlier provision that made it an unlawful practice to use an electronic shelving label connected to technology employing a covered pricing strategy, added the carve-out, and moved the study into section 5.[55]

The study and rulemaking. Section 5 directs the Innovation Authority, in the Department of the Treasury and in consultation with the Division of Consumer Affairs, to study electronic shelf labels "Before and during the moratorium," including "the impact of electronic shelf labels on surveillance pricing," and to report to the Governor and the Legislature no later than six months before the moratorium ends.[56] Section 8 provides that the Director "may adopt rules and regulations" under the Administrative Procedure Act, with no deadline; A4085 as introduced read "shall adopt."[57]

3.7 Timeline, and the Relationship Between the Statute and Implementing Rules

Effective dates. The Act takes effect "on the first day of the 13th month next following the date of enactment," except that section 4 takes effect on the first day of the seventh month next following enactment and section 5 "immediately."[58] Taking the approval date the Legislature records, July 23, 2026, as the date of enactment, this report's arithmetic gives these dates: section 5, July 23, 2026; section 4, February 1, 2027; and the remainder of the Act, including the prohibition and the Attorney General's action, August 1, 2027.[59] As of November 9, 2026, only section 5 is in effect. The moratorium begins on February 1, 2027: section 4.b. refers to "the effective date of the moratorium," and the Assembly Appropriations Committee amended the bill to "clarify that the provision establishing the one-year moratorium is to take effect on the first day of the seventh month next following the date of enactment." The moratorium therefore runs for one year, to February 1, 2028, and the Innovation Authority's report, due no later than six months before the moratorium ends, falls due by August 1, 2027.[60] Appendix Table A.1 sets out the timeline.

Where rules enter the Act. No operative provision is conditioned on the adoption of a rule, but rules enter at three points: section 7 reaches violations of "any regulations adopted pursuant thereto"; section 4.a. conditions new label use after the moratorium on compliance with any rule of the Director; and "price" incorporates four terms of N.J.A.C. 13:45A-9.1 "or its successor regulation," so that an amendment of that rule would change what "price" includes without action by the Legislature.[61] Rules under section 8 follow the Administrative Procedure Act and take effect only when filed, subject to legislative review (Section 7.3).[62]

The incorporated rule and the Constitution. The New Jersey Constitution provides that "No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of the act . . . except by inserting it in such act."[63] No source in the collection addresses whether that provision reaches a statute that incorporates an administrative rule, and its successor, by reference; the Supreme Court's opinions in the collection apply Division rules, including its pricing definitions, directly as regulations.[64] The question would fall to the court before which the incorporation is challenged; this report does not answer it.

4. How It Was Enacted

Between February 19 and July 23, 2026, the measure moved from two general bills on pricing with personal data to a grocery statute enacted as P.L.2026, c.55, on the Assembly track: on the day of final passage, the Senate substituted the Assembly bill for its own committee substitute.[1] Every recorded roll call carried, and each recorded at least one member voting no or abstaining.[2] Appendix Table A.2 sets out the version history and Table A.1 the recorded votes, and Appendix Figure A.1 charts the votes.

4.1 Origins: The National Predicate

At the federal level, the background is chiefly an information-gathering study by the Federal Trade Commission (Section 5). In a release dated July 23, 2024, the Commission announced that it had voted 5-0 to issue orders to eight companies under its 6(b) authority, which authorizes studies "that do not have a specific law enforcement purpose," in the release's words.[3] Staff research summaries of January 2025, which do not necessarily reflect the Commission's views, rest on documents from six of the eight recipients, report that the intermediaries "collectively work with at least 250 clients," among them grocery stores, and present their use cases as hypotheticals.[4] The Commission voted 3-2 to allow their release, over a dissent by Commissioner Andrew N. Ferguson, joined by Commissioner Melissa Holyoak, objecting to "hypothetical use cases rather than robust factual findings"; the release quoted Chair Lina M. Khan that initial staff findings show that "retailers frequently use people's personal information to set targeted, tailored prices for goods and services," a characterization stronger than the staff document's own.[5] In announcing a second study on October 28, 2026, the Commission stated that the 2024 study "examined only middlemen consultancies rather than the businesses that actually set prices for services and products offered to consumers" and that the agency "learned nothing about actual pricing decisions" from it (Section 5.2).[6] These characterizations are the Commission's and the Commissioners' own, and the earlier ones were disputed within the Commission; none is a finding of this report.

In August 2024, Senators Elizabeth Warren and Robert P. Casey, Jr. asked Kroger whether it would "use customers' data to institute personalized pricing on its ESL platforms" (Section 8.6).[7] A state legislative tracker updated August 20, 2026 reported at least 30 states, the District of Columbia, and Puerto Rico considering legislation on prices for consumer goods and services, a count not limited to personalized or

surveillance pricing (Section 6.3).[8] In New Jersey, after A4085 and S3612 were introduced, the Governor's budget address of March 10, 2026 said of groceries that "they switch prices based on things like time of day, or even your gender, or phone browsing history" and pledged to "pass legislation limiting this kind of for-profit surveillance by Big Tech."[9] The factual claims these statements contain are the speakers' own, and this report does not adopt them.

4.2 The Legislative Path: A4085, A4523, S3612, S3717, and the Committee Substitutes

The introduced bills. A4085, sponsored by Assemblywomen Annette Quijano and Rosaura Bagolie, and S3612 were introduced on February 19, 2026 with operative texts identical word for word.[10] Neither was a grocery bill: each bound a "business entity," reached "merchandise or services," and barred pricing on "a consumer's personal data," including "protected class data."[11] A4523, sponsored by Assemblymen Chigozie U. Onyema and William B. Sampson, IV, was introduced and referred to the Assembly Consumer Affairs Committee on March 9, 2026, as the Legislature's bill history records; its introduced text bears the date March 10, 2026.[12] It was the grocery bill: it supplied the short title, bound retail food stores and third-party grocery delivery platforms, barred retail food stores from displaying grocery prices on electronic shelving labels, and gave the Attorney General and aggrieved consumers an action for actual damages or $3,000, whichever is greater.[13] S3717, introduced on March 5, 2026 by Senator Joseph A. Lagana, whose introduced print, updated March 12, 2026, also lists Senator Joseph P. Cryan as a sponsor, is listed by the Legislature as identical to A4523, but its introduced text differs in the remedy: it contains no consumer action and none of the provisions that accompany A4523's (discretionary trebling for willful violations, a presumption of violation, mandatory fees, and a five-year limitations period), and it sets the Attorney General's alternative recovery at $50,000 rather than $3,000; the texts otherwise match, apart from the consequent renumbering of the later sections and of one cross-reference.[14]

The committee substitutes. The Senate Commerce Committee reported a Senate Committee Substitute for S3612 and S3717 on March 16, 2026, and the Assembly Consumer Affairs Committee an Assembly Committee Substitute for A4085 and A4523 on March 19.[15] Apart from caption, sponsors, the capitalization of section 5's lettered paragraphs, and the Assembly text's addition of the Chief Innovation Officer to the anticipatory-action clause of section 7, the texts differ only in section 4: both made it an unlawful practice to use an electronic shelving label connected to covered pricing technology, but only

the Assembly text added a one-year moratorium on the new use of electronic shelf labels, an Innovation Authority study, a report, and permission for new use afterward.[16] The Senate Budget and Appropriations Committee later reported the Senate substitute with amendments on June 24, producing a first reprint, and, after its recommittal on June 26, again on June 28, producing a second reprint.[17]

The Senate track in June. The Senate first reprint of June 24 differed from the Assembly second reprint of the day before in four respects, each of which the Assembly adopted in its third reprint on June 28: it required loyalty members to receive pricing benefits "pursuant to uniform terms and conditions," required disclosure of "available discounts," placed the Innovation Authority "in the Department of the Treasury," and did not contain the Assembly text's unfilled public law placeholder.[18] On June 28, the Senate committee's amendments added "without the consumer's consent" and struck "or $50,000, whichever is greater," as the Assembly Budget Committee's amendments did the same day, and made two technical changes to section 5, so that the Senate second reprint and the Assembly third reprint have the same operative text.[19] Unlike any other committee statement in the collection, both of the Senate Budget and Appropriations Committee's statements state that its "intent is to protect consumers from surveillance pricing practices where the use of personal data is utilized to increase costs based on a consumer's characteristics, purchasing history, or consumer activity," and its understanding that the legislation would not preclude discounts to broad groups, would "not prohibit the implementation of loyalty programs," and would "permit the practice of individualized discounts and savings opportunities within those programs."[20] The statements accompany the Senate bill, for which the Senate substituted the Assembly bill on June 30, 2026.[21]

The Assembly track and enactment. Three Assembly committees reported the substitute with amendments, each producing a reprint: Commerce and Economic Development on May 14, 2026; Appropriations on June 23; and Budget, after recommittal, on June 28.[22] On June 30, 2026, the Assembly passed the third reprint, and the Senate received it without reference, substituted it for its own bill on a voice vote, and passed it.[23] The Legislature records "Approved P.L.2026, c.55." on July 23, 2026 and no action between passage and approval, so the enacted text is the third reprint; the Legislative Digest for September 10, 2026 lists the Act as P.L.2026, c.55, with the date July 23, 2026, and the published chapter law was not available, although the Legislature has posted the Act as an Advance Law (Section 2.3).[24]

4.3 The Amendments That Changed the Bill

Each reprint marks its amendments with the numeral of the committee that made them, but the committee statements' amendment lists omit changes the reprints make, so this subsection is built from the texts.[25]

The substitute stage, March 2026. Before any reprint, the covered goods narrowed from "merchandise or services" to "groceries and other foodstuffs"; the bound party became any "person"; the protected class data category and the delivery platform definition disappeared; the express consumer action was dropped, leaving an express Attorney General action with an alternative recovery of $50,000; and rulemaking changed from mandatory to permissive.[26] A4523's private right of action appears in no later version of either substitute, S3717 never contained it, and no document in the collection states why these choices were made.[27]

First reprint, May 14, 2026. The amendments replaced the paired pricing terms with a single term, "surveillance pricing," extended to data collected through "electronic surveillance technology"; defined "price" to include terms defined in N.J.A.C. 13:45A-9.1; added or tightened conditions on each exception, including four conditions on loyalty programs; let the Attorney General sue for any violation or in the public interest but limited the recovery of actual monetary damages to "negligent or greater" violations; and moved the general effective date to the 13th month after enactment.[28] The committee's list of six amendments does not name the new group discount wording, the loyalty conditions, the new trigger, or the negligence threshold.[29]

Second reprint, June 23, 2026. The amendments excluded prepared food by two routes (Section 3.1), extended "price" to amounts after all related costs, fees, and other material terms of the transaction that directly affect the amount paid, and required loyalty programs to give their disclosures to the Division of Consumer Affairs within 14 days of a request.[30] They also deleted the unlawful-practice provision for electronic shelving labels, restated the moratorium as a new section 4 with a carve-out for repairing or replacing labels already in operation at the same place of business, moved the study to a new section 5, and staggered the effective dates.[31] The committee's list of eight amendments does not name the deletion.[32]

Third reprint, June 28, 2026. The amendments required loyalty members to receive pricing benefits "pursuant to uniform terms and conditions," required disclosure of "available" discounts, qualified the bar on secondary use of personal data with "without the consumer's consent," placed the Innovation

Authority "in the Department of the Treasury," struck an unfilled, self-referential public law placeholder from the Attorney General section, and struck "or $50,000, whichever is greater," leaving actual monetary damages for each negligent or greater violation.[33] The Assembly Budget Committee's statement and the Senate Budget and Appropriations Committee's statement of the same day are the only documents in the legislative record in the collection that state both the new remedy and the provision it replaced; the Assembly statement's list does not name the placeholder's deletion, and no source explains that deletion.[34]

The remedy and the stakeholders' arguments. The enacted text contains no express private right of action; whether private parties may sue through the Consumer Fraud Act is analyzed in Section 3.5.[35] NetChoice argued that "A study can be conducted without a moratorium," and the enacted text keeps both the study and the moratorium, while the New Jersey Food Council's concerns map onto provisions that later changed; no source in the collection states that any organization caused an amendment, and this report infers none.[36]

4.4 Sponsorship, Votes, and Stakeholder Positions: Consensus or Division as a Finding

Sponsorship and votes. The Legislature's bill page names eight primary sponsors of the enacted vehicle, among them the sponsors of both introduced Assembly bills and Senators Cryan and Lagana, and twenty-two co-sponsors; it prints no party affiliation.[37] LegiScan, a commercial aggregator, labels the measure a "Partisan Bill (Democrat 29-1)," a characterization of sponsorship, not of any vote.[38] Every committee vote carried (Appendix Table A.1 and Figure A.1); in the Senate, one Commerce Committee member abstained, and the four Budget and Appropriations members who abstained on June 24 voted no on June 28.[39] On June 30, 2026, the General Assembly passed the bill by 51 yes, 20 no, 8 not voting, and 1 abstaining, and the Senate by 22 yes, 14 no, and 4 not voting.[40] The Office of Legislative Services' Legislative Digest for June 30, 2026 prints the Assembly vote as "(51-20-1)" and the Senate vote as "(22-14)," matching the bill pages' yes and no figures and the Assembly's one abstention.[41] The bill pages print each member's vote on every committee and floor roll call of both houses, and a count of each list equals the printed tally; no party breakdown of any vote appears.[42] The bill pages are the Legislature's online record; the journals of the two houses remain the formal record.

Stakeholder positions. The collection holds stand-alone dated statements on the bill or the Act from five nongovernmental sources, one in support (a joint release of the United Food and Commercial Workers and affiliated unions) and four in opposition, a count of the collection and not a measure of opinion.[43] The New Jersey Food Council's vice president wrote on April 29, 2026 that the bill "would strip away consumer savings, burden grocers with restrictions, and ultimately drive-up costs" and that it "lumps" electronic shelf labels "with surveillance pricing technology," describing a provision the second reprint deleted.[44] A Chamber of Progress post of June 3, 2026 predicted "fewer discounts and higher baseline prices" under broad bans.[45] NetChoice's letter of June 30, 2026 urged legislators to oppose the bill, called its definitions "dangerously vague," and described "penalties of $50,000 per violation," a remedy the third reprint had struck.[46] On July 1, 2026, the United Food and Commercial Workers and co-issuing unions announced that they "are celebrating the passage of the Fair Price Protection Act."[47] On July 23, 2026, the New Jersey Business and Industry Association reported that it had opposed the bill because it "could lead to unintended consequences, such as the end of some loyalty programs, coupons and customer specific discounts due to new limits on collecting consumer data."[48] The Governor's release of the same day quotes sixteen speakers, all in support, and describes the Act as barring "retailers" from individualized pricing on "groceries and other necessities," while the text binds any "person" and covers "groceries and other foodstuffs."[49] Several of these characterizations are contradicted by statements on the other side or are not borne out by the text, and the effects they predict are the speakers' forecasts, not findings of this report.

Consensus or division. Read together, the record shows division rather than consensus: roll calls recorded dissent, four organizations stated opposition between April 29 and July 23, 2026, and labor unions, the Governor, the Attorney General, legislators, and civil society organizations stated support.[50] Three of the four opposing statements describe the bill, in at least one respect, as it stood before the third reprint, and the balance of opinion beyond these materials is not in the collection.[51]

5. Federal Legal Context

This section asks whether federal law supplies a rule on pricing from consumers' personal data and how federal law could constrain the Act, as of November 9, 2026. It does not state whether the Act would survive a challenge or whether any federal law preempts or displaces it.

5.1 The Direct Answer: Is There a Federal Rule on Individualized Pricing?

No. None of the federal statutes read for this report contains a provision addressed to the prices of consumer goods set or varied on the basis of a consumer's personal data; the Fair Credit Reporting Act requires notice when credit is extended on materially less favorable terms "based in whole or in part on a consumer report."[1] The Federal Trade Commission has a 2024 study under section 6(b) of the FTC Act that its feature page still describes as underway, with no final report listed; a second section 6(b) study begun on October 28, 2026 (Section 5.2); and a proposed enforcement policy statement that "does not confer any rights on any person and does not operate to bind the FTC or the public."[2] The proposal itself states that "Congress has not given the Commission the authority to prohibit personalized pricing in all circumstances."[3] Whether the Commission will adopt a final statement, and in what terms, is not known.

The federal texts that bear on the subject are general prohibitions written for other purposes. Section 5 of the FTC Act declares unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce unlawful, and it lets the Commission call a practice unfair only if it "causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition."[4] The Robinson-Patman Act reaches price discrimination "between different purchasers of commodities of like grade and quality" by its effect on competition and names no injury to consumers; the Sherman Act's sections 1 and 2 do not mention pricing methods or personal data; and the Equal Credit Opportunity Act reaches only discrimination "with respect to any aspect of a credit transaction."[5]

5.2 Pending Federal Bills and the FTC Policy Statement Proceeding

On August 19, 2026, the Commission sought comment on "an enforcement policy statement regarding personalized pricing, which is the use of personal data to set prices according to the amount that a

company believes an individual consumer is willing to spend."[6] The comment deadline was extended to September 25, 2026, and the comment period closed that day; on November 9, 2026, docket FTC-2026-1057 on Regulations.gov listed 4,597 submissions received and a single docket document, the proposal itself; a search of 2026 Federal Register documents found no notice of the statement; and the Commission's press releases from October 8 through November 6, 2026 announced no final statement.[7] The proposal states that effective disclosures should include "all relevant information, such as the fact that the price is personalized, the basis of that personalization, and the type of data used," reserves whether some practices "are unfair even when fully disclosed to consumers," and gives as an example of undisclosed personalized pricing a "grocery chain charging a delivery customer a higher price for milk based on data showing that several children live in the customer's household."[8] The Act, by contrast, declares unlawful any pricing strategy that determines or varies the sale price of groceries on personal data, preserves three categories of price difference on stated conditions, and contains no general duty to tell a shopper that a price was individualized.[9] The terms quoted are those of the proposal, and a final statement may differ.

On October 28, 2026, the Commission, by a 2-0 vote, issued orders under section 6(b) to nine companies it described as "major airlines, ride-sharing companies and food-delivery firms": Delta, United, JetBlue, Lyft, Uber, DoorDash, Instacart, Target, and Walmart. According to the release, the orders seek information to assess whether "the pricing for a ticket, ride share, food delivery or other product or service varies from one person to the next based on factors such as participation in loyalty programs or analysis of personal data by superintelligence algorithms," and they ask the ride-sharing and food-delivery companies "to document the inputs, tools and procedures used to adjust or set compensation and pricing."[10] The release describes the 2024 study as having "examined only middlemen consultancies rather than the businesses that actually set prices," gives recipients 45 days from receipt of the orders to respond, and mentions the August request for comment on the proposed policy statement without announcing a final statement. Section 6(b) authorizes studies that "do not have a specific law enforcement purpose," in the release's words, and the release reports no finding about any company's prices or pay.[11]

Three bills in the 119th Congress would, by their texts or official titles, prohibit what they call surveillance-based price setting; none has had any action after referral to committee.[12] The One Fair Price Act of 2025, S. 3387, introduced by Senator Gallego and now cosponsored by four Senators, among them Senator Booker of New Jersey, would make it unlawful "to offer or charge different prices to different

consumers for the same, or a substantially similar, product or service using, informed by, or based on, in whole or in part, surveillance data," with cost, group, and loyalty safe harbors and public and private enforcement.[13] The Stop AI Price Gouging and Wage Fixing Act of 2025, H.R. 4640, introduced by Representative Casar, provides that "[a] person may not engage in surveillance-based price setting," with similar exceptions and a private right, and its section 3 would bar "surveillance-based wage setting."[14] H.R. 4966, whose text was not read, is titled "To prohibit retail food stores from price gouging and engaging in surveillance-based price setting practices, and for other purposes," and its cosponsors include Representatives Watson Coleman and McIver of New Jersey.[15] Whether any of them will be enacted is not shown by these records.

5.3 Federal Law as Constraint

None of the Supreme Court opinions in the collection concerns grocery, individualized, or algorithmic pricing.[16]

(A) THE FIRST AMENDMENT

In *Sorrell v. IMS Health Inc.*, Justice Kennedy, for the Court (six Justices), held that Vermont's "content- and speaker-based restrictions on the sale, disclosure, and use of prescriber-identifying information" warranted "heightened judicial scrutiny," while distinguishing "restrictions on economic activity or, more generally, on nonexpressive conduct."[17] In *Central Hudson Gas & Electric Corp. v. Public Service Commission*, Justice Powell, for the Court (five Justices), required that a restriction on lawful, non-misleading commercial speech serve a substantial interest, that it "directly advances the governmental interest asserted," and that it be "not more extensive than is necessary to serve that interest."[18] In *Zauderer v. Office of Disciplinary Counsel*, Justice White, for the Court in Part V (six Justices), held disclosure requirements valid if "reasonably related to the State's interest in preventing deception of consumers," unless "unjustified or unduly burdensome."[19] In *Moody v. NetChoice, LLC*, Justice Kagan, for the Court in Part II (six Justices), stated that a facial challenge asks whether "a substantial number of [the law's] applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep," and, in footnote 5 of Part III-B (five Justices), reserved "feeds whose algorithms respond solely to how users act online."[20]

The questions are whether the Act's prohibition on "any other pricing strategy that determines or varies the sale price of groceries and other foodstuffs based, in whole or in part, on personal data" regulates conduct or restricts the use of information as in *Sorrell*; whether its definition of "price," which includes advertisements and targeted discounts, brings commercial speech within its reach; whether its group discount and loyalty program exceptions, conditioned on disclosures that include, for loyalty programs, "data practices," draw content or speaker lines; whether those disclosures are factual disclosures of program terms under *Zauderer*; and how *Moody* would frame a facial challenge. The collection contains no decision answering these questions as to the Act and none construing the State's speech clause.[21]

(B) THE DORMANT COMMERCE CLAUSE

In *National Pork Producers Council v. Ross*, Justice Gorsuch, for the Court in Parts I, II, III, IV-A, and V (five Justices; judgment 5 to 4), placed the antidiscrimination principle at the "very core" of the doctrine, declined petitioners' "almost per se" rule against laws with extraterritorial effects, and read earlier cases as addressing "price control or price affirmation statutes" that tied in-state to out-of-state prices.[22] Part IV-C, for four Justices, concluded that the complaint did not plausibly allege a substantial harm to interstate commerce and that the doctrine does not protect a "particular structure or metho[d] of operation"; the Chief Justice, for four Justices, would have found a substantial burden alleged; and Justice Kavanaugh counted "six Justices" retaining *Pike* balancing.[23] In *Pike v. Bruce Church, Inc.*, Justice Stewart, for the Court, held that an evenhanded statute with incidental effects on interstate commerce "will be upheld unless the burden imposed on such commerce is clearly excessive in relation to the putative local benefits," the extent of the burden tolerated depending partly on whether the local interest "could be promoted as well with a lesser impact on interstate activities."[24] The separate opinions leave the present scope of *Pike* balancing unsettled.

The Act binds any "person" and, on its text, neither distinguishes in-state from out-of-state sellers nor ties New Jersey prices to prices elsewhere.[25] NetChoice argued in a June 30, 2026 letter to legislative leaders, citing no case, that a prohibition "that reaches pricing decisions made outside the state" raises "serious dormant Commerce Clause concerns."[26] The questions are whether the Act discriminates in purpose or effect, whether a challenger could plead a substantial burden, for example from national pricing systems, the loyalty program conditions, or the electronic shelf label moratorium, and, if so, how *Pike* balancing would apply given the Justices' division.[27] NetChoice's view is an interested party's argument, not a finding, and the questions remain open.

(C) ARBITRATION AND THE FEDERAL ARBITRATION ACT

Arbitration law would bear on a private action, which Section 3.5 analyzes, only if a shopper's terms contain an arbitration clause, which no source in the collection shows.[28] Section 2 of the Federal Arbitration Act makes a written arbitration provision "valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract or as otherwise provided in chapter 4."[29] In *AT&T Mobility LLC v. Concepcion*, Justice Scalia, for the Court (five Justices; 5 to 4), read the saving clause to preserve "generally applicable contract defenses" but not "defenses that apply only to arbitration or that derive their meaning from the fact that an agreement to arbitrate is at issue."[30] In *Atalese v. U.S. Legal Services Group, L.P.*, Justice Albin, for a unanimous Supreme Court of New Jersey, held that an arbitration clause "must state its purpose clearly and unambiguously" and, answering an objection based on *Concepcion*, stated that New Jersey imposes "no greater burden on an arbitration agreement than on any other agreement waiving constitutional or statutory rights."[31] In *Viking River Cruises, Inc. v. Moriana*, an employment case, Justice Alito, for the Court in Part III (eight Justices), held that state law cannot condition enforcement on a mechanism that adds claims the parties "did not jointly agree to arbitrate"; neither that opinion nor *Concepcion* addresses an enforcement action brought by a State official in the official's own name.[32]

If a private action lies, the questions are whether a shopper's clause meets the *Atalese* rule, whether that rule is a ground "for the revocation of any contract" or one that derives its meaning from arbitration, and whether a class action waiver would be enforced as in *Concepcion*.[33] No decision in the collection resolves them as to the Act.

(D) STANDING AND FEDERAL JURISDICTION

In *TransUnion LLC v. Ramirez*, Justice Kavanaugh, for the Court (five Justices; 5 to 4), held that "[o]nly those plaintiffs who have been *concretely harmed* by a defendant's statutory violation may sue that private defendant over that violation in federal court," asked "whether plaintiffs have identified a close historical or common-law analogue for their asserted injury," and stated that "[e]very class member must have Article III standing in order to recover individual damages."[34] The opinion addresses suits by private plaintiffs in federal court; it does not address state courts, and it treats public enforcement as a matter within the Executive Branch's discretion.[35]

If a private action lies (Section 3.5) and a private suit is heard in federal court, the questions are whether a shopper who alleges only that personal data were used to compute a price, without paying more, has a harm with a traditional analogue, and whether class members who may not know how their prices were set could each show one.[36] The answers are unsettled.

(E) PREEMPTION EXPOSURE, INCLUDING SECTION 230 AND PENDING BILLS

This part records text only. Section 230(c)(1) provides that "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider," and section 230(e)(3) preserves State laws "consistent with this section" while barring liability "under any State or local law that is inconsistent with this section"; the text does not mention pricing.[37] Chapter 1 of the Federal Arbitration Act contains no express preemption clause.[38] H.R. 4640, section 4(a), provides that "[n]othing in this Act may be construed to preempt, displace, or supplant any State law, except to the extent that a provision of State law conflicts with a provision of this Act," and section 4(b) treats as not conflicting State laws giving "additional protections" as to "surveillance-based wage setting or the collection of surveillance data," which, as an observation on the text, does not name price setting; S. 3387 contains no general clause addressing State law.[39] Whether either bill will be enacted is not known. Whether section 230 limits a claim under the Act against a platform is a question this report poses and does not answer.

5.4 The Litigation Landscape, Including NRF v. James

No proceeding in the collection concerns the Act, and no court in it has ruled on a statute that prohibits individualized pricing on personal data; the matters below are current only to their latest records.[40]

National Retail Federation v. James. New York's statute, as the district court quotes it, requires an entity that sets a price "using personalized algorithmic pricing" to disclose "THIS PRICE WAS SET BY AN ALGORITHM USING YOUR PERSONAL DATA."[41] On October 8, 2025, Judge Rakoff of the Southern District of New York held that "plaintiff has not plausibly alleged that the challenged disclosure requirement violates the First Amendment" and dismissed the Federation's claims with prejudice.[42] He held that "Second Circuit precedent points clearly to *Zauderer* as setting forth the appropriate standard of review," that *Zauderer* is not limited to disclosures correcting "deceptive commercial speech," and that

Sorrell, concerning "a restriction on speech and not a commercial disclosure requirement," did not govern.[43] The decision is one district judge's ruling on a motion to dismiss.

The Federation appealed to the Second Circuit (No. 25-2818), which placed the appeal on its expedited calendar; the docket records the New York Attorney General's brief of February 10, 2026 and the Federation's reply brief of February 24, 2026, and the calendaring of the appeal for argument on October 19, 2026; the court's oral argument recordings list the appeal as argued that day, and on November 9, 2026 its searchable opinions and summary orders contained no decision in it.[44] The Chamber of Commerce of the United States, supporting reversal on January 13, 2026, argued for strict scrutiny and that a disclosure of how a price was set is one "about a business's internal decisionmaking, not of a term under which a good or service will be sold."[45] The Electronic Privacy Information Center, supporting affirmance on February 17, 2026, argued that "*Zauderer*'s rational-basis standard does not require adoption of every exemption possible."[46] The case's bearing on the Act is limited: New York compels a disclosure, while the Act prohibits a practice, and the district court's reasoning expressly distinguishes restrictions on speech.[47]

FTC v. Amazon.com, Inc. The Commission and nineteen States and territories, New Jersey among them, sued Amazon under section 2 of the Sherman Act, section 5(a) of the FTC Act, and state law; on September 30, 2024, Judge Chun, ruling only on the sufficiency of the pleading, denied Amazon's motion to dismiss the federal claims.[48] Count IV alleges that "Project Nessie" was an algorithm "designed to raise prices on and off Amazon" by predicting whether rivals would follow its price increases; over Amazon's objection that the theory rests on "other firms' uncoordinated conduct," the court held the allegations sufficient "to allege anticompetitive intent and purpose."[49] The order describes no allegation that the algorithm used personal data or set prices for individual consumers, and the Commission's case page, last updated October 31, 2024, lists nothing after a redacted Second Amended Complaint filed that day.[50] The ruling did not decide whether the allegations are true.

United States v. RealPage, Inc. The Amended Complaint of January 7, 2025, brought by the United States, nine States, and Massachusetts against RealPage and seven landlords under sections 1 and 2 of the Sherman Act and state law, alleges that RealPage is "an algorithmic intermediary" whose models are trained on landlords' nonpublic data and that "AIRM and YieldStar are designed to increase prices as much as possible and minimize price decreases."[51] A proposed consent decree with one landlord, Pinnacle, recites consent "without trial or adjudication of any issue of fact or law" and would bar software

trained on other owners' nonpublic data.[52] The Antitrust Division's case page, updated September 4, 2026, lists a Greystar final judgment and proposed final judgments for RealPage and four managers, but no RealPage final judgment.[53] The complaint's allegations have not been adjudicated, and whether the proposed judgments will be entered is not shown by these records.

Gibson v. Cendyn Group, LLC. In a published opinion by Judge Bea filed August 15, 2025, a Ninth Circuit panel affirmed, holding that the plaintiffs "failed to allege sufficient nonconclusory facts to support the plausible inference that the individual agreements between Cendyn and Hotel Defendants" unreasonably restrained trade.[54]

5.5 The Question, Posed: The Strongest Argument on Each Side of a Constitutional Challenge

Appendix Table A.3 sets the arbitration, standing, and preemption questions beside those below.

The argument that the Act is consistent with the Constitution. The following is a statement of the strongest available argument, not a finding. The Act forbids a way of setting "the sale price" of groceries, a term of sale, not any statement; *Sorrell* set restrictions on nonexpressive conduct apart, citing antitrust law, and stated that Vermont's law "is directed at certain content and is aimed at particular speakers."[55] Judge Rakoff called retailers' use of algorithmic pricing to set a displayed price "undoubtedly part and parcel of the terms on which the product is being offered to the consumer."[56] *Sorrell* said that a narrowly drawn privacy statute "would present quite a different case" and that "content-based restrictions on protected expression are sometimes permissible, and that principle applies to commercial speech"; the Act preserves three categories of price difference and bars other uses of the data without the consumer's consent.[57] The disclosure conditions bind only sellers that elect an exception and concern program terms, which a defender would treat as factual disclosures under *Zauderer* as the New York court read it.[58] On the Commerce Clause, the text is evenhanded and ties no New Jersey price to prices elsewhere; NetChoice's objection concerns a method of operation that the Part IV-C plurality said the doctrine does not protect; and Part V, for the Court, called invalidating a state law under the doctrine a matter of "extreme delicacy."[59]

The argument that the Act is not consistent with the Constitution. The following is a statement of the strongest available argument, not a finding. The same price is lawful or unlawful according to whether

personal data were used to set it, and *Sorrell* stated that the right to speak is implicated when information a person possesses is subjected to "restraints on the way in which the information might be used" or disseminated.[60] "Price" reaches amounts "advertised or offered to a consumer," and the exceptions and the food service exclusion draw lines a challenger would call content-based and speaker-based, much as the Federation called New York's law "replete with arbitrary exemptions."[61] *Central Hudson* held that a State may not "completely suppress information when narrower restrictions on expression would serve its interest as well"; disclosure, which the Commission's proposal and New York's statute use, is such a course, and the New York court noted that members there "are free to utilize algorithmic pricing or not."[62] A challenger would direct the Chamber's "consumer curiosity" argument at the Act's "data practices" disclosures and, on the Commerce Clause, would invoke NetChoice's argument, the four Justices who would have let a substantial-burden claim proceed, and disclosure as the "lesser impact" alternative under *Pike*.[63]

The question, posed. The governing standards are those in Section 5.3: whether the prohibition regulates conduct or burdens speech and, if speech, *Sorrell*'s heightened scrutiny or *Central Hudson*'s four-part analysis; for the disclosure conditions, a reasonable relationship to the State's interest, which *Zauderer*'s words identify as preventing deception; for a facial claim, *Moody*'s measure; and, under the dormant Commerce Clause, discrimination and *Pike* balancing, whose present scope the Justices left divided.[64] In the New York matter, a trade association sued the State's Attorney General in federal district court, seeking an injunction, and appealed to the Second Circuit; the Act's own enforcement route is the Attorney General's civil action "in any court of competent jurisdiction."[65] In either setting the questions are for the court in which they arise, applying the Supreme Court standards set out above; the collection contains no decision applying them to the Act, and this report does not predict how any court would rule.

6. The Comparative Landscape

This section sets the Act beside the other state measures, a municipal ordinance, and the European instruments in the collection. Each measure is described as its own text provides for its own jurisdiction; how any of them would operate if applied in New Jersey is a projection, not a finding. The model labels are this report's classification, and Appendix Table A.4 sets out the comparison.

6.1 The Direct Answer: Is New Jersey the First State with a Private Right of Action?

This report does not state whether New Jersey, or any other jurisdiction, is the first to provide a private right of action against individualized pricing, and the sources reviewed for it would not support such a statement in either direction. The Act contains no provision that expressly creates a private right of action and none that expressly bars one; its only express enforcement provision authorizes the Attorney General to bring a civil action.[1] Whether a consumer may nonetheless sue through the Consumer Fraud Act is unsettled; Section 3.5 states the strongest argument on each side.[2] Statements by the United Food and Commercial Workers, and in an NJBIZ article, that describe New Jersey as the first state, or as among the first states, to ban surveillance pricing are the speakers' characterizations and are not adopted.[3]

The comparators resolve the question differently. Maryland's Chapter 154, approved April 28, 2026, provides that its pricing section "MAY NOT BE CONSTRUED TO AUTHORIZE A PRIVATE RIGHT OF ACTION UNDER THIS SECTION OR ANY OTHER LAW."[4] Connecticut's pricing section, enacted as section 11 of Public Act No. 26-64 and, after that section was repealed before taking effect, reenacted with changes as section 11 of Public Act No. 26-130, approved June 4, 2026 and effective July 1, 2027, provides that violations are "enforced solely by the Attorney General" and that nothing in the section "shall be construed to create a private right of action or to provide grounds for an action under section 42-110g of the general statutes."[5] New York's General Business Law § 349-a, enforced by the Attorney General, contains neither an express right nor an express bar.[6] Of the state texts in the collection, those three and California's Chapter 338 of 2025, none contains an express private right of action against pricing on personal data, and two contain express bars; this describes only the texts collected and is not a survey of state or local law.[7] A multistate tracker, as updated August 20, 2026, lists pending bills in

Illinois, Pennsylvania, and Rhode Island whose summaries mention private actions; their texts are not in the collection.[8]

One municipal enactment in the collection does contain an express private right of action against pricing on personal data. Seattle's Ordinance 127515, passed by the City Council on September 22, 2026 by a vote of 7 to 2 and signed by the Mayor on October 5, 2026, adds to the Seattle Municipal Code a chapter 7.35, effective September 1, 2027, that bars covered retailers from using "algorithmic-based price discrimination" to modify prices and provides that "[a]ny person or class of persons that suffers an injury as a result of a violation" of that prohibition may sue a grocery business that owns or controls 25 or more grocery establishments in Washington, a mixed-use grocery business, or a delivery service provider.[9] A prevailing plaintiff may recover fees and costs, legal or equitable relief, civil penalties of up to $3,000 per aggrieved party and up to $10,000 for each subsequent violation per aggrieved party, not exceeding one million dollars in a single action, and, where actual damages are difficult to prove, liquidated damages of up to $10,000, with the penalty amounts, the cap, and the liquidated damages adjusted annually for inflation; the City Attorney may also sue, and an individual's waiver of the chapter is void.[10] The ordinance is a city's enactment, not a state's, and how its design would operate in New Jersey is a projection.

At the federal level, S. 3387 and H.R. 4640, as introduced, would each pair a prohibition on price setting based on surveillance data with an express private right: the greater of actual damages or $3,000 per violation, up to three times that amount for willful violations, mandatory costs and fees, and five years from discovery to sue.[11] On November 9, 2026, Congress.gov showed neither bill advanced beyond referral to committee (Section 5.2).[12] How either bill would operate in New Jersey if enacted is a projection.

6.2 A Taxonomy of Approaches: Prohibition, Disclosure, Antitrust, Grocery-Specific

The texts fall into three models, which this report labels prohibition, disclosure, and antitrust, and differ in whether they reach groceries specifically. A prohibition makes the practice itself unlawful. The Act makes it an unlawful practice for any person to set or vary grocery prices wholly or partly on the basis of personal data, whether through surveillance pricing or another pricing strategy (Section 3.2).[13] Maryland bars a food retailer or third-party delivery service provider from using dynamic pricing or personal data to

set a higher price for sales-tax-exempt food for a specific or single consumer.[14] Connecticut's reenacted section, effective July 1, 2027, bars retail sellers and third-party delivery services from "surveillance pricing," defined as a customized price specific to a consumer or group of consumers and based, in whole or in part, on personal data that the person setting the price collects, directly or by acquiring it from a third party, through technology such as biometric monitoring, cameras, device tracking, or sensors.[15] New York's One Fair Price Act, A9349-B, would bar setting or adjusting a price "using surveillance pricing."[16] Seattle's ordinance bars a grocery business with 20 or more retail locations from using "algorithmic-based price discrimination" to modify the price of any goods, a mixed-use grocery business from doing so for groceries, diapers, grooming and hygiene products, or over-the-counter drugs, and a delivery service provider from doing so for goods provided through a grocery business and for those categories of goods provided through a warehouse or mixed-use store; its definition reaches prices set "based in whole or in part on monitoring, tracking, or automated analysis of the consumer's behavior, location, demographic characteristics, biometric data, or other personal information," it "includes offering random variations in prices to different consumers," and the ordinance bars covered retailers from using an electronic shelf label system to display a price so modified. On this report's reading, the random-variation clause reaches price variation that rests on no personal data, which the Act reaches only if the price is determined or varied on personal data.[17] The terms differ in definition, and none is treated as equivalent to the Act's (Section 8.2).

A disclosure law permits the practice but requires the seller to say so. New York's § 349-a, enacted in 2025 and, as the Attorney General announced, in effect from November 10, 2025, requires an entity that publishes to a New York consumer a price set by "personalized algorithmic pricing" using that consumer's personal data to include the statement "THIS PRICE WAS SET BY AN ALGORITHM USING YOUR PERSONAL DATA."[18] Connecticut's section combines the models: a person that engages in surveillance pricing for a reason other than establishing a discounted price for an online transaction, and that advertises or displays the resulting price online, must include the disclosure "THIS PRICE WAS INCREASED USING YOUR PERSONAL DATA," or a substantially similar one, and must tell consumers of their rights under section 42-518 of the general statutes; no disclosure is required if the price is the bona fide market price.[19] The Act contains no requirement that a shopper be told that a price was personalized; its disclosure terms attach to the exceptions for group discounts and loyalty programs (Section 3.4).[20]

California's Chapter 338 of 2025 uses antitrust law instead: it makes it unlawful to use or distribute a "common pricing algorithm," a methodology "used by two or more persons, that uses competitor data," as part of a restraint of trade or while coercing another person to adopt its recommendation, and it excludes the end consumer from its definition of "person."[21] It does not regulate the price a consumer pays on the basis of personal data.

Scope differs as well. The Act reaches "groceries and other foodstuffs," a defined list that runs beyond food to paper products, household cleaning items, and health and beauty products, and it binds any "person."[22] Maryland's law is grocery-specific in actor and, as to pricing, in goods: it binds food retailers whose establishments have at least 15,000 square feet, and third-party delivery service providers, and its pricing prohibition reaches only sales-tax-exempt food.[23] Connecticut's prohibition binds retail sellers of tangible personal property generally, a term that includes a retail food establishment, and third-party delivery services, and New York's statute and bill reach goods and services of every kind.[24] Seattle's ordinance is grocery-specific in actor: it binds grocery businesses (stores in Seattle of over 10,000 square feet primarily engaged in retailing groceries) that have 20 or more retail locations globally; mixed-use stores in Seattle with 10,000 square feet or more of sales floor dedicated to groceries; and delivery service providers with 100 or more employees worldwide.[25]

6.3 State-by-State Comparison, with Tracker Counts as Dated Snapshots

Beyond scope and model, two points stand out (see Appendix Table A.4). Maryland excludes nine situations, among them promotional and retention pricing, cost and supply differences, subscriptions, and any loyalty program "IN WHICH ANY CONSUMER MAY VOLUNTARILY ENROLL OR CONSENT TO PARTICIPATE," and it requires notice and a 45-day cure period before enforcement; the Act preserves three categories of price difference on stated conditions, and its Attorney General section has no cure step.[26] New York's Attorney General reported on June 10, 2026 "the passage of the One Fair Price Act in the state legislature," and the tracker lists A 9349 as "To governor." The Assembly's record of A9349-B shows passage by the Assembly and the Senate on June 4, 2026 and the bill "RETURNED TO ASSEMBLY" that day, and on November 9, 2026 it showed no later action, while the Senate's bill page gave the bill's status as "Passed Senate"; no record of delivery to or action by the Governor was found. This report does not treat the bill as law, and its fate is a watch item (Section 11.6).[27]

The National Conference of State Legislatures' page "Consumer Goods and Services Pricing and Junk Fees: 2026 Legislation," as updated August 20, 2026, is used as a dated snapshot. Its only stated total, that "At least 30 states, Washington, D.C., and Puerto Rico are considering legislation regarding disclosure and transparency requirements or other limitations on prices for consumer goods and services," covers every kind of pricing and junk fee legislation on the page.[28] On this report's count, the table lists 245 bills in 40 jurisdictions, 13 marked "Enacted"; 95 of those bills, in 32 jurisdictions, use one of the pricing terms tested, and 7 of the 95 are marked "Enacted."[29] The page defines none of its terms or statuses and states no method, and some rows conflict with other records: it lists New Jersey's S 3612 as "Pending" although its companion, A 4085, is listed as "Enacted."[30] The counts show the volume of pricing legislation as one organization recorded it on one date; they are not a census of surveillance pricing laws.

6.4 European Frameworks

The European Union's instruments are context only. On this report's reading, the texts in the collection, taken together, divide the subject among data protection, consumer, and platform law, and none prohibits personalised pricing.[31] Article 22 of the General Data Protection Regulation gives a data subject the right not to be subject to a decision "based solely on automated processing, including profiling," that produces legal or similarly significant effects, subject to exceptions for contract, authorization by law, and explicit consent; it does not mention prices.[32] The Commission's 2021 guidance states only that personalised pricing "may fall under" Article 22, and no judgment of the Court of Justice in the records read applies the article to prices.[33]

Consumer law requires disclosure. Before a consumer is bound by a distance or off-premises contract, the trader must state, "where applicable, that the price was personalised on the basis of automated decision-making."[34] The point was inserted by Directive (EU) 2019/2161, which Member States were to apply from May 28, 2022, and whose recital 45 states that the requirement should not apply to "dynamic" or "real-time" pricing that responds to market demand without personalisation based on automated decision-making.[35] The Consumer Rights Directive defines neither "personalised" nor "automated decision-making," and the information list for other contracts has no personalised-price point.[36] Enforcement is public and collective: Member States must provide for action by public bodies, consumer organisations, or professional organisations, as national law determines, penalties must be "effective, proportionate and

dissuasive," and no provision of the consolidated Directive gives an individual consumer a damages remedy for breach of the point.[37]

Article 26 of the Digital Services Act governs the transparency of advertising on online platforms and bars advertising based on profiling that uses special categories of personal data; it does not address prices.[38] Commission staff wrote in 2024, in discussing ticket sales, that "Currently, dynamic pricing is not prohibited by EU consumer law."[39] The Commission plans to adopt a proposal for a Digital Fairness Act, aimed in part at "unfair personalisation practices," in the fourth quarter of 2026, and the European Parliament's Legislative Train, in information updated as of October 25, 2026, states that "current information has it scheduled for mid-November"; none had been adopted on the records read on November 9, 2026.[40]

Unlike these texts, which condition solely automated decisions or require disclosure before a distance or off-premises sale, the Act prohibits a pricing practice for one category of goods, without limitation to distance sales; the comparison is this report's, and it does not rank the approaches.[41]

7. Fiscal and Administrative Analysis

This section examines the record on the Act's cost, the public bodies that carry its administrative work, and the FY2027 budget; Appendix Table A.5 lists each obligation and any cost the record assigns to it.

7.1 The OLS Fiscal Estimates

The six fiscal estimates of the Office of Legislative Services (OLS), three on the Assembly substitute's reprints (June 9, June 30, and July 2, 2026) and three on the Senate substitute and its two reprints (June 25, June 30, and July 2, 2026), quantify neither the Act's cost nor its revenue effect: all report the annual State expenditure and revenue increases as "Indeterminate" and name the Departments of Law and Public Safety and of the Treasury as the agencies affected; apart from the June 25 estimate's omission of the study cost, noted below, only their descriptions of the bill, including the restatement of the remedy in the revenue analysis, differ.[1] All but the June 25 estimate, which addresses the Senate substitute as first reported, when it provided for no study, anticipate a one-time expenditure by the Innovation Authority for the electronic shelf label study; all anticipate Law and Public Safety costs for investigations, civil enforcement, and litigation, which with "any associated court costs" would depend "on the extent to which there are violations of the bill's provisions"; and possible revenue from penalties and damages, which OLS stated it "cannot project."[2] Apart from penalty and damages amounts restated from the bill and the Consumer Fraud Act, which are the June 25 estimate's only dollar figures, the only dollar figures describe the Governor's recommendation to raise the Innovation Authority's appropriation by $13.3 million, from $10.2 million in FY2026 to $23.5 million in FY2027, figures for the agency as a whole rather than an estimate of the Act's cost.[3]

No version addresses rulemaking, the loyalty program production duty, or any cost to local government or private parties, and the revenue line read "Indeterminate" both before and after the third reprint struck the $50,000 alternative recovery.[4] Each version records "None received." for the Executive Branch, the estimate having been produced "due to the failure of the Executive Branch to respond to our request for a fiscal note"; the record gives no reason, and this report draws no inference beyond that procedural fact.[5] The Assembly Appropriations Committee's statement of June 23, 2026, fourteen days after the first estimate, records without explanation that "Fiscal information for this bill is currently unavailable," as do

the Senate Budget and Appropriations Committee's statements of June 24 and June 28, 2026, the second three days after the first estimate on the Senate substitute; the two June 30 estimates share their date with final passage, and the two July 2 estimates postdate it.[6]

7.2 Enforcement Capacity: The Division of Consumer Affairs and the FY2027 Appropriation

The FY2027 Appropriations Act, P.L.2026, c.27, approved with line-item veto on June 30, 2026, contains no line or language provision for the Act, for surveillance or individualized pricing, or for electronic shelf labels.[7] It funds the Division of Consumer Affairs as one program line, $11,305,000 in State funds and $2,000,000 in federal funds, whose object lines are shared across the Protection of Citizens' Rights area ($54,891,000), so it yields no staffing figure for the Division.[8] It appropriates to the Division, with the approval of the Director of the Division of Budget and Accounting, receipts above the amount anticipated from the assessment and recovery of "costs, fines, and penalties as well as other receipts received pursuant to the Consumer Fraud Act"; because the Act declares covered conduct a violation of that act, this report reads recoveries under the Act as falling within the language, which the appropriations act does not itself say.[9]

The Innovation Authority's FY2027 line is $23,496,000, and the act does not say what share supports the study.[10] The appropriation covers the fiscal year ending June 30, 2027; by this report's arithmetic, the study provision took effect on enactment and the moratorium takes effect on February 1, 2027, both within that year, while the prohibition takes effect on August 1, 2027, after it.[11]

7.3 Rulemaking Obligations and the Data Privacy Act Rules

The Director of the Division "may adopt rules and regulations" to effectuate the Act, with no deadline, although new use of electronic shelf labels after the moratorium must comply with any rule the Director promulgates.[12] If the Division acts, the Administrative Procedure Act requires "at least 30 days' notice" of a proposal and sets no general deadline for adopting one, apart from an 18-month limit for proposals changed substantially on adoption.[13] The Data Privacy Act, as approved on January 16, 2024, instead provides that the Director "shall promulgate rules and regulations."[14] The Division announced proposed rules under it on June 2, 2025, with a Notice of Adoption "expected sometime in 2026," and on

November 9, 2026 its adoptions page, with entries through November 2, 2026, listed no adoption.[15] Rulemaking under the Act carries no such mandate, and whether it occurs is a watch item in Section 11.

7.4 Costs to the Courts and the Private Litigation System

The fiscal estimates call any associated court costs indeterminate, and the Judiciary's FY2027 State appropriation of $961,141,000 attributes nothing to the Act.[16] The Consumer Fraud Act provides that "In all actions under this section, including those brought by the Attorney General, the court shall also award reasonable attorneys' fees, filing fees and reasonable costs of suit," but no source in the collection decides whether an action under section 7 of the Act is one "under this section."[17] Whether private plaintiffs may sue is analyzed in Section 3.5. Each committee statement in the collection, and each of the six fiscal estimates, lists treble damages and costs to the injured party among the consequences of a violation, but none of the six estimates assigns any cost to private litigation.[18] Any cost to the courts or to private parties will remain a projection until actions are brought under the Act.

7.5 Business Compliance Costs as Claimed by Stakeholders

No source in the collection gives a figure, unit, or basis for the cost of complying with the Act.[19] NetChoice, an industry trade association, argued on June 30, 2026, without offering data, that the moratorium "unfairly burdens retailers who have already invested in the technology" and that the definitions raise "compliance costs, which are inevitably passed back to consumers in the form of higher prices."[20] The New Jersey Business and Industry Association's President and Chief Executive Officer called the law "yet another change in the rules of how to do business in New Jersey," and the New Jersey Food Council's vice president wrote that the bill would "burden grocers with restrictions."[21] These are the organizations' claims and predictions; whether the costs they describe will arise, and in what amount, the sources do not show.

7.6 State Mandate, State Pay: Whether the Provision Applies at All, Determined from the Text

Article VIII, section 2, paragraph 5 of the New Jersey Constitution reaches a provision of a law enacted on and after January 17, 1996 that is determined to be "an unfunded mandate upon boards of education, counties, or municipalities" because it authorizes no resources, other than the property tax, to offset the

additional direct expenditures it requires; it excludes laws "imposed on both government and non-government entities in the same or substantially similar circumstances."[22] The Local Mandates Act adds designated fire districts and bars the Council on Local Mandates from considering "pending legislation or proposed rules or regulations."[23]

On this report's reading of the texts, which is not a determination, neither provision appears to be engaged. The prohibition runs against "a person," defined by natural persons and business forms, and no provision names a board of education, county, municipality, or fire district; the Act's governmental duties fall on State bodies; and if a local unit were treated as a "person," the exclusion for laws imposed on government and non-government entities alike would apply by its terms.[24] A rule adopted under section 8 would fall within paragraph 5's reach, and whether it would burden a local unit cannot be known until one is proposed.[25]

No Council ruling, complaint, or other source in the collection applies either provision to the Act. The governing standards are the test in paragraph 5(a) and the exclusions in paragraph 5(c), with the parallel terms of the Local Mandates Act; the deciding body is the Council, which acts only on a complaint by or on behalf of a local unit and whose rulings are political determinations not subject to judicial review.[26] This report does not predict whether a complaint will be filed or how the Council would rule.

8. The Evidence Base

8.1 Methodological Note: What Has, and Has Not, Been Evaluated

The Act's legislative record contains no empirical evidence on surveillance pricing. None of the sixteen documents of that record and its related records in the collection (seven committee statements, six legislative fiscal estimates, the Legislature's bill history and a commercial record of it, and the Governor's signing release) cites a study, a dataset, a survey, or a price comparison on the prevalence or effects of surveillance pricing, in New Jersey or elsewhere.[1] The absence describes the documents, not what legislators knew. No source in the collection evaluates the Act, which was approved in July 2026, or measures individualized prices in New Jersey; the only field measurement of grocery price differences among shoppers was published in December 2025.[2] The Act provides for one study: the New Jersey Innovation Authority, in consultation with the Division of Consumer Affairs, is to study electronic shelf labels, examining at a minimum their effects and their impact on surveillance pricing, and to report no later than six months before the moratorium ends (Section 3.6).[3]

The other sources differ in reach. Economic theory reports no data; model-based studies estimate effects in settings far from present-day grocery retail; measurement studies observe prices directly; journalistic and advocacy investigations do so without stated peer review; and policy reviews report no original empirical study.[4] Measurements show variation more readily than its cause: Hannak et al. "cannot declare any particular inconsistency to be due to personalization," and the authors of the 2018 study for the European Commission cautioned that their failure to find systematic personalized pricing "should not be interpreted as evidence to support the hypothesis that websites do not engage in such practices."[5] Because secondary summaries sometimes depart from the studies they report, this report cites each study for its own findings.[6]

8.2 Terms Defined: Personalized, Dynamic, and Surveillance Pricing; Price Steering

Each source's term is used here as that source defines it. The Act defines "surveillance pricing" as "an action including a pricing strategy" in which the price of groceries and other foodstuffs is, in whole or in

part, “determined, adjusted, optimized, or recommended by an algorithm or automated system, based, in whole or in part, on using personal data, including data derived, or inferred from other data, and that results in price variation for individual consumers or groups of consumers,” and extends the term to pricing on data from electronic surveillance technology such as “sensors, cameras, device tracking, biometric monitoring.”[7]

The literature has no single definition of personalized pricing. The Council of Economic Advisers equated it with first-degree price discrimination, charging “a different price to every buyer”; Dubé and Misra call it “an extreme form of third-degree price discrimination”; and the United Kingdom’s Office of Fair Trading (OFT), the OECD Secretariat, the UK Competition and Markets Authority (CMA), and Ennis and Lam, in a 2020 paper for the UK business department, each define or describe it to reach groups of consumers.[8] The Federal Trade Commission’s 2024 and January 2025 releases leave “surveillance pricing” undefined; its August 2026 release on a proposed policy statement uses “personalized pricing” for “the use of personal data to set prices according to the amount that a company believes an individual consumer is willing to spend.”[9] The Act’s reach to “groups of consumers” is broader than the Council’s usage but not than the group-inclusive definitions; what sets its term apart is an algorithm or automated system using personal data.[10] That comparison is this report’s reading of the texts and does not settle how the Act’s term will be applied.

“Dynamic pricing” carries two senses. Senators Warren and Casey used it for prices that “could surge based on the time of day, the weather, or other transitory events”; Turow, Feldman, and Meltzer, by contrast, glossed merchants’ usage as “first-degree price discrimination driven by behavioral targeting.”[11] Price steering changes which products a shopper sees, or their order: Hannak et al. define it as users receiving “different product results (or the same products in a different order) for the same query.”[12] The Act’s definition speaks of price variation and is silent on the selection or order of products displayed; whether steering falls within it is an observation left open here.[13]

8.3 Economic Theory: Why Welfare Effects Are Ambiguous

The sources agree that theory alone does not settle whether such pricing helps or harms consumers. The Council of Economic Advisers concluded in 2015 that whether differential pricing helps or harms the average consumer “depends on how and where it is used”; the OFT in 2013, that the effect “can be

positive or negative"; and Ennis and Lam in 2020, that the total welfare consequences "are in general ambiguous."[14]

Bergemann, Brooks, and Morris proved that when a monopolist selling one good segments its market using more information about consumers, any combination of consumer surplus and profit can arise within three bounds: consumer surplus at or above zero, profit at or above the single-price monopoly profit, and total surplus at or below the efficient level; prices may all rise or all fall.[15] The result assumes a single seller facing unit demand at constant marginal cost; with competing sellers, the authors note, more information can lower the seller's profits.[16] Acquisti and Varian showed that conditioning prices on purchase history does no better than a flat price against sophisticated consumers, because "the high-value type can always choose to behave identically to the low-value type"; it pays when enough consumers are myopic or anonymizing is costly.[17] The models do not show whether either result holds in any actual market.

The OFT concluded that personalized pricing by a monopolist "is likely to be harmful to consumer welfare, particularly where the form of discrimination is relatively sophisticated," whereas with at least two competing firms it "is often not harmful to consumers, and can be beneficial."[18] The Council judged of differential pricing that "In a competitive market with transparent pricing, the benefits are likely to outweigh the costs," and the United Kingdom's 2018 note to the OECD listed factors making harm more likely, among them purchases that are essential rather than discretionary and vulnerable groups.[19] The sources do not say whether grocery markets meet these conditions.

Three studies attach numbers. Shiller's simulation for a DVD-by-mail subscription service, on 2006 data, found that personalizing prices with browsing data raised total profit by 12.99 percent, against 0.25 percent with demographics alone, while aggregate consumer surplus fell by 0.50 percent although "most consumers receive lower prices when prices are personalized."[20] In Dubé and Misra's experiments with a job-matching firm's business customers in 2015, total buyer surplus fell under personalization, yet, the authors conclude, more access to consumer data "does not per se lead to more consumer harm."[21] Zhang and Wedel's study, the only peer-reviewed empirical study in the collection set in grocery retail, modeled a manufacturer's profit, not consumer welfare, on household data from about 1997 to 1999, and found the gain from individual-level over segment-level and mass promotions "small in general, especially in offline stores."[22] How far these estimates would apply outside the settings studied is not shown.

8.4 Documented Prevalence

Each result below holds for the sites and periods measured; whether it would hold for grocery retail or New Jersey is not shown by these sources. Appendix Table A.6 summarizes the principal measurements.

Hannak et al. tested 10 general retailers and 6 travel sites in spring 2014 with the accounts of 300 recruited users against simultaneous controls, and found evidence of steering or price discrimination at four general retailers and five travel sites. Most sites showed price inconsistencies on "typically <0.5% of products," although where prices differed the real users received higher prices on average, sometimes by hundreds of dollars.[23] The Wall Street Journal's 2012 tests found that Staples.com prices "varied for about a third of the more than 1,000 randomly selected Staples.com products tested," by about 8 percent on average, with distance to a rival store by far the strongest correlation.[24]

The study for the European Commission, whose mystery shoppers completed 717 shops on 160 websites in eight Member States between June 1 and August 25, 2017, found no price difference in 94 percent of 34,403 matched product pairs; among the 6 percent that differed, the median absolute difference was under 1.6 percent.[25] Steering was far more common: 61 percent of websites personalized the ranking of offers in at least one scenario, from 92 percent of airline ticket sites to 36 percent of television sites, with no statistically significant evidence of different prices for steered products for consumers overall or systematically in any sector or country.[26] The sample was non-random, "not necessarily representative of EU e-commerce as a whole," and included no groceries.[27]

The only field measurement of grocery price differences among shoppers in the collection is the investigation by Consumer Reports and Groundwork Collaborative, whose volunteers shopped simultaneously on Instacart in September 2025, with a further test in November.[28] The investigators report that "About three-quarters of the products we checked were offered at different prices to different customers," by as much as 23 percent per item; that across five tests the cheapest and costliest baskets of the same items differed by an average of about 7 percent; and that experiments appeared at six chains, including Kroger, Safeway, and Target.[29] Whether the variation rested on personal data was not established (Section 8.6). Federal Trade Commission staff reported in January 2025 that the pricing intermediaries they studied "collectively work with at least 250 clients," including "large regional grocers"; that shows clients, not use.[30]

Institutional assessments are dated characterizations, not measurements: “examples of personalized pricing remain fairly limited” (Council of Economic Advisers, 2015); the extent “still remains largely unknown” (OECD Secretariat, 2018); “limited evidence” of personalized advertised prices online (CMA, 2021); and evidence “is still emerging” (European Commission, 2024).[31]

8.5 Distributional and Demographic Evidence

No source in the collection measures grocery prices, in New Jersey or elsewhere, by the income, race, ethnicity, age, or program participation of shoppers or their neighborhoods.[32] In the formal models, gains and losses are defined by willingness to pay, not by group, and the authorities emphasize different directions: the CMA wrote that personalization can be harmful where it “targets vulnerable consumers or has unfair distributive effects,” while Ennis and Lam wrote that there is “a substantial economic likelihood that price personalisation can benefit consumers who are financially disadvantaged.”[33]

The evidence that prices can track the character of places comes from other markets and is measured for areas, not persons. ProPublica found that in July and August 2015 The Princeton Review’s online price for one SAT tutoring package ranged from $6,600 to $8,400 by ZIP code; its methodology reports an incidence rate ratio of 1.8 for Asian against non-Asian residents being offered one of the higher prices, and of 2.05 for residents of areas with median household income above $73,632.[34] The company attributed its prices to the costs of running its business and the competitive attributes of each market.[35] Pandey and Caliskan, analyzing about 68 million ride-hailing trips in Chicago from November 2018 to September 2019, reported that neighborhoods with larger non-white populations, higher poverty levels, younger residents, and higher education levels were associated with higher fares per mile, while cautioning that an individual rider’s demographics cannot be assumed from those neighborhoods.[36] The sources leave the cause of each pattern unresolved and do not show whether a similar pattern arises in grocery prices or in New Jersey.

8.6 Grocery Technology and the Contested Claims

The claims about grocery technology are allegations, company statements, or descriptions of capability; no source in the collection independently verifies either side. The Act treats electronic shelf labels separately from surveillance pricing, through a one-year moratorium on their new use and the study described in Section 8.1.[37]

Consumer Reports attributes the variation it found to Instacart's algorithmic pricing experiments, which it links to the pricing software Instacart has offered retailers since acquiring Eversight in 2022.[38] As the investigation reports, Instacart confirmed that the findings reflected its pricing experiments, which it said were ongoing at 10 partnering retailers, described the tests as "limited, short-term, and randomized," and denied that they "use any personal or demographic data," stating that customers are "randomly assigned to price testing cohorts by product category and location."[39] The investigators found "no evidence to suggest otherwise" but stated that their sample was too small to test whether prices tracked volunteers' demographic data and was not representative of the U.S. population.[40] An update dated December 22, 2025 states that, prompted by the investigation, Instacart stopped offering the technology that let retailers charge different customers different prices for the same groceries at the same time; Instacart's own statement is not in the collection.[41]

On August 5, 2024, Senators Elizabeth Warren and Robert P. Casey Jr. wrote to Kroger that electronic shelving labels "may enable" dynamic pricing, and that through a partnership with Microsoft Kroger "plans to place cameras at its digital displays" using facial recognition to present personalized offers, a statement resting on a 2019 news article the letter cites.[42] Kroger told Grocery Dive, in a report published August 12, 2024: "Any test of electronic shelf tags is to lower prices more for customers where it matters most. To suggest otherwise is not true."[43] In January 2025 a Kroger spokesperson told Spectrum News 1 that the company does "not use facial recognition technology in connection with electronic shelf labels or pricing."[44] No Kroger answer to the letter's questions is in the collection.[45]

Federal Trade Commission staff stated in January 2025 that price targeting tools can update recommendations from monthly to minute by minute and that, for firms using electronic shelf labels, "price changes could occur with similar frequency," a statement of capability, not a finding about any retailer.[46] Walmart stated on March 2, 2026 that roughly 2,300 of its U.S. locations used digital shelf labels and that "prices are the same for all customers in any given store and are consistent regardless of demand, time of day or who is shopping."[47] The United Food and Commercial Workers (UFCW) stated on July 1, 2026 that Walmart had "recently secured patents to use shoppers' personal data to update prices at scale"; the patents are not in the collection.[48] The New Jersey Food Council's vice president wrote that "Research demonstrates ESLs do not lead to surge pricing or price gouging," naming no research, while a UFCW vice president called the labels "a tool for corporations to hike prices."[49] No independent study of

the labels' effects on prices or store work is in the collection (Sections 9.9 and 10.6). Statements about what the labels will do are therefore the speakers' expectations, not findings.

8.7 Consumer Attitudes

The surveys measure stated attitudes, not prices paid, and their wording differs. A 2005 telephone survey for the Annenberg Public Policy Center of 1,500 U.S. adults who had used the internet in the past month found that 91 percent disagreed that it is acceptable if "the supermarket I use charges different people different prices for the same products during the same hour."[50] Consumer Reports states that in its nationally representative survey of 2,240 U.S. adults in September 2025, 72 percent of those who had used Instacart in the previous year did not want it to charge different users different prices for any reason; the subsample size and instrument are not in the collection.[51] In the consumer survey for the 2018 study for the European Commission (21,734 respondents in the 28 Member States, June 27 to July 19, 2017), 33 percent saw primarily disadvantages in personalized pricing and 8 percent primarily benefits.[52]

The only New Jersey figures come from the UFCW, which supported the Act, and the Chamber of Progress, which opposed broad bans on such pricing; neither can be checked against its instrument.[53] The UFCW reports polling in which 67 percent of New Jersey voters think surveillance pricing will cause grocery prices to increase.[54] The Chamber of Progress published on May 4, 2026 a poll titled "Chamber of Progress Poll: New Jersey Residents Oppose Algorithmic Pricing Bans," stating that Morning Consult surveyed 818 New Jersey adults on its behalf; its questions and results were not read for this report.[55]

8.8 Evidence Gaps

The gaps below are absences from the collection, not proof that the material does not exist. No source evaluates the Act, and no peer-reviewed study measures individualized grocery prices (Sections 8.3 and 8.4). No source measures grocery prices by the income, race, age, or program participation of shoppers or neighborhoods; Dubé and Misra name the welfare effects of personalized pricing in consumer goods for consumers of different incomes as an important "direction for future research."[56] No independent study examines the effect of electronic shelf labels on prices or store work, and the collection lacks Walmart's count of label-equipped stores in New Jersey, the patents the UFCW attributes to Walmart, any Kroger answer to the Senators' letter, and Instacart's own statement of its December 2025 change.[57] The OECD

Secretariat wrote in 2018 that empirical studies were “still scarce or even non-existent,” and Ennis and Lam called the evidence “relatively weak.”[58]

9. Impact Analysis by Affected Party

No effect of the Act on any of the ten groups considered here can yet be observed: the general prohibition takes effect on August 1, 2027.[1] The statistics below describe the size and location of groups, not effects, and no source reviewed for this report measures the grocery prices these groups pay in New Jersey.[2] Where evidence below comes from another market, jurisdiction, or period, it shows what has occurred there, not what will occur in New Jersey. Each statistic is used in its source's own terms: federal and State counts of Supplemental Nutrition Assistance Program (SNAP) participants are different measures and are not reconciled, metropolitan price indexes are not New Jersey figures, and the New Jersey Economic Development Authority's (NJEDA) "Food Desert Communities" and the Department of Health's limited English proficiency indicator are not equated with any term in the Act. Appendix Figures A.2 to A.5 chart the price index, SNAP, language, and food desert data used below.

9.1 Consumers Generally

Two Bureau of Labor Statistics (BLS) metropolitan indexes, released September 11, 2026 and not seasonally adjusted, cover areas that include New Jersey counties: in August 2026 the food at home index (1982-84=100) stood at 337.790 in the New York-Newark-Jersey City area, up 3.1 percent from August 2025, and at 322.617 in the Philadelphia-Camden-Wilmington area, up 1.7 percent.[3] The areas include twelve and four New Jersey counties respectively, five counties fall in neither, and BLS states that area indexes do not measure differences in price levels between cities.[4]

Potential benefits. The Act makes it an unlawful practice under the Consumer Fraud Act "for a person to use surveillance pricing or any other pricing strategy that determines or varies the sale price of groceries and other foodstuffs based, in whole or in part, on personal data," and its definition of surveillance pricing reaches personal data "derived, or inferred from other data."[5] The Attorney General said the office is "committed to enforcing this new law to ensure grocery prices are fair, transparent, consistent, and not driven by the exploitation of consumers' personal data."[6] Neither the text nor the statement shows an observed effect.

Potential harms. NetChoice argued that retailers forced to offer discounts to everyone or no one would "choose no one," and the New Jersey Food Council's vice president predicted that the bill would "drive-

up costs for the very families it intends to protect."[7] The text, however, preserves bona fide group and loyalty program discounts, subject to conditions.[8]

Open questions. Which predictions hold after August 1, 2027 cannot yet be known.[9] The Act imposes no duty to tell shoppers that a price was individualized or to keep pricing records, so protection depends on detection; whether a consumer may sue under the Consumer Fraud Act is posed in Section 3.5.[10]

9.2 Low-Income Households and SNAP Participants

The sources count SNAP participants, not all low-income households. The federal State Activity Report for fiscal year 2023, published May 2025, records a 12-month average of 771,277 persons in 397,787 households.[11] Federal monthly tables, with data as of September 11, 2026, give 754,543 persons and 407,251 households for June 2026, figures marked initial and "subject to significant revision."[12] The State's Division of Family Development, in a June 2026 report that prints no release date, counts 739,593 persons in 402,893 households receiving NJ SNAP benefits that month, 8.8 and 7.5 percent fewer than in June 2025; neither agency explains the gap.[13]

Potential benefits. The Act has no provision addressed to these households.[14] The New Jersey Institute for Social Justice stated, in the Governor's release, that surveillance pricing could worsen economic strain, especially for low-income communities and communities of color.[15] Federal Trade Commission staff have described, as a hypothetical, inferring whether a consumer "is likely to be interested in products eligible for food assistance benefits," an inference the Act's coverage of inferred data would reach.[16]

Potential harms. The Council of Economic Advisers wrote in February 2015 that "if historically disadvantaged groups are more price-sensitive than the average consumer, profit-maximizing differential pricing should work to their benefit," subject to caveats on competition and risk-based pricing.[17] The Council's proposition is theoretical, and other authorities emphasize that personalization can harm vulnerable consumers (Section 8.5). Instacart, as Consumer Reports reported, offered SNAP users "$0 delivery fees on their first three orders"; whether offers of that kind fit the Act's exceptions is open.[18]

Open questions. The text does not say whether an offer limited to SNAP participants is a bona fide discount "to which any member of a broadly defined group" is eligible; it names teachers and veterans as examples.[19] No source measures the prices SNAP participants pay, and the federal June 2026 counts are subject to revision.[20]

9.3 Residents of Designated Food Desert Communities

The Food Desert Relief Act, approved January 7, 2021, directed NJEDA to designate "not more than 50 separate geographic areas that are most in need of a supermarket or grocery store."[21] Its Board approved 50 Food Desert Communities on February 9, 2022; their listed 2020 populations sum to 1,514,699, and Essex (seven) and Hudson (six) Counties hold the most.[22] NJEDA's scoring inputs include the share of households receiving SNAP benefits, the poverty rate, and racial and ethnic composition, so by construction the designation favors areas with more SNAP households and lower incomes; the Economic Research Service's low-access measures are a separate construct.[23]

Potential benefits. The Act does not refer to designated communities.[24] In 2012 the Wall Street Journal found that Staples.com varied displayed prices by visitors' estimated location, with distance to a rival store "by far the strongest correlation."[25] On the text, a grocery price set on information about where an identified shopper lives would rest on personal data and fall within the prohibition.[26] Whether grocery sellers serving New Jersey price by location in this way is not shown.

Potential harms. No source identifies a harm specific to these residents. Instacart, as Consumer Reports reported, named people in "so-called 'food deserts'" among those who particularly value its service, a phrase that is Consumer Reports' paraphrase of Instacart and does not refer to NJEDA's designation.[27]

Open questions. The Act does not state whether a price that varies by store location, without data about the shopper, is within the prohibition; its definition of "location" excludes "data used to fulfill a requested good or service."[28] As enacted, the Food Desert Relief Act allowed new designations "once every three years"; the provision has since been amended, most recently in 2023, and its current text is not in the collection.[29]

9.4 Households with Limited English Proficiency and Immigrant Families

The Department of Health's indicator for 2024, published September 22, 2025, lists eleven languages spoken at home by more than 15,000 persons over age 5 who speak English less than "very well." For Spanish the share is 47.9 percent (90 percent confidence interval, 46.8 to 49.0 percent), with an estimated count of 768,926; the page does not say whether the count is of those persons or of all Spanish speakers.[30] Its household measure places Essex, Hudson, Passaic, and Union Counties in the highest band (above

10.1 and up to 16.3 percent of households), and its birthplace measure places Hudson alone in the highest band of foreign-born residents, a measure the page does not equate with language or immigration status.[31]

Potential benefits. The committee statements, fiscal estimates, and Governor's release do not name these households or address language access.[32] On the text, the prohibition reaches pricing based on any information linked or reasonably linkable to an identified or identifiable consumer, including inferred data, so a price set on a shopper's language preference or inferred national origin would fall within it.[33]

Potential harms. Loyalty programs must give participants "clear and conspicuous disclosures," but the text specifies no language, whereas the Food Desert Relief Act requires its program's technical assistance to be available "in English as well as the two most commonly spoken languages in New Jersey other than English."[34] The comparison identifies a possible gap, not an observed harm.

Open questions. No source measures the prices these households pay; NJEDA considered limited English proficiency when designating food desert communities but did not retain it; and no source indicates whether the Division of Consumer Affairs, which may adopt rules, will address the language of disclosures.[35]

9.5 Veterans, Women, and Minority and Underrepresented Communities, Where Data Permit

The State and federal SNAP reports cited here give no breakdown by race, ethnicity, sex, or veteran status; the federal report on the characteristics of SNAP households in fiscal year 2023 was not read. NJEDA's designation inputs include racial and ethnic composition and single-mother households, and NJEDA stated that some racial and ethnic variables "implicated underlying racial disparities in access to healthier food outlets."[36]

Potential benefits. The Act names veterans, with teachers, as examples of a "broadly defined group" whose bona fide discounts remain lawful when eligibility conditions are "publicly and conspicuously disclosed and uniformly offered."[37] A study of Chicago ride-hailing trips from November 2018 to September 2019 found higher fares per mile in census tracts with larger non-white shares, while cautioning that it compares "neighborhoods defined by census tracts and not on individual riders."[38] The study does not show whether a similar pattern exists in New Jersey grocery prices.

Potential harms. Federal Trade Commission staff have described, as a hypothetical, a firm targeting "service veterans seeking jobs" with promotional codes. On the text, a discount to a segment identified from personal data, rather than to a group with publicly disclosed and uniform conditions, would need another exception, so some targeted promotions could end while disclosed veterans' discounts continue.[39]

Open questions. No source gives New Jersey prices by race, ethnicity, sex, or veteran status, and whether an area-based price that tracks protected-class membership falls within the prohibition is a question of construction the text leaves open.[40]

9.6 Grocery Retailers: Large Chains and Independent Grocers

The Act binds any "person," with no threshold by size or sales, and no source counts New Jersey grocery retailers or distinguishes chains from independents.[41] The Ranking Member of the House Energy and Commerce Committee wrote on May 11, 2026 to 25 companies, among them ShopRite, Stop & Shop, and Wegmans, seeking answers on surveillance pricing by May 26, 2026; no answers are in the collection.[42] On October 28, 2026, the Federal Trade Commission ordered Target and Walmart, with seven other companies, to provide information on whether their prices vary "from one person to the next based on factors such as participation in loyalty programs or analysis of personal data by superintelligence algorithms"; responses are due 45 days after each company receives its order, and no response is in the collection.[43]

Potential benefits. The text preserves price differences based on reasonable costs, provided a price is not changed "more than once in a 24-hour period," bona fide group discounts, and bona fide loyalty discounts that meet four conditions; the shelf label moratorium permits repairing or replacing labels already in operation.[44]

Potential harms. NetChoice argued that the definitions create "legal uncertainty that chills innovation and raises compliance costs" and that the moratorium "unfairly burdens retailers who have already invested in the technology"; the Food Council's vice president wrote that the bill would "burden grocers with restrictions." Neither gave a cost figure.[45] A violation is an unlawful practice under the Consumer Fraud Act, exposing a retailer to that statute's penalties and to the Attorney General's action for actual damages.[46]

Open questions. Whether costs fall differently on chains and independent grocers cannot be assessed, and whether retailers will narrow loyalty programs or conform them to the Act's conditions is a matter of prediction, not evidence.[47]

9.7 Delivery Platforms

The Act defines no delivery platform. A4523 as introduced defined and regulated a "third-party grocery delivery platform," but the enacted text binds any "person" and does not use the term.[48] No source gives New Jersey figures on platform use.[49]

Potential benefits. The Act imposes no duty specific to platforms, and no source identifies a benefit of the Act to them.[50]

Potential harms. On the text, a platform that varies grocery prices on personal data is a person within the prohibition, and "price" counts "all related costs, fees, and other material terms of the transaction."[51] In 2025 tests, including at a Safeway in Seattle and a Target in Ohio, Consumer Reports and Groundwork Collaborative found about three quarters of products checked on Instacart offered at different prices to different customers; Instacart said its experiments ran at 10 partner retailers and denied using personal data, the investigators found no evidence otherwise but said their sample was too small to test for demographic correlations, and Instacart later stopped offering the technology, as Consumer Reports reported on December 22, 2025.[52] NetChoice argued that a national platform would need a New Jersey "pricing silo" or would abandon dynamic discounting.[53] Neither the tests nor the argument shows how platforms will respond in New Jersey.

Open questions. Who sets a platform price may be disputed: Instacart told Consumer Reports that retailers "set and control their own prices on Instacart," which Consumer Reports said its Target finding contradicted.[54] The Federal Trade Commission's advance notice of April 16, 2026 asks whether online food delivery platforms charge personalized prices.[55] The Commission's section 6(b) orders of October 28, 2026 to DoorDash and Instacart, among nine companies, seek information on whether prices for a "food delivery or other product or service" vary from one person to the next (Section 5.2).[56]

9.8 Gig Delivery Workers

No source describes the classification or pay of app-based delivery workers in New Jersey. The Governor's Task Force on Employee Misclassification reported in July 2019 that New Jersey uses the "ABC test," which "presumes that a worker is an employee unless the employer can demonstrate all three prongs," and named "transportation, trucking and delivery services" among sectors where misclassification is prevalent, without addressing app-based work.[57]

Potential benefits. The Act regulates consumer prices, not workers' pay, and no source identifies a benefit of the Act to delivery workers.[58]

Potential harms. No source predicts an effect of the Act on delivery pay. Veena Dubal, from fieldwork among California ride-hail drivers, reports that under "algorithmic wage discrimination" workers "doing the same work, with the same skill, for the same company, at the same time may receive different hourly pay," a practice the Act does not address.[59]

Open questions. No source indicates whether New Jersey will address pay. At the federal level, H.R. 4640, which would bar "surveillance-based wage setting," has had no action since its referral to committees in July 2025.[60] The Federal Trade Commission's orders of October 28, 2026, issued to nine companies including Lyft, Uber, DoorDash, and Instacart, ask ride-sharing and food-delivery companies to document "the inputs, tools and procedures used to adjust or set compensation and pricing"; the release states that such companies "may engage in personalized compensation based on their drivers' personal data," and the release reports no finding (Section 10.5).[61]

9.9 Grocery Retail Workers

No source counts New Jersey grocery retail workers.[62] The Act touches store work only through electronic shelf labels: section 4 imposes "a one-year moratorium on the new use of electronic shelf labels in this State" from February 1, 2027, and section 5 directs the New Jersey Innovation Authority to study "the effects of the use of electronic shelf labels" and their impact on surveillance pricing, without naming effects on workers.[63] Walmart stated on March 2, 2026 that "roughly 2,300 Walmart U.S. locations are already using digital shelf labels," without mentioning New Jersey.[64]

Potential benefits. Ademola Oyefeso, an international vice president of the United Food and Commercial Workers, called the moratorium "an important step to ensure this technology does not harm New Jersey shoppers or workers," and the union's July 1, 2026 release said the labels "threaten the livelihoods of grocery workers."[65] Both statements express expectations, not measured effects.

Potential harms. Walmart claims that, for associates, "the biggest difference DSLs make is the amount of time they give back," a change the moratorium would defer in stores without labels; NetChoice argued that "A study can be conducted without a moratorium."[66]

Open questions. No independent evidence on how the labels affect staffing, hours, or tasks is in the collection, and the text leaves open whether the study will examine effects on workers.[67]

9.10 The Division of Consumer Affairs, the Attorney General, and the Courts

The Act gives the Attorney General a civil action to enjoin violations and obtain "actual monetary damages incurred from the violation" for each negligent or greater violation, gives the Director of the Division of Consumer Affairs discretionary rulemaking authority, and gives the Division a right to loyalty program disclosures within 14 days of a request.[68] The Office of Legislative Services estimated the fiscal effects as "Indeterminate"; the fiscal year 2027 appropriations act gives Consumer Affairs $11,305,000 in State funds and $2,000,000 in federal funds, and no line or provision names the Act.[69]

Potential benefits. The Consumer Fraud Act directs fee awards "In all actions under this section, including those brought by the Attorney General"; whether an action under the Act's section 7 is such an action is a question of construction. The disclosure right lets the Division obtain loyalty program terms without litigation.[70]

Potential harms. The Act imposes no duty to notify shoppers, disclose pricing algorithms, or keep records, and two University of East Anglia researchers writing for the United Kingdom's business department stated that "the very spotting of price discrimination by an enforcer can itself be difficult."[71] Enforcement work of indeterminate size thus falls on agencies with no appropriation made for the Act, apart from the Consumer Fraud Act receipts provision that Section 7.2 reads as reaching recoveries under the Act.[72]

Open questions. The courts' role depends largely on the question posed in Section 3.5, whether a consumer may sue under the Consumer Fraud Act for a violation. Whether the Division will adopt rules, and whether the fiscal year 2028 budget will fund enforcement, are watch items.[73]

10. Institutional Design and Labor Analysis

This section examines where the Act places duties, who must act to enforce them, what a shopper or enforcer would need to know, and how the Act's treatment of prices compares with the treatment of pay for grocery and delivery work. The Institute's institutional design and labor lens is applied to the evidence, not assumed.

10.1 Where the Law Places Duties, and Who Carries the Enforcement Burden

The Act's prohibition binds any "person," a term that reaches natural persons, business entities of every form, and their agents and employees.[1] It makes it "an unlawful practice and a violation of P.L.1960, c.39" to use surveillance pricing or any other "pricing strategy that determines or varies the sale price of groceries and other foodstuffs based, in whole or in part, on personal data."[2] Apart from the electronic shelf label moratorium and study (Section 10.6), its other duties attach to its exceptions, and the only information right it gives a public body is the Division of Consumer Affairs' power to obtain a loyalty program's participant disclosures within 14 days of a request.[3] The Act creates no registry, audit right, agency adjudication, or complaint mechanism, and its rulemaking authority is permissive and carries no deadline.[4]

Enforcement rests with the Attorney General, who may bring a civil action "on behalf of the residents of this State" to enjoin the practice, enforce compliance, and recover, for each "negligent or greater" violation, "actual monetary damages incurred from the violation," among other relief.[5] The third-reprint amendments, reported by the Assembly Budget Committee on June 28, 2026, struck an alternative recovery of $50,000 for each violation.[6]

In *Cox v. Sears Roebuck & Co.*, the Supreme Court of New Jersey, per Justice Clifford, stated that a private plaintiff's standard of proof "is higher than the standard for the Attorney General's enforcement proceedings," since the Attorney General "need not prove that a victim was damaged."[7] Public enforcement also depends on priorities: in *Dugan v. TGI Fridays, Inc.*, the Court, per Justice Patterson, found "no evidence that the Attorney General, charged to enforce the CFA, has ever taken the position" that the statute's price-marking section requires menu prices; Justice Albin, dissenting, wrote that a failure to enforce "is not evidence that a restaurant is complying with the law."[8]

On the text, the initiative to enforce rests with the Attorney General, and any private share of the burden depends on the question noted in Section 10.3.[9] The Data Privacy Act, as enacted in 2024, shows the alternative design in express words: it vests "sole and exclusive authority to enforce" in the Office of the Attorney General, excludes any basis for a private right of action for its violations, and for an initial period requires notice and 30 days to cure before enforcement.[10] Where the burden will fall in practice cannot be known until the Act is enforced.

10.2 The Detection Problem: How a Shopper Learns a Price Was Individualized

The Act contains no duty to tell a consumer that a price was individualized, to disclose the use of a pricing algorithm, or to keep records.[11] A4523 as introduced would have presumed a violation, in a consumer's action, on proof that two or more consumers were offered different prices "for the same, or a substantially similar, product or service during the same, or a substantially similar, period of time," subject to rebuttal by the seller; no later version in the collection kept that design.[12] S. 3387, a federal bill introduced in December 2025, contains a nearly identical presumption and has not advanced beyond referral to committee.[13]

Three Division rules, in a compilation last revised June 20, 2022, touch the problem without having been written for it. Scanner stores offering percentage-off discounts must show the regular and the discounted price on the receipt, advertisers must keep records substantiating price claims available to the Division for 90 days, and an advertised targeted discount must "specifically identify those consumers" who qualify.[14] Although the Act's definition of "price" incorporates the rule's definition of a targeted discount, no source addresses whether these duties reach a price individualized on personal data.[15]

The collection's evidence treats detection as beyond an ordinary shopper. Consumer Reports and the Groundwork Collaborative, reporting in December 2025 on tests of Instacart's prices run in September and November 2025, wrote that "Algorithmic pricing is usually invisible to consumers" and described their method as "orchestrating simultaneous online shopping sessions with hundreds of volunteers."[16] A 2018 study prepared for the European Commission, based on fieldwork in 2017, reported that "detectability of personalisation practices, especially personalised pricing is in general low."[17] Whether New Jersey shoppers face the same difficulty is not shown by these sources.

Two comparator regimes respond with disclosure. New York requires a fixed disclosure with any price set by personalized algorithmic pricing using the consumer's personal data. Dismissing a challenge, the Southern District of New York (Rakoff, J.) observed that "every indication is that consumers would not know that a price was set using their personal information without a disclosure," while the Chamber of Commerce of the United States, as amicus on appeal, argued that even with the disclosure "a consumer will lack meaningful insight into price setting decisions."[18] European Union law requires a trader, before a consumer is bound by a distance or off-premises contract, to disclose, where applicable, "that the price was personalised on the basis of automated decision-making."[19] In a small-scale test of 207 products on 85 websites or apps, the Commission found no express indication of personalisation, and Commission staff later reported that several stakeholders considered the duty "ineffective" and that two studies that included behavioural experiments found such disclosures had "limited effects on the consumer's shopping behaviour."[20] The Chamber's view is an advocate's argument on appeal, not a judicial finding. None of these sources shows how disclosure would work for New Jersey shoppers.

The worker-pay comparators put the evidentiary burden on the platform instead: Seattle and New York City each raise a rebuttable presumption against a platform that fails to keep required records, and New York City requires pay statements that "demonstrate the method used and calculations made."[21] Seattle's 2026 pricing ordinance carries the design to grocery prices: from September 1, 2027, a covered retailer must keep records documenting compliance for three years, and if it does not, "there shall be a presumption, rebuttable by clear and convincing evidence, that the covered retailer violated" the chapter for those periods.[22] The Act has no counterpart. Neither city's text shows what such a presumption would accomplish in New Jersey.

10.3 Private Enforcement in Practice: Ascertainable Loss, Class Certification, Arbitration Clauses

Whether a private action lies for violations of the Act is the question posed in Section 3.5; this subsection states only what would govern such an action in practice if one does.

A private plaintiff under N.J.S.A. 56:8-19 must show an "ascertainable loss of moneys or property, real or personal" suffered "as a result of" the unlawful practice, and once an unlawful practice and an ascertainable loss are proved, treble damages and attorneys' fees are mandatory (*Cox*).[23] The loss must be "quantifiable or measurable" and "not hypothetical or illusory," and it must be shown by evidence at

summary judgment (*Thiedemann v. Mercedes-Benz USA, LLC*, per Justice LaVecchia); causation "is not the equivalent of reliance" (*Lee v. Carter-Reed Co.*, per Justice Albin for a unanimous Court).[24]

In *Dugan*, the Court held that the plaintiffs had not shown predominance, stating that "our case law has consistently rejected" price-inflation theories "as a substitute for proof of ascertainable loss or causation in CFA claims."[25] In the consolidated *Bozzi* appeal, the same opinion allowed a narrowed class of customers "charged a higher price for a second or subsequent beverage of the same brand, type, and volume ordered during the same visit, without notice of the change in prices" to proceed, because "the receipts, in combination with other evidence, may support a finding of ascertainable loss and causation"; the Court did not decide whether the practice violated the Consumer Fraud Act.[26]

Under *Atalese v. U.S. Legal Services Group, L.P.*, an arbitration clause waiving the right to sue in court "must state its purpose clearly and unambiguously," though "no prescribed set of words" is required (per Justice Albin for a unanimous Court).[27] In *AT&T Mobility LLC v. Concepcion*, the Supreme Court of the United States, per Justice Scalia for five Justices, held that the Federal Arbitration Act preempts a California rule treating most class arbitration waivers in consumer contracts as unconscionable: "States cannot require a procedure that is inconsistent with the FAA, even if it is desirable for unrelated reasons."[28] Section 5.3(C) takes up whether the *Atalese* rule is consistent with the Federal Arbitration Act; the question is unsettled and is not resolved here. The collection contains no decision applying *Atalese* to online, loyalty program, or delivery platform terms, and no source reports whether the terms governing New Jersey grocery purchases contain such clauses.[29]

Each requirement turns on proof that a shopper who sees only his or her own price may lack (Section 10.2). As this report's interpretation, a class claim that personal-data pricing raised prices generally would meet the rule applied in *Dugan*, while a claim that each member paid more than another customer for the same item at the same time would resemble *Bozzi*, which rested on receipts, but would need comparison records that the Act does not require sellers to keep.[30] The reading is prospective and has not been tested in any decision in the collection.

10.4 Base Rates from Comparable Private-Right Regimes

The collection contains no series of New Jersey Consumer Fraud Act filings, class actions, or settlements for any period or court.[31] This report therefore states no base rate for private enforcement under New Jersey law and projects no filing rate for the Act.

The Illinois Biometric Information Privacy Act gives "[a]ny person aggrieved by a violation of this Act" a right of action with liquidated damages of $1,000 for each negligent and $5,000 for each intentional or reckless violation, and the Supreme Court of Illinois has stated that, other than that right, "no other enforcement mechanism is available."[32] The Fair Debt Collection Practices Act, the Fair Credit Reporting Act, and the Telephone Consumer Protection Act, whose federal filings one data vendor counts monthly, each give a private action with statutory damages in a different form.[33] Appendix Table A.7 sets out the counts the collection holds for these regimes as dated snapshots, each in its source's own unit, period, courts, and method; counts from different sources are not added or compared. No inference is drawn from them for the Act.

10.5 The Price-Wage Asymmetry: Consumer Prices Regulated, Algorithmic Wage-Setting Unaddressed

Every version of the measure in the collection regulates consumer prices, and none addresses worker pay or algorithmic wage setting.[34] The collection contains no evidence on how grocery delivery workers are paid; the entry supplied as a study of Instacart shopper pay concerns the prices Instacart's customers were charged.[35] The asymmetry concerns the Act's scope; it is not a finding that pay for grocery or delivery work in New Jersey is set by algorithm.

New Jersey's labor framework, as the collection shows it, concerns whether a worker is an employee, not how pay is computed. The July 2019 report of the Task Force on Employee Misclassification describes the ABC test, which "presumes that a worker is an employee unless the employer can demonstrate all three prongs," and names "transportation, trucking and delivery services" among the sectors where misclassification is especially prevalent, but it says nothing about app-based work, algorithms, or consumer prices.[36] The collection contains no New Jersey source on the classification or pay of app-based delivery workers, and later developments are not established from its records.

The comparators regulate pay levels and pay information, not the data used to set pay. Seattle guarantees app-based workers, including grocery delivery workers, a minimum payment for each offer; its only reference to variable pricing is definitional, treating pay for "completing performance of an offer subject to a price multiplier or variable pricing policy" as an incentive that "may not count towards" the minimum.[37] New York City sets minimum pay for restaurant and grocery delivery workers by agency rule, and from January 17, 2027 its subpoenas in deactivation matters may reach "information about the data that a delivery service monitors, collects, or stores about or from a contracted delivery worker or customer."[38] Colorado requires transportation network companies to show both driver and consumer what the consumer paid and what the driver received for each task.[39] None of the three prohibits data-driven pay setting.[40] In Congress, H.R. 4640, introduced July 23, 2025, would pair a prohibition on "surveillance-based price setting" with one on "surveillance-based wage setting"; it has not advanced beyond referral to committee.[41] The Federal Trade Commission's section 6(b) orders of October 28, 2026 likewise take up prices and pay together, asking ride-sharing and food-delivery companies to document "the inputs, tools and procedures used to adjust or set compensation and pricing," and the Commission's Chairman, Andrew N. Ferguson, said that "[w]orkers also deserve to know if their compensation is affected by how companies use their personal data." The release describes a study under section 6(b) and reports no finding that any company sets pay on personal data.[42] How any of these designs would operate in New Jersey is a projection.

Veena Dubal (2023) argues that what she terms "algorithmic wage discrimination" "arises from (and may function akin to) the practice of 'price discrimination,'" states that even if firms are not using it to lower pay, "the possibility remains that they can do so," and proposes "a statutory or regulatory nonwaivable ban on algorithmic wage discrimination."[43] Her fieldwork concerns Uber and Lyft drivers in the San Francisco Bay Area.[44] Whether her account applies to grocery or delivery work in New Jersey is not established by her study.

Applied as a lens, the analysis finds the asymmetry in three places: the Act gives shoppers a rule against personal-data pricing but no information about individual prices, while the pay comparators give workers information without a rule against data-driven pay; the Act relies on consumer protection enforcement, while the comparators use labor agencies and express private rights; and New Jersey's labor framework in the collection concerns status, not pay setting.[45] No source addresses whether the Act will affect pay for grocery or delivery work.

10.6 Grocery Work and Electronic Shelf Labels

The committee substitute made it an unlawful practice to use an electronic shelving label connected to technology that varies grocery prices on personal data; the second-reprint amendments deleted that provision.[46] The Act instead imposes "a one-year moratorium on the new use of electronic shelf labels in this State," exempts the repair and replacement of existing labels, and afterward permits compliant new use "unless the Legislature enacts a law to the contrary."[47] Section 5 directs the New Jersey Innovation Authority to study "the effects of the use of electronic shelf labels" and "the impact of electronic shelf labels on surveillance pricing," and to report no later than six months before the moratorium ends.[48] Section 4 takes effect on February 1, 2027; section 5 took effect on enactment.[49]

Three textual features are flagged as observations, not resolved. Section 2 defines "electronic shelving label," while sections 4 and 5 regulate "electronic shelf labels," an undefined term; section 4 does not declare a violation of the moratorium an unlawful practice (the deleted provision declared unlawful only the use of a label connected to personal-data pricing); and the study mandate names no labor question or labor body.[50] Nor does the Act or the Division's unit pricing rule say whether an electronic label showing a unit price needs the Director's prior approval of its format, which the rule requires for unit price labels.[51]

The evidence on labels and store work consists of each side's claims. The United Food and Commercial Workers International Union predicted on July 1, 2026 that the labels "could replace the skilled work of grocery clerks."[52] Walmart, describing its own "digital shelf labels" on March 2, 2026, states that "the biggest difference DSLs make is the amount of time they give back."[53] The collection holds no independent study of the labels' effects on store staffing, hours, or tasks. Read through the labor lens, the Act defers new deployment and commissions a study whose mandate names neither workers nor their work.[54] Any effect of the Act on store work remains a projection.

10.7 The Prospective Posture, Stated Plainly

The Act was approved on July 23, 2026.[55] Its general provisions take effect on August 1, 2027 and its moratorium on February 1, 2027; only the study mandate is in effect.[56] No enforcement action, private suit, rule, or study report under the Act appears in the materials reviewed for this report, so every statement here about the Act's operation is a projection.[57] This section does not state whether a private

action lies, projects no filing rate, and recommends no design; Appendix Table A.8 presents the documented design options and their stated trade-offs without recommendation, and Section 11 names what to watch.

11. Implementation Risks and Watch Items

The Act was approved on July 23, 2026.[1] Its section 5, the shelf label study, took effect immediately; section 4, the moratorium, takes effect on February 1, 2027; and the rest of the Act, including the prohibition, takes effect on August 1, 2027 (this report's arithmetic).[2] The moratorium runs from February 1, 2027 to February 1, 2028, and the Innovation Authority's report, due no later than six months before the moratorium ends, falls due by August 1, 2027 (Section 3.7; this report's arithmetic).[3] The items below are stated without prediction.

11.1 Private Suits Under the Act and Motions to Compel Arbitration

No private suit under the Act appears in the sources reviewed, and none could yet rest on the prohibition. *What to observe.* The first complaint pleading a violation through N.J.S.A. 56:8-19, which would raise the question posed in Section 3.5, and any motion to dismiss it for want of a private action;[4] and any motion to compel arbitration under loyalty program or delivery platform terms, tested in New Jersey under *Atalese*, which requires a consumer arbitration clause to explain, "at least in some general and sufficiently broad way," that the consumer is giving up the right to bring claims in court.[5] *Where it will surface.* New Jersey trial and appellate rulings, and any federal court in which a suit is filed or to which it is removed. *What movement would signify.* A first judicial answer to that question, and whether private claims, if available, proceed in court or in arbitration.

11.2 Constitutional Challenges and the Appeal in National Retail Federation v. James

The sources reviewed contain no suit challenging the Act. The only comparable challenge in the collection, a First Amendment challenge to New York's pricing disclosure law, was dismissed on October 8, 2025 (Section 5.4).[6] In the appeal, No. 25-2818, the docket records briefing through the Federation's reply brief of February 24, 2026; the Second Circuit heard argument on October 19, 2026, and on November 9, 2026 its searchable opinions and summary orders contained no decision in it.[7] *What to observe.* Any complaint against the Act and its claims (Section 5.3); a decision in No. 25-2818. *Where it will surface.* The docket of any court in which a challenge to the Act is filed, and the Second Circuit

docket. *What movement would signify.* Which question posed in Section 5.5 a court is asked to decide, and an appellate account of mandated pricing disclosures, relevant to the Act only by analogy, chiefly to the loyalty exception's disclosure conditions, since the Act imposes no general disclosure duty.[8]

11.3 Division of Consumer Affairs Rulemaking, Enforcement, and the Act's Publication

The Act's section 8 permits, but does not require, the Director of the Division of Consumer Affairs to adopt rules, and sets no deadline, so rules may never issue.[9] The sources reviewed contain no notice of proposal under the Act.[10] As of November 9, 2026, the Legislature had posted the Act as an Advance Law, whose margin assigns sections 1 through 7 the range C.56:8-23.1 to 56:8-23.7, but its chapter-law index listed no published ("P.L.") chapter law for the Act (Section 2.3).[11] *What to observe.* A notice of proposal, including any definition of the terms the Act leaves open (Section 3.1); any action under section 7 or the Consumer Fraud Act, consent order, or request for a loyalty program's disclosures; and publication of P.L.2026, c.55 with its codified section numbers.[12] *Where it will surface.* The New Jersey Register; official releases and court dockets; the Chapter Laws index and statutes database. *What movement would signify.* Whether open terms are defined before the effective dates, whether the prohibition is enforced, and whether the chapter law matches the third reprint quoted in this report.

11.4 The FTC Policy Statement and Pending Federal Bills

On August 19, 2026, the FTC released for comment, on a 2-0 vote, a proposed Enforcement Policy Statement Regarding Personalized Pricing, and it later extended the comment deadline to September 25, 2026, when the comment period closed; no final statement had issued as of November 9, 2026.[13] The draft states that "Congress has not given the Commission the authority to prohibit personalized pricing in all circumstances," and it reserves whether some personalized pricing practices are unfair even when fully disclosed.[14] On October 28, 2026, the Commission, on a 2-0 vote, ordered nine companies, among them DoorDash, Instacart, Target, and Walmart, to provide information under section 6(b) on whether their prices vary from one person to the next and, for the ride-sharing and food-delivery companies, on how they set compensation, with responses due 45 days after each company receives its order (Section 5.2).[15] On November 9, 2026, Congress.gov showed S. 3387, H.R. 4640, and H.R. 4966 with no action after referral to committee (Section 5.2).[16] *What to observe.* A final statement, and whether it answers the

reserved question; any staff report or other publication of results from the October 2026 orders; committee action on the bills and any change to, or addition of, language on State law. *Where it will surface.* FTC releases, docket FTC-2026-1057, the Federal Register, and Congress.gov. *What movement would signify.* Whether federal policy settles on disclosure and deception standards applied case by case, a design unlike the Act's prohibition (Section 5.2); whether the Commission obtains, and publishes, information from companies it describes as setting prices, among them grocery sellers and a grocery delivery platform, information of the kind Section 8.8 finds missing; and whether a federal statute advances. What an enacted clause on State law would mean for the Act is posed in Section 5.3.

11.5 Loyalty Program Terms, Electronic Shelf Labels, and Food-at-Home Prices

The loyalty program exception attaches four conditions to program discounts (Section 3.4).[17] Three industry associations and a policy organization predicted fewer discounts or the loss of loyalty programs, while the Governor's release states that the Act "does not ban loyalty programs or discounts."[18] The moratorium does not bar purchasing or installing labels solely to repair or replace labels in operation at the same place of business before its effective date, and Walmart stated on March 2, 2026 that about 2,300 of its U.S. locations already used digital shelf labels and that it expected chain-wide use within a year.[19] *What to observe.* Retailers' loyalty terms, coupons, and group discounts before and after August 1, 2027, and any bill to amend the Act; new label installations in New Jersey before and after February 1, 2027; and the federal food-at-home indexes for two metropolitan areas that include New Jersey counties but are not New Jersey figures.[20] *Where it will surface.* Retailers' terms and the Legislature's bill search; company statements and trade press; the Bureau of Labor Statistics' releases. *What movement would signify.* Evidence on predictions that are now only attributed, although no dated baseline of any retailer's program terms is among the sources reviewed; whether installations are repair or replacement or new use, which section 4 does not declare an unlawful practice (Section 3.1);[21] and area price context for Section 9.1, not evidence of any effect of the Act.

11.6 Enactments in Other States and the First Published Evaluations

Maryland's Chapter 154 took effect on October 1, 2026. Connecticut's pricing section did not: Public Act No. 26-100, approved June 2, 2026, repealed section 11 of Public Act No. 26-64 on passage, before that section took effect, and substituted a provision effective February 1, 2027, and Public Act No. 26-130,

approved June 4, 2026, repealed the substitute on passage and reenacted the pricing section as its own section 11, effective July 1, 2027, one month before the Act's prohibition.[22] Seattle's Ordinance 127515, signed on October 5, 2026, makes its new chapter 7.35 effective on September 1, 2027, one month after the Act's prohibition, and states the City Council's intent that the Executive analyze the price of groceries sold by covered retailers each year and report its findings to the Council by December 31 (Section 6.1).[23] New York's One Fair Price Act, which the Assembly's record shows passed both houses on June 4, 2026, would replace the disclosure provision at issue in *National Retail Federation v. James*; that record shows no later action, and no record of delivery to or action by the Governor was found as of November 9, 2026 (Section 6.3).[24] No evaluation of the Act appears in the sources reviewed; the Innovation Authority's report is not yet due on this report's arithmetic, and the FTC's surveillance pricing page, as read on November 9, 2026, listed no final report of its 2024 6(b) study; no result of the study the Commission began on October 28, 2026 had been published (Section 5.2).[25] *What to observe.* Enforcement in Maryland; Connecticut's section taking effect on July 1, 2027, and its enforcement; Seattle's chapter 7.35 taking effect on September 1, 2027, any rules under it, the first private action under it, and any annual price report; delivery to the Governor and signature or veto in New York; a later update of the multistate tracker and the pending bills it lists (Section 6.3); the Innovation Authority's report; and any FTC final report or published results of either FTC study.[26] *Where it will surface.* State codes and releases; Seattle's municipal code, rules, and court dockets; the report to the Governor and the Legislature; the FTC's pages. *What movement would signify.* How agency-enforced designs with express bars operate, and how a design with an express private right operates in a city; whether any state enacts a consumer private right, which would bear on Section 6.1 and require the Section 6.3 counts to be recomputed; and official evidence on the labels' effects and on the prevalence of pricing on personal data (Section 8.8).

12. Conclusion

Three findings stand above the rest.

First, the Act's legal shape differs from its public description and depends on existing law. It supplements the Consumer Fraud Act, binds any person, reaches a defined list of grocery and household products, preserves three grounds for different prices, and gives the Attorney General its only express civil action.[1] The Governor's release describes a law barring "retailers" from individualized pricing on "groceries and other necessities"; the text binds "a person," covers "groceries and other foodstuffs," and conditions both discount exceptions.[2] Whether consumers may enforce it through the Consumer Fraud Act is its central open question, and the text does not answer it (Section 3.5).[3]

Second, the Act enters a field in which no federal statute reviewed addresses individualized pricing of consumer goods and the constitutional standards have not been applied to a statute of its kind. The FTC's policy statement remains a proposal that binds no one, its comment period has closed with no final statement issued, the federal bills have not moved, and the closest constitutional ruling concerns New York's disclosure law; the Commission has also begun a second information-gathering study, of companies it describes as setting prices and, in ride-sharing and food delivery, compensation (Section 5).[4] Maryland's Chapter 154 took effect on October 1, 2026, and Connecticut's pricing section, now section 11 of Public Act No. 26-130, takes effect on July 1, 2027, so the comparative record now includes one operating regime that bars private actions expressly and will soon include a second, while Seattle's chapter 7.35, which takes effect on September 1, 2027, establishes a municipal regime with an express private right of action against large grocery businesses, mixed-use grocery stores, and delivery providers (Sections 6.1 and 11.6).[5] What those regimes will show about the Act's operation in New Jersey is not yet known.

Third, the Act is prospective legislation resting on a legislative record without empirical evidence on surveillance pricing. The legislative record cites no empirical evidence on surveillance pricing, no source measures individualized grocery prices in New Jersey, and the prohibition does not take effect until August 1, 2027 (Sections 3.7, 8, and 9).[6] The Innovation Authority's study of electronic shelf labels is the only study the Act requires, and the Act does not address the algorithmic setting of pay for grocery and

delivery work (Sections 10.5 and 10.6).[7] What can be known about its effects will come from the watch items in Section 11.

Appendix. Tables and Figures

The tables and figures below support the sections cited in each caption. Every entry was checked against the source it cites; derived figures are identified as this report's arithmetic.

Tables

Table A.1. Timeline of the Act, from introduction to the calculated effective dates

DATE	EVENT
February 19, 2026	A4085 and S3612 introduced with identical operative texts; A4085 referred to the Assembly Consumer Affairs Committee, S3612 to the Senate Commerce Committee
March 5, 2026	S3717 introduced and referred to the Senate Commerce Committee; the Legislature lists it as identical to A4523, though its remedy provisions differ (Section 4.2)
March 9, 2026	A4523, the grocery-specific bill that supplies the short title, introduced and referred to the Assembly Consumer Affairs Committee (bill history; the introduced text bears March 10, 2026)
March 16, 2026	Senate Commerce Committee reports a Senate Committee Substitute for S3612 and S3717 (4 yes, 0 no, 1 abstaining); S3717 combined with S3612
March 19, 2026	Assembly Consumer Affairs Committee reports the Assembly Committee Substitute for A4085 and A4523 (4 yes, 1 no, 2 not voting)
May 14, 2026	Assembly Commerce and Economic Development Committee reports the substitute with amendments, producing the first reprint (4 yes, 2 no, 1 not voting)
June 23, 2026	Assembly Appropriations Committee reports with amendments, producing the second reprint (11 yes, 4 no)
June 24, 2026	Senate Budget and Appropriations Committee reports the Senate substitute with amendments, producing the Senate first reprint (9 yes, 0 no, 4 abstaining)
June 25, 2026	Office of Legislative Services issues its fiscal estimate on the Senate substitute
June 26, 2026	Senate substitute recommitted to the Senate Budget and Appropriations Committee
June 28, 2026	On recommittal, Assembly Budget Committee reports with amendments, producing the third reprint (11 yes, 4 no); Senate Budget and Appropriations Committee again reports the Senate substitute with amendments, producing the Senate second reprint, whose operative text matches the third reprint (9 yes, 4 no)

DATE	EVENT
June 30, 2026	Assembly passes the third reprint (51 yes, 20 no, 8 not voting, 1 abstaining); Senate substitutes it for S3612/S3717 by voice vote and passes it (22 yes, 14 no, 4 not voting)
July 23, 2026	Approved as P.L.2026, c.55; section 5 (the Innovation Authority study) takes effect
September 10, 2026	Legislative Digest lists P.L.2026, c.55 among laws signed since the last session
November 9, 2026	Status date of this report (Version 1.2); the Legislature's 2026 chapter law index lists the Act as "A.L.2026, c.55," with published chapters only through c.50, and the Advance Law it links assigns sections 1 to 7 the range C.56:8-23.1 to 56:8-23.7 in its margin
February 1, 2027	Section 4 takes effect and the one-year moratorium begins (this report's arithmetic)
August 1, 2027	Remainder of the Act, including the prohibition and the Attorney General's action, takes effect (this report's arithmetic); Innovation Authority report due, six months before the moratorium ends (this report's arithmetic)
February 1, 2028	Moratorium ends (this report's arithmetic)

Sources: As listed in the note.[1]

Table A.2. Version history of key provisions, from the introduced bills to the enacted text

PROVISION	INTRODUCED (A4085 AND S3612, FEB. 19; A4523, MAR. 9)	COMMITTEE SUBSTITUTES (SENATE, MAR. 16; ASSEMBLY, MAR. 19)	FIRST REPRINT (MAY 14)	SECOND REPRINT (JUNE 23)	THIRD REPRINT, ENACTED (JUNE 28)
Pricing term	A4085/S3612: "personalized algorithmic pricing" and "surveillance pricing"; A4523: "surveillance-based price setting" using "surveillance data"	"Personalized algorithmic pricing" and "surveillance pricing," paired and redefined for groceries	Single term, "surveillance pricing"; electronic surveillance technology sentence added	Unchanged	Unchanged

PROVISION	INTRODUCED (A4085 AND S3612, FEB. 19; A4523, MAR. 9)	COMMITTEE SUBSTITUTES (SENATE, MAR. 16; ASSEMBLY, MAR. 19)	FIRST REPRINT (MAY 14)	SECOND REPRINT (JUNE 23)	THIRD REPRINT, ENACTED (JUNE 28)
Personal data	A4085/S3612: linked to "a specific consumer or a consumer's device"; A4523: not defined	Linkable to an identified or identifiable "person"	"Person" replaced by "consumer"	Unchanged	Unchanged
Covered goods	A4085/S3612: "merchandise or services"; A4523: groceries and other foodstuffs, or a service	"Groceries and other foodstuffs" (itemized list)	Unchanged	Prepared food excluded; food service establishments excluded (new section 6)	Unchanged
Party bound	A4085/S3612: "business entity"; A4523: retail food store; third-party grocery delivery platform	"Person," broadly defined	Unchanged	Unchanged	Unchanged
"Price"	Not defined	Not defined	Defined; includes terms defined in N.J.A.C. 13:45A-9.1	Reaches amounts after all related costs, fees, and material terms	Unchanged
Exceptions	A4085/S3612: one sentence, no conditions; A4523: three safe harbors, five conditions	Reasonable costs; group discounts "conspicuously disclosed and uniformly offered"; loyalty programs, unconditioned; secondary-use limit	One price change in 24 hours; group criteria "publicly and" disclosed; loyalty exception widened, four conditions	Loyalty disclosures to the Division within 14 days of a request; public disclosure of "terms and conditions"	Benefits "pursuant to uniform terms and conditions"; "available" discounts; secondary use "without the consumer's consent"

PROVISION	INTRODUCED (A4085 AND S3612, FEB. 19; A4523, MAR. 9)	COMMITTEE SUBSTITUTES (SENATE, MAR. 16; ASSEMBLY, MAR. 19)	FIRST REPRINT (MAY 14)	SECOND REPRINT (JUNE 23)	THIRD REPRINT, ENACTED (JUNE 28)
Electronic shelf labels	A4085/S3612: none; A4523: display ban and non-digital price presentation duty	Senate: unlawful to use a label connected to covered pricing technology; Assembly: the same, plus one-year moratorium, study, report, and later permission	Definition drops "and Internet-connected" and adds code-scanned labels; section otherwise kept	Unlawful-practice provision deleted; moratorium with repair and replacement carve-out (new section 4); study moved to new section 5	Innovation Authority placed "in the Department of the Treasury"
Attorney General remedy	A4085/S3612: no section; A4523: reason to believe; actual damages or $3,000; parallel consumer action	Reason to believe; actual damages or $50,000, whichever is greater; no consumer action	Any violation or public interest; "negligent or greater" violations; $50,000 kept; placeholder added	Renumbered section 7	$50,000 alternative and placeholder struck; actual monetary damages
Rulemaking and effective date	Rules mandatory ("shall"); seventh month	Rules permissive ("may"); seventh month	General date moved to 13th month	Moratorium in seventh month; study immediately	Unchanged

Sources: As listed in the note.[2]

Table A.3. Litigation exposure matrix: the questions a challenge to the Act could present, as of November 9, 2026

ISSUE	GOVERNING TEST	PRINCIPAL ARGUMENTS FOR THE ACT	PRINCIPAL ARGUMENTS AGAINST	STATUS OF THE QUESTION
Prohibition and "price" (First Amendment)	Conduct or speech; if speech, *Sorrell*'s heightened scrutiny for content- and speaker-based burdens, or *Central Hudson*'s four-part analysis; for a facial claim, *Moody* (Part II): "a substantial number" of applications against the law's "plainly legitimate sweep"	Regulates how a sale price is set, a term of sale (*Sorrell*'s line for nonexpressive conduct; S.D.N.Y.: "part and parcel" of the terms); three exceptions and a consent rule for other uses of the data; *Moody* reserved feeds driven solely by user behavior	Restricts the use of information (*Sorrell*); "price" covers amounts "advertised or offered to a consumer" and targeted discounts; exceptions and the food service exclusion draw content and speaker lines; disclosure is a narrower means (*Central Hudson*)	Unsettled; the governing standards are stated in the cited authorities

ISSUE	GOVERNING TEST	PRINCIPAL ARGUMENTS FOR THE ACT	PRINCIPAL ARGUMENTS AGAINST	STATUS OF THE QUESTION
Disclosure conditions (group discount and loyalty program exceptions)	*Zauderer* (Part V): "purely factual and uncontroversial information" about terms; reasonably related to preventing deception; not "unjustified or unduly burdensome"	Conditions attach only to elected exceptions and concern program terms; S.D.N.Y. read *Zauderer* to reach more than deception; EPIC: exemptions need not be exhaustive	*Zauderer*'s words name deception; Chamber: how a price is set is internal decisionmaking, and transparency alone is "consumer curiosity"	Unsettled; the governing standards are stated in the cited authorities
Dormant Commerce Clause	Antidiscrimination principle; no "almost per se" extraterritoriality rule (*Pork Producers*, opinion of the Court); *Pike* balancing, its present scope divided	Evenhanded text; no tie to out-of-state prices; sellers "must normally comply" with each State's laws; a method of operation is not protected (Part IV-C, four Justices); "extreme delicacy" (Part V)	NetChoice: reaches pricing decisions made outside the state and would force a choice between a New Jersey "pricing silo" and abandoning dynamic discounting; four Justices (Roberts, C.J.) would find a substantial burden alleged; disclosure as the "lesser impact" alternative (*Pike*)	Unsettled; the Justices are divided on the present scope of *Pike*
Arbitration (FAA), only if a private action lies (Section 3.5)	FAA § 2 saving clause; *Concepcion*; *Viking River*; the *Atalese* clarity rule	*Atalese*: "no greater burden" than on other waivers of rights; neither Supreme Court opinion addresses an action by a State official in the official's own name	*Concepcion*: no defense that derives its meaning from arbitration, and no required classwide arbitration; *Viking River*, Part II (five Justices): no categorical exemption for claims belonging to sovereigns	Unsettled; the question arises only if a private action lies
Standing (Article III), only if a private suit is in federal court	*TransUnion*: concrete harm with a "close historical or common-law analogue," shown for each claim and form of relief, and by each class member seeking damages	Monetary harm qualifies; "disclosure of private information" and "intrusion upon seclusion" can qualify; the opinion addresses private suits in federal court, not state courts, and treats public enforcement as the Executive Branch's province	"an injury in law is not an injury in fact"; a shopper who paid no more may show no concrete harm; class members may not know how prices were set	Unsettled; the question arises only if a private suit is heard in federal court

ISSUE	GOVERNING TEST	PRINCIPAL ARGUMENTS FOR THE ACT	PRINCIPAL ARGUMENTS AGAINST	STATUS OF THE QUESTION
Preemption language (text only)	No test applied; 47 U.S.C. § 230(c)(1), (e)(3); H.R. 4640, § 4; S. 3387	Text: § 230(e)(3) preserves State law "consistent with this section"; H.R. 4640, § 4(a) saves State law except where it "conflicts"	Text: § 230(e)(3) bars liability under State law "inconsistent with this section"; H.R. 4640, § 4(b) names wage setting and data collection only; S. 3387 has no general State law clause	The texts are recorded as written, and no conclusion is drawn; whether the bills will be enacted is not known

Sources: As listed in the note.[3]

Table A.4. The Act and comparable state and municipal measures, with status as of November 9, 2026

JURISDICTION	INSTRUMENT AND SCOPE	MODEL	ENFORCEMENT	STATUS
New Jersey	P.L.2026, c.55 (A4085/S3612): binds any "person"; "groceries and other foodstuffs"; surveillance pricing or any pricing strategy that determines or varies price on personal data; one-year moratorium on new use of electronic shelf labels	Prohibition; grocery-specific	Attorney General civil action (injunction, compliance, actual damages for each negligent or greater violation, other relief); no express private right or bar; action through N.J.S.A. 56:8-19 contested (Section 3.5)	Approved July 23, 2026; section 5 effective on approval; section 4 effective February 1, 2027 and the rest August 1, 2027 (this report's arithmetic)
Maryland	Ch. 154 of 2026 (HB 895), Com. Law § 13-321: food retailers of at least 15,000 square feet and third-party delivery service providers; sales-tax-exempt food; higher price for a specific or single consumer by dynamic pricing or personal data; nine exclusions; bar on using protected class data to offer, advertise, or sell any consumer good or service where the use has the effect of withholding or denying an accommodation, advantage, or privilege accorded to others	Prohibition; grocery-specific (disclosure proposed and struck)	The Division named in the print, after notice and a 45-day cure period; express bar on private right; Consumer Protection Act private action and criminal penalties made inapplicable; no civil penalty stated in the print	Approved April 28, 2026; in effect since October 1, 2026

JURISDICTION	INSTRUMENT AND SCOPE	MODEL	ENFORCEMENT	STATUS
Connecticut	Pub. Act No. 26-130, § 11 (reenacting with changes Pub. Act No. 26-64, § 11, repealed before taking effect by Pub. Act No. 26-100, § 66): online disclosure ("THIS PRICE WAS INCREASED USING YOUR PERSONAL DATA"), with notice of rights under § 42-518, by any person using surveillance pricing other than to establish a discounted price for an online transaction, unless the price is the bona fide market price; "surveillance pricing" barred for retail sellers of tangible personal property, including retail food establishments, and third-party delivery services; consumer goods and services; exclusions for retention, reestablishment, new-customer, cross-selling, and reengagement discounts, cost and temporal differences, publicly disclosed uniform, group, and enrolled loyalty program discounts, and pricing-error and outage corrections; exemptions for insurance licensees and for credit and financial-services decisions based on consumer reports or Equal Credit Opportunity Act factors	Disclosure and prohibition	Unfair or deceptive trade practice under § 42-110b(a), enforced solely by the Attorney General; express bar on private right and on § 42-110g action; no penalty stated in § 11	Pub. Act No. 26-64 approved May 27, 2026; its § 11 repealed June 2, 2026, before taking effect; Pub. Act No. 26-130 approved June 4, 2026, with § 11 effective July 1, 2027

JURISDICTION	INSTRUMENT AND SCOPE	MODEL	ENFORCEMENT	STATUS
New York (statute)	Gen. Bus. Law § 349-a (2025, ch. 58, pt. X): disclosure of prices set by "personalized algorithmic pricing" using the consumer's personal data; all goods and services; insurance, financial institution, and subscription exceptions	Disclosure	Attorney General, after cease-and-desist letter and cure period; injunction; civil penalty up to $1,000 per violation; no express private right or bar	Enacted May 9, 2025, as the S.D.N.Y. states; in effect from November 10, 2025, as the Attorney General announced; First Amendment challenge dismissed October 8, 2025; appeal argued October 19, 2026; no appellate decision found as of November 9, 2026 (Section 11.2)
New York (bill)	One Fair Price Act, A9349-B (text identical to S8623-B): would replace § 349-a's disclosure duty with a bar on setting or adjusting prices "using surveillance pricing"; all goods and services; "bona fide custom discount" safe harbor	Prohibition (replacing disclosure)	Attorney General: injunction; restitution and damages to aggrieved parties where appropriate; civil penalties up to $5,000 (first) and $20,000 (each subsequent); rulemaking; no express private right or bar	Passed by the Assembly and the Senate, June 4, 2026, and returned to the Assembly (Assembly record); passage reported by the Attorney General, June 10, 2026; "To governor" on the tracker, August 20, 2026; no later action in the Assembly record and no delivery to or action by the Governor found as of November 9, 2026; would take effect on the 180th day after becoming law
California (statute)	Ch. 338 of 2025 (AB 325), Bus. & Prof. Code § 16729: use or distribution of a "common pricing algorithm" using competitor data in a restraint of trade or with coercion; end consumer excluded from "person"	Antitrust (not individualized pricing)	Not stated in the sections added; no express private right or bar	Approved and filed October 6, 2025; effective date not stated

JURISDICTION	INSTRUMENT AND SCOPE	MODEL	ENFORCEMENT	STATUS
Seattle, Wash. (municipal ordinance)	Ordinance 127515 (CB 121267), adding Seattle Mun. Code ch. 7.35: bars "algorithmic-based price discrimination" by grocery businesses with 20 or more retail locations (any goods), mixed-use grocery businesses (groceries, diapers, grooming and hygiene products, over-the-counter drugs), and delivery service providers; definition includes "random variations in prices"; exclusions for delivery-cost, store-level, third-party coupon, retention and cross-selling, eligibility-criteria, broad-group, and loyalty program discounts (to all members, or to tiers based only on prior purchase history); bars electronic shelf label display of prices so modified; disclosure of discount criteria and tiers; three-year record retention, with a rebuttable presumption of violation on missing records	Prohibition; grocery-specific	Express private right against grocery businesses with 25 or more Washington establishments, mixed-use grocery businesses, and delivery service providers (fees and costs; legal or equitable relief; civil penalties up to $3,000 per aggrieved party and $10,000 for each subsequent violation per aggrieved party, capped at $1,000,000 per action; liquidated damages up to $10,000; amounts adjusted annually for inflation); City Attorney civil action; individual waiver void; Director rulemaking	Passed by the City Council September 22, 2026 (7-2); signed October 5, 2026; chapter 7.35 effective September 1, 2027

Sources: As listed in the note.[4]

Table A.5. Fiscal and administrative obligations under the Act

OBLIGATION	BEARER	SOURCE PROVISION	TIMING	COST AS STATED IN THE RECORD
Conduct the electronic shelf label study	Innovation Authority (Treasury), in consultation with the Division of Consumer Affairs	§ 5(a)	Before and during the moratorium; in effect on enactment, July 23, 2026	One-time, "indeterminate" (OLS); FY2027 Authority line of $23,496,000, study share not stated

OBLIGATION	BEARER	SOURCE PROVISION	TIMING	COST AS STATED IN THE RECORD
Report to the Governor and the Legislature	Innovation Authority	§ 5(b)	No later than six months before the moratorium ends, that is, by August 1, 2027 (this report's arithmetic)	Not separately stated
Bring civil enforcement actions	Attorney General (Law and Public Safety)	§ 7	Prohibition in effect from August 1, 2027	Annual, "indeterminate," depending on the extent of violations (OLS)
Make loyalty program disclosures available on request within 14 days	Program operators; Division of Consumer Affairs as requester	§ 3(b)(3)(c)	From August 1, 2027	Not addressed
Adopt rules (permissive)	Director of the Division	§§ 4(a), 8	No deadline	Not addressed
Take anticipatory administrative action (permissive)	Director; Chief Innovation Officer	§ 9	Before the effective dates	Not addressed
Hear actions under the Act	The courts	§§ 3(a), 7	From August 1, 2027	Court costs "indeterminate" (OLS); Judiciary FY2027 appropriation of $961,141,000, none attributed
Comply with the prohibition and the conditions of each exception	Any "person" pricing groceries and other foodstuffs	§ 3	From August 1, 2027	Not estimated; claims without figures (Section 7.5)
Make no new use of electronic shelf labels, save repair or replacement	Anyone making new use of the labels in the State	§ 4	One year; section in effect from February 1, 2027	Not estimated; claim without figure (Section 7.5)
Any duty on a board of education, county, municipality, or fire district	None named	None	Not applicable	Not applicable (Section 7.6)

Sources: As listed in the note.[5]

Table A.6. Principal measurements of price variation and steering in the sources reviewed for Section 8

STUDY	SETTING AND PERIOD	WHAT WAS MEASURED	PRINCIPAL RESULT	LIMITS
Hannak et al. (2014)	10 US general retailers and 6 travel sites; spring 2014	Search results and prices for 300 recruited users against simultaneous control searches	Steering or price discrimination at 4 general retailers and 5 travel sites; price inconsistencies typically under 0.5 percent of products at most sites	Searches only; causes for real users not determined
Mikians et al. (2012)	200 online vendors, 600 products; early July 2012	Prices and search results by system and browser, location, trained persona, and referral	No price differences by system or browser; location-based price differences at 3 sites; persona differences in search results, not prices; prices at two office-equipment vendors varied with the referring site, and Shoplet.com's were 23 percent lower on average when reached through a price aggregator	Authors do not claim the location differences as price discrimination; no real users; preliminary
Wall Street Journal (2012)	Staples.com and other US sites; tests in phases, August to December (article updated December 24, 2012)	Prices and offers shown to simulated visits from different locations	Staples: prices varied for about a third of more than 1,000 products, by about 8 percent on average; distance to rival stores the strongest correlation	Method stated in part; not peer reviewed
ProPublica (2015)	The Princeton Review's online SAT tutoring packages; July and August 2015	Package prices by ZIP code, joined to Census area data	Premier package at four prices, $6,600 to $8,400; incidence rate ratios of 1.8 (Asian against non-Asian residents) and 2.05 (areas with median income above $73,632) for a higher price	One firm and one product; area-level, not individual; not stated to be peer reviewed
Chen, Mislove, and Wilson (2016)	1,641 popular Amazon Marketplace products; crawls in 2014 and 2015	Sellers' prices over time against competitors' prices	2.4 percent of sellers used algorithmic pricing at the authors' change threshold	Competitor-keyed repricing; no test for personal data
Ipsos, London Economics, and Deloitte for the European Commission (2018)	160 websites, 4 product types, 8 Member States; June 1 to August 25, 2017	Prices and offer rankings seen by mystery shoppers against control shops	Price difference in 6 percent of 34,403 matched pairs (median under 1.6 percent); offer ranking personalized on 61 percent of websites in at least one scenario	Non-random sample; no groceries

STUDY	SETTING AND PERIOD	WHAT WAS MEASURED	PRINCIPAL RESULT	LIMITS
Consumer Reports and Groundwork Collaborative (2025)	Instacart at Safeway and Target, later at other chains; September 2025, with a further test in November	Prices shown to volunteers shopping simultaneously (437 volunteers in September)	About three-quarters of products at different prices; up to 23 percent per item; cheapest and costliest baskets about 7 percent apart on average across five tests	Volunteer sample; not stated to be peer reviewed; use of personal data not established (sample too small to test demographic correlations)

Sources: As listed in the note.[6]

Table A.7. Comparator litigation counts, as dated snapshots of their own regimes (Section 10.4)

SOURCE (DATE)	REGIME AND UNIT	PERIOD AND COURTS	FIGURE AS STATED	METHOD
Seyfarth Shaw LLP (June 28, 2019)	Illinois BIPA; class actions filed	2008 to 2016; 2017; 2018; 2019 to June 28; nine Illinois courts	15; 69; 79; about 161	Not stated
Holland & Knight, as cited by the U.S. Chamber Institute for Legal Reform (October 2021)	Illinois BIPA; "cases" (class and individual suits not separated)	2015 to first quarter 2021; Illinois state court; four federal district courts	533 (state); 370 (federal)	Not stated
U.S. Chamber Institute for Legal Reform (October 2021)	Illinois BIPA; "cases alleging BIPA violations"	Through September 2021; courts not stated	"over 900"	"a search of court filings"; no source named
Epstein Becker Green (August 21, 2025)	Illinois BIPA; "lawsuits"	Since *Rosenbach* (2019) to publication; Illinois state and federal courts	"more than 1,500"	Not stated
Squire Patton Boggs (December 11, 2025)	Illinois BIPA; putative class actions	2025, year incomplete at publication; courts not stated	"At least 100"	Not stated
WebRecon (July 30, 2026)	FDCPA; FCRA; TCPA; lawsuits (of which putative class actions)	July 2026; federal district courts (state courts not stated)	351 (27); 1,134 (14); 177 (108)	Not disclosed
WebRecon (September 23, 2026)	FDCPA; FCRA; TCPA; lawsuits (of which putative class actions)	August 2026; federal district courts (state courts not stated)	365 (34); 968 (11); 198 (143)	Not disclosed

Sources: As listed in the note.[7]

Table A.8. Design options documented in the collection, with the trade-offs their sources state, presented without recommendation (Section 10)

DESIGN QUESTION	OPTION	WHERE DOCUMENTED	TRADE-OFFS AS THE SOURCES STATE THEM
Who enforces	Attorney General only (the Data Privacy Act adds an express bar on private actions)	N.J. Data Privacy Act §§ 14(b), 16 (as enacted, 2024); Texas and Washington biometric laws, as a law firm describes them	The Institute for Legal Reform favors enforcement "solely" by state attorneys general; a law firm says the Texas and Washington design means "no BIPA-style class actions"
Who enforces	Attorney General action with no express private right or bar	The Act § 7; N.J.S.A. 56:8-19, if it applies (Section 3.5)	The Attorney General need not prove loss (*Cox*); a private claim would need an ascertainable loss, with mandatory trebling and fees (*Cox*; *Thiedemann*)
Who enforces	Express private right with liquidated or statutory damages	BIPA § 20 (*Rosenbach*); FDCPA § 813; FCRA §§ 616-617; TCPA § 227(b)(3); A4523 § 6 (not adopted); Seattle § 7.35.060 (pricing; from Sept. 1, 2027)	*Rosenbach*: "the strongest possible incentive to conform to the law"; law firms tie the design to class action volume (attributed); the Institute for Legal Reform calls BIPA "a lesson in what not to do"
Who enforces	Labor agency, adjudication, and express private right	Seattle ch. 8.37; New York City Admin. Code tit. 20, ch. 15; Colorado § 8-4-127	Worker-pay regimes, not pricing laws; each pairs agency enforcement with private suits and attorney fees (texts)
Before enforcement	Notice and a period to cure	Data Privacy Act § 14(b); New York § 349-a(4), as the court describes it	Enforcement proceeds only if the violation is not cured (Data Privacy Act text, until the first day of the eighteenth month next following its effective date, and where a cure is deemed possible; New York, as the court describes it); the Institute for Legal Reform recommends cure periods; the Act has none
Detection	Presumption of violation from a price difference	A4523 § 6(c)-(d) (not adopted); S. 3387 § 2(d)(3) (introduced)	Shifts the burden of rebuttal to the seller (texts); no source in the collection tests its effect
Detection	Disclosure at the point of price	New York § 349-a; EU Consumer Rights Directive art. 6(1)(ea)	A court: consumers "would not know" without it; the Chamber of Commerce, as amicus: consumers "will lack meaningful insight" even with it; Commission test found no express disclosure; staff report "limited effects"
Detection	Record duties and a presumption on missing records	Seattle § 8.37.110; New York City § 20-1506; Seattle § 7.35.050 (pricing; from Sept. 1, 2027)	Places the evidentiary burden on the regulated firm (texts); compliance costs are not documented in the collection

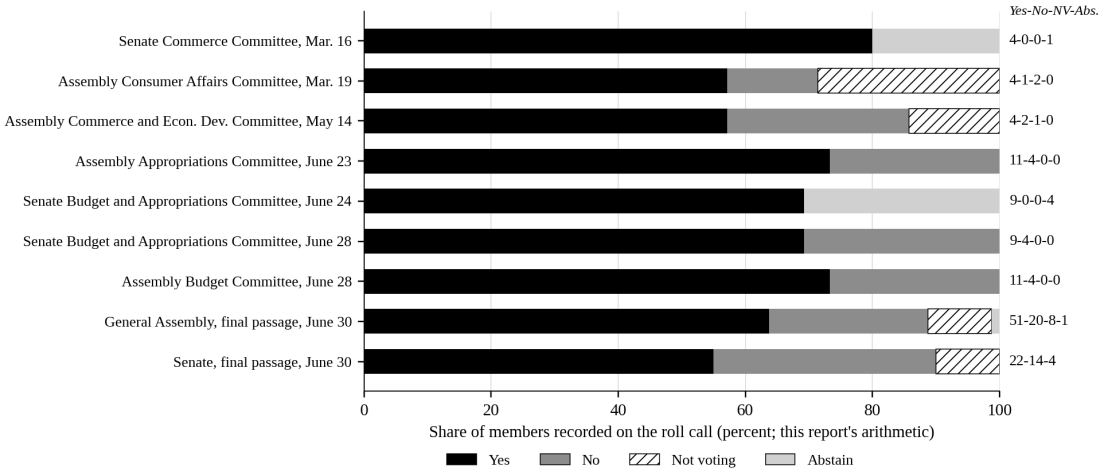
DESIGN QUESTION	OPTION	WHERE DOCUMENTED	TRADE-OFFS AS THE SOURCES STATE THEM
Pay side	Pay transparency to workers and consumers	Colorado § 8-4-127(11); New York City § 20-1523(c); Seattle § 8.37.070	Makes pay visible without regulating how it is set (texts); Dubal: "transparency and legibility alone do not address the harms"
Pay side	Pay floors; a ban on data-driven pay setting	Seattle § 8.37.050; New York City § 20-1522; H.R. 4640 § 3 (introduced); Dubal's proposal	Floors address the level of pay, not the method (texts); Dubal: "The precise limits of a proposed nonwaivable ban need to be explored"
Shelf labels	Moratorium and study; ban with non-digital prices; existing unit pricing rule	The Act §§ 4-5; A4523 § 4 (not adopted); N.J.A.C. 13:45A-14 (2022 compilation)	NetChoice: a study "can be conducted without a moratorium"; UFCW and Walmart make opposing claims about work (attributed); the rule's reach to electronic labels is unaddressed

Sources: As listed in the note.[8]

Figures

The figures chart values that the sources print or that this report derives from them. Each value was checked against its source; derived shares and counts are this report's arithmetic.

Figure A.1. Recorded votes on the Fair Price Protection Act, by committee and chamber, 2026

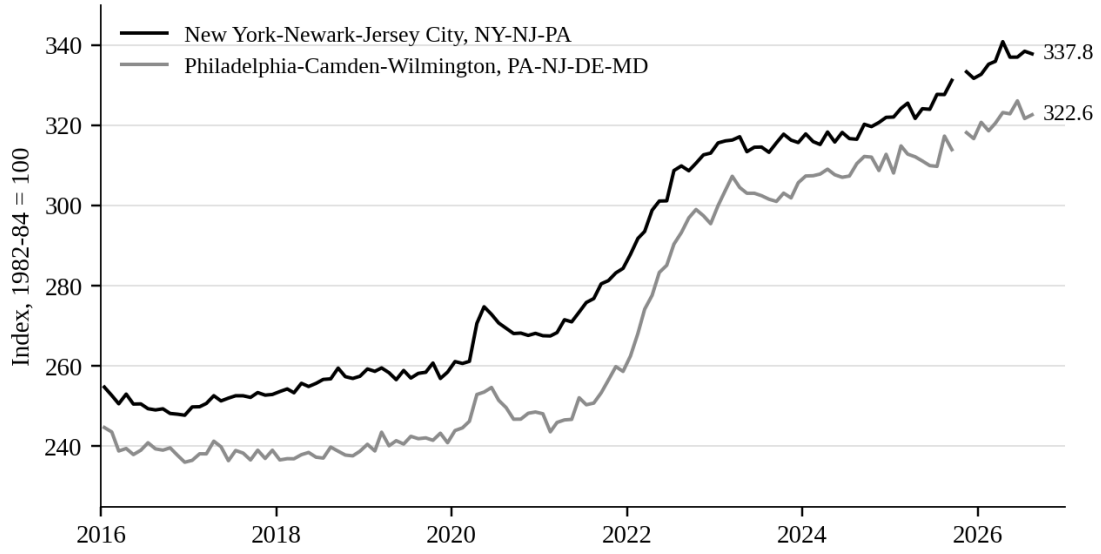


Note: Each bar shows the share of members recorded on the roll call who voted yes, voted no, did not vote, or abstained (this report's arithmetic from the printed tallies); the tallies are printed at the right in the order yes, no, not voting, abstain. The Senate's final passage tally prints no abstain field. The Senate's vote of June 30, 2026 substituting the Assembly bill is omitted because it was taken by voice; the bill

page prints its tally as 0 yes, 0 no, and 40 not voting. Tallies are as the Legislature's bill pages print them (see Table A.1); the Legislative Digest for June 30, 2026 prints floor yes, no, and abstaining figures that match them, and each tally equals the count of the member-level roll call on the bill pages (this report's count).

Sources: As listed in the note.[9]

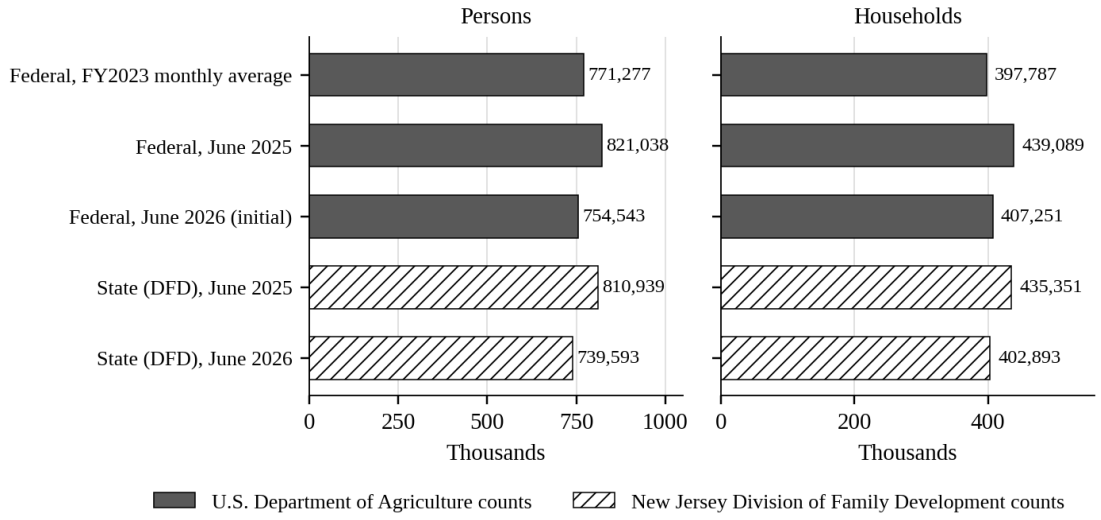
Figure A.2. Consumer Price Index for food at home, New York-Newark-Jersey City and Philadelphia-Camden-Wilmington areas, monthly, January 2016 to August 2026



Note: CPI for All Urban Consumers, food at home, 1982-84 = 100, not seasonally adjusted. Values for October 2025 were not published ("Data unavailable due to the 2025 lapse in appropriations"), which leaves the gap in each line. Each index measures price change within its own metropolitan area, so the difference between the two lines is not a comparison of price levels. Both areas include New Jersey counties and extend into other States; neither index is a New Jersey figure.

Sources: As listed in the note.[10]

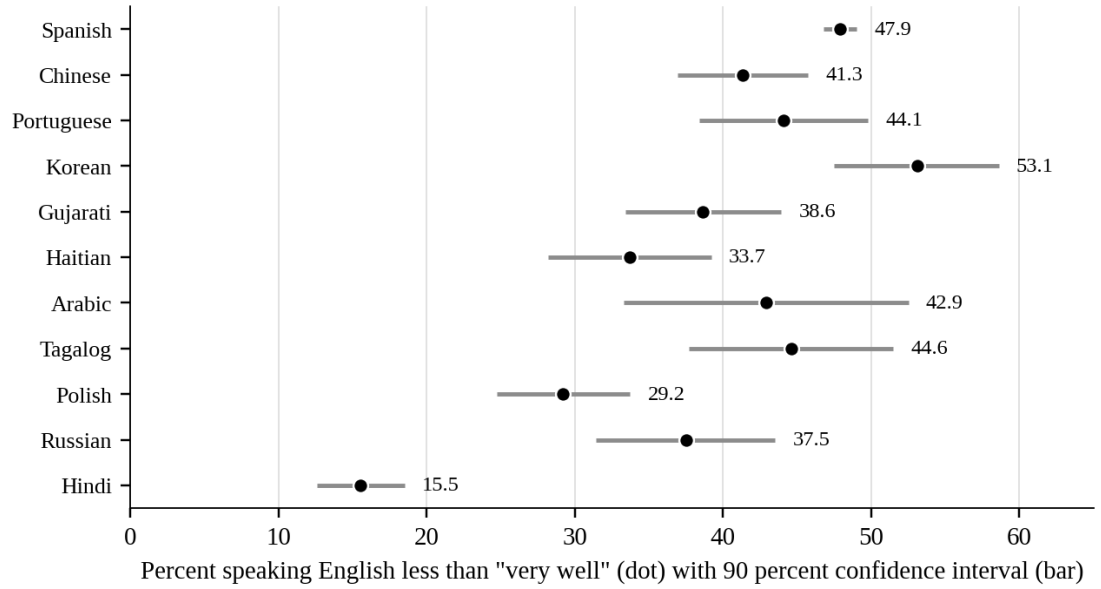
Figure A.3. SNAP participation in New Jersey, by counting agency and period



Note: The federal fiscal year 2023 figures are 12-month averages; the other figures are single months. The federal June 2026 figures are marked initial and "subject to significant revision." The State counts households and persons that received SNAP issuances during the month; the federal tables state no counting rule. The two agencies' June 2026 counts differ by 14,950 persons and 4,358 households (this report's arithmetic), a difference neither source explains; the counts are shown side by side and are not reconciled.

Sources: As listed in the note.[11]

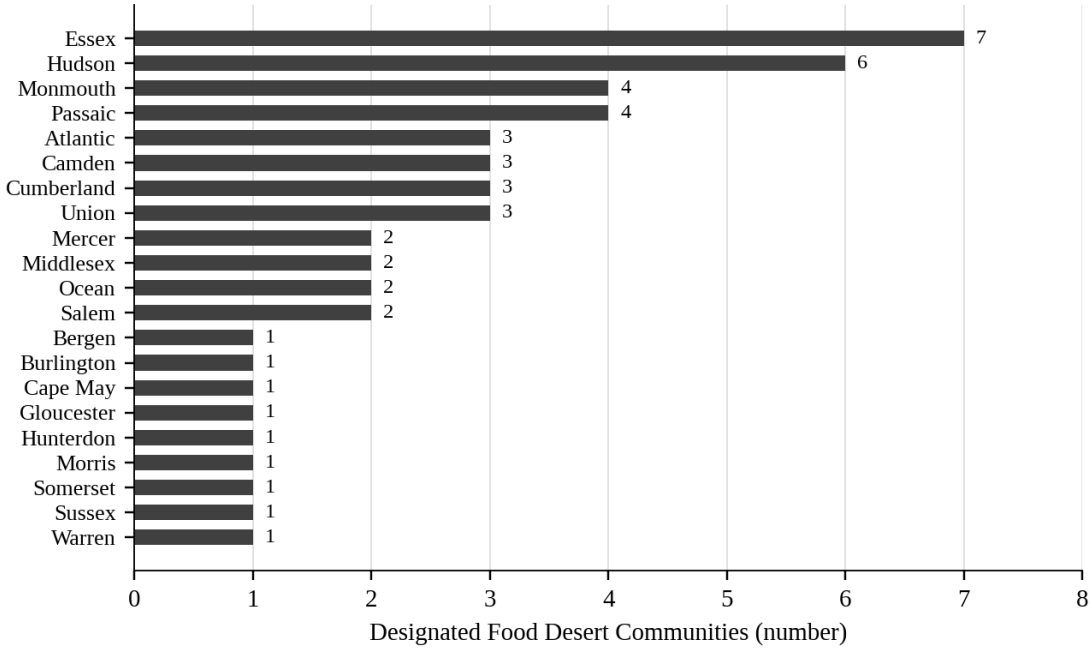
Figure A.4. Limited English proficiency by language spoken at home, New Jersey, 2024



Note: Estimated percentage of persons over age 5 who speak each language at home and speak English less than “very well,” with the 90 percent confidence interval the source prints. Languages appear in the source’s order, which is not a ranking; several intervals overlap. The source shows only languages with more than 15,000 speakers who speak English less than “very well,” and it does not state whether its “Estimated Count” column counts those speakers or all speakers of the language, so counts are not charted. Data from the American Community Survey, as published by the New Jersey Department of Health on September 22, 2025.

Sources: As listed in the note.[12]

Figure A.5. Designated Food Desert Communities by county, New Jersey, as approved February 9, 2022



Note: Count of the 50 communities on the list the New Jersey Economic Development Authority's Board approved, by the county the list prints for each (this report's arithmetic). A community may be part of a municipality, a whole municipality, or a group of municipalities, so the counts treat unlike areas alike. The designated communities together had a 2020 population of 1,514,699 as the list prints it (this report's arithmetic).

Sources: As listed in the note.[13]

Notes

Section 1. Executive Summary

1. New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session; Fair Price Protection Act, ch. 55, § 3(a), 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)).

2. Fair Price Protection Act § 3(a).

3. *Id.* §§ 2, 6.

4. *Id.* § 3(b).

5. *Id.* §§ 7, 8.

6. *Id.* §§ 4, 5.

7. This report's arithmetic from the approval date of July 23, 2026. *Id.* § 9; New Jersey Legislature, "Bill A4085/4523."

8. Fair Price Protection Act §§ 1-9.

9. Consumer Fraud Act, N.J. Stat. Ann. § 56:8-19 (current through P.L.2026, c.30); New Jersey Data Privacy Act, ch. 266, §§ 14(a), 16, 2023 N.J. Laws (codified at N.J. Stat. Ann. §§ 56:8-166.4 to -166.19).

10. Federal Trade Commission Act § 6, 15 U.S.C. § 46; Robinson-Patman Act, 15 U.S.C. § 13; Sherman Act, ch. 647, §§ 1-2, 26 Stat. 209 (1890) (as amended through Pub. L. No. 108-237, June 22, 2004); Equal Credit Opportunity Act, 15 U.S.C. § 1691; Federal Trade Commission Act § 5, 15 U.S.C. § 45.

11. Fed. Trade Comm'n, *Federal Trade Commission's Proposed Enforcement Policy Statement Regarding Personalized Pricing* 8 (Aug. 19, 2026); Federal Trade Commission, "FTC Extends Public Comment on Proposed Policy Statement Regarding Personalized Pricing," press release, September 3, 2026; Regulations.gov, "Federal Trade Commission's Proposed Enforcement Policy Statement Regarding Personalized Pricing," docket FTC-2026-1057 and document FTC-2026-1057-0001 (docket read Nov. 9, 2026); S. 3387, One Fair Price Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov; H.R. 4640, Stop AI Price Gouging and Wage Fixing Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov; H.R. 4966, Stop Price Gouging in Grocery Stores Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov.

12. Federal Trade Commission, "FTC Launches Personalized Pricing and Compensation Inquiry," press release, October 28, 2026. See Section 5.2.

13. This statement records an absence across the decisions in the collection (Sections 5.3 and 5.4). The law at issue in the closest decision requires disclosure. *See Nat'l Retail Fed'n v. James*, No. 25-cv-5500, slip op. at 1 (S.D.N.Y. Oct. 8, 2025).

14. *Id.*, slip op. at 20, 28; Brief of Amicus Curiae Chamber of Com. of the U.S. Supporting Plaintiff-Appellant and Reversal at 23, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Jan. 13, 2026); Brief of the Elec. Privacy Info. Ctr. as Amicus Curiae in Support of Defendant-Appellee at 3, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Feb. 17, 2026). The Free Law Project's copy of the appellate docket, last updated October 19, 2026, records the parties' briefs through the Federation's reply brief of February 24, 2026 and the calendaring of argument for October 19, 2026; the Second Circuit's oral argument recordings list the appeal as argued that day; and on November 9, 2026 the Second Circuit's searchable opinions and summary orders contained no decision in the appeal. Docket, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir.) (CourtListener RECAP docket, last updated October 19, 2026), entries 56, 64, 67; United States Court of Appeals for the Second Circuit, "Decisions," search page (opinions and summary orders); United States Court of Appeals for the Second Circuit, "Oral Arguments," search page (No. 25-2818, argued Oct. 19, 2026). See Section 2.3.

15. Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, at 1 (N.J. June 9, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, at 1 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 3d Reprint, at 1 (N.J. July 2, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1 (N.J. June 25, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, at 1 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 2d Reprint, at 1 (N.J. July 2, 2026).

16. Fiscal Year 2027 Appropriations Act, ch. 27, 2026 N.J. Laws (approved June 30, 2026, with line item veto); *Fiscal Year 2027 Appropriations Act (P.L.2026, c.27) with Line Item Veto: Language Changes by Resolution Number* (New Jersey Legislature, n.d.); Fiscal Year 2027 Appropriations Act (chapter law print at 200, 322). That August 1, 2027 falls in fiscal year 2028 is this report's arithmetic.

17. Assemb. Consumer Affs. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 (N.J. Mar. 19, 2026); Assemb. Com. & Econ. Dev. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 with Comm. Amendments, at 1-2 (N.J. May 14, 2026); Assemb. Appropriations Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, with Comm. Amendments (N.J. June 23, 2026); Assemb. Budget Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, with Comm. Amendments, at 1-2 (N.J. June 28, 2026); S. Com. Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. Mar. 16, 2026); OLS Fiscal Estimate, Assemb. Comm. Substitute, 1st Reprint, at 1-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 2d Reprint, at 1-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1-3; S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717 with Comm. Amendments, at 1-4 (N.J. June 24, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, with Comm. Amendments, at 1-3 (N.J. June 28, 2026); OLS Fiscal Estimate, S. Comm. Substitute, at 1-2; OLS Fiscal Estimate, S. Comm. Substitute, 1st Reprint, at 1-3; OLS Fiscal Estimate, S. Comm. Substitute, 2d Reprint, at 1-3; New Jersey Legislature, "Bill A4085/4523"; LegiScan, "NJ A4085, 2026-2027, Regular Session"; Office of the Governor, State of New Jersey, "Governor Sherrill Signs the Fair Price Protection Act to Shield New Jersey Grocery Shoppers from Surveillance Pricing," press release, July 23, 2026. The Legislative Digest issues and the Legislature's bill page for S3612/3717, which record the same legislative actions, are not counted; none cites a study, dataset, survey, or price comparison. New Jersey Legislature, "Bill S3612/3717," bill page, 2026-2027 session.

18. Dirk Bergemann et al., "The Limits of Price Discrimination," *American Economic Review* 105, no. 3 (2015): 921-22; Council of Economic Advisers, *Big Data and Differential Pricing* (Executive Office of the President, February 2015), 6; Office of Fair Trading, *The Economics of Online Personalised Pricing*, OFT1488 (London: Office of Fair Trading, May 2013), 5; Aniko Hannak et al., "Measuring Price Discrimination and Steering on E-commerce Web Sites," in *Proceedings of the 2014 Conference on Internet Measurement Conference* (ACM, 2014), 305, 308-11; Ipsos, London Economics, and Deloitte, *Consumer Market Study on Online Market Segmentation Through Personalised Pricing/Offers in the European Union*, final report, prepared for the Consumers, Health, Agriculture and Food Executive Agency on behalf of the European Commission, Directorate-General for Justice and Consumers (Luxembourg: Publications Office of the European Union, 2018), 22-23, 175-76.

19. Derek Kravitz, "Instacart's AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill, CR and Groundwork Collaborative Investigation Finds," *Consumer Reports*, December 9, 2025, updated December 22, 2025. See Sections 8.4 and 8.8.

20. New Jersey Legislature, "Bill A4085/4523."

21. United Food and Commercial Workers International Union, "UFCW Celebrates New Jersey's First in the Nation Ban on Surveillance Pricing and Moratorium on Electronic Shelf Labels in Grocery Stores," press release, July 1, 2026; Mary Ellen Peppard, "Op-Ed: Misinformed Pricing Legislation Would Hurt New Jersey Shoppers," *Binje.com*, April 29, 2026, reposted by the New Jersey Food Council; Kathleen Farley, "How the Law Already Prohibits 'Surveillance Pricing' Scenarios," Chamber of Progress, June 3, 2026; Tyler Fields, NetChoice, to Nicholas P. Scutari, Craig J. Coughlin, M. Teresa Ruiz, and Louis D. Greenwald, "New Jersey A 4085/S 3612, Fair Price Protection Act: Testimony in Opposition," June 30, 2026, 1; New Jersey Business & Industry Association, "Governor Signs Bill Banning Surveillance Pricing, as NJBIA Warns of Fallout," news item, July 23, 2026; Office of the Governor, "Governor Sherrill Signs the Fair Price Protection Act." The counts describe the collection only and are this report's arithmetic.

22. Assemb. 4085, 222d Leg. §§ 1-2 (N.J. 2026) (as introduced Feb. 19, 2026); Assemb. 4523, 222d Leg. §§ 3(a), 6 (N.J. 2026) (introduced text dated Mar. 10, 2026); Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg. §§ 2-6 (N.J. 2026) (as reported by Assemb. Consumer Affs. Comm., Mar. 19, 2026).

23. Fair Price Protection Act §§ 2, 3, 7.

24. N.J. Stat. Ann. § 56:8-19; New Jersey Data Privacy Act § 16.

25. 15 U.S.C. § 46; 15 U.S.C. § 13; Sherman Act §§ 1-2; 15 U.S.C. § 1691; 15 U.S.C. § 45; *Proposed Enforcement Policy Statement* at 8; S. 3387, "All Information," Congress.gov; H.R. 4640, "All Information," Congress.gov; H.R. 4966, "All Information," Congress.gov; *Nat'l Retail Fed'n*, slip op. at 28.

26. OLS Fiscal Estimate, Assemb. Comm. Substitute, 1st Reprint, at 1; OLS Fiscal Estimate, Assemb. Comm. Substitute, 2d Reprint, at 1; OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1; OLS Fiscal Estimate, S. Comm. Substitute, at 1; OLS Fiscal Estimate, S. Comm. Substitute, 1st Reprint, at 1; OLS Fiscal Estimate, S. Comm. Substitute, 2d Reprint, at 1; Fair Price Protection Act § 9. The date is this report's arithmetic.

27. Assemb. Consumer Affs. Comm. Statement; Assemb. Com. & Econ. Dev. Comm. Statement at 1-2; Assemb. Appropriations Comm. Statement; Assemb. Budget Comm. Statement at 1-2; S. Com. Comm. Statement at 1-2; OLS Fiscal Estimate, Assemb. Comm. Substitute, 1st Reprint, at 1-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 2d Reprint, at 1-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1-3; S. Budget & Appropriations Comm. Statement (June 24, 2026) at 1-4; S. Budget & Appropriations Comm. Statement (June 28, 2026) at 1-3; OLS Fiscal Estimate, S. Comm. Substitute, at 1-2; OLS Fiscal Estimate, S. Comm. Substitute, 1st Reprint, at 1-3; OLS Fiscal Estimate, S. Comm. Substitute, 2d Reprint, at 1-3; New Jersey Legislature, "Bill A4085/4523"; Kravitz, "Instacart's AI-Enabled Pricing Experiments."

28. *Compare* Assemb. 4085, S. 3612, 222d Leg. (N.J. 2026) (as introduced Feb. 19, 2026), S. 3717, 222d Leg. (N.J. 2026) (as introduced Mar. 5, 2026), Assemb. 4523, S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg. (N.J. 2026) (as adopted by S. Com. Comm., Mar. 16, 2026), Assemb. Comm. Substitute (Mar. 19, 2026), Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 1st Reprint (N.J. 2026), Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 2d Reprint (N.J. 2026), S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 1st Reprint (N.J. 2026), and S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 2d Reprint (N.J. 2026), *with* Fair Price Protection Act §§ 1-9; *see also* Task Force on Employee Misclassification, *Report of Gov. Murphy's Task Force on Employee Misclassification* (July 2019), 1, 5-6.

Section 2. Introduction, Scope, and Method

1. New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session; Office of the Governor, State of New Jersey, "Governor Sherrill Signs the Fair Price Protection Act to Shield New Jersey Grocery Shoppers from Surveillance Pricing," press release, July 23, 2026.

2. Fair Price Protection Act, ch. 55, § 3(a), 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)); *id.* § 4(a); *id.* § 5(a).

3. Federal Trade Commission, "FTC Issues Orders to Eight Companies Seeking Information on Surveillance Pricing," press release, July 23, 2024; Federal Trade Commission, *FTC Surveillance Pricing 6(b) Study: Research Summaries* (staff perspective, January 2025), 3; Federal Trade Commission, "Surveillance Pricing," feature page (read Nov. 9, 2026); Federal Trade Commission, "FTC Launches Personalized Pricing and Compensation Inquiry," press release, October 28, 2026.

4. Fed. Trade Comm'n, *Federal Trade Commission's Proposed Enforcement Policy Statement Regarding Personalized Pricing* 1, 8 (Aug. 19, 2026).

5. National Conference of State Legislatures, "Consumer Goods and Services Pricing and Junk Fees: 2026 Legislation," web page, updated August 20, 2026.

6. Fair Price Protection Act § 7; *id.* § 8; *id.* § 5(a). On the absence of any provision on pay, see the Act's nine sections, *id.* §§ 1-9.

7. Fair Price Protection Act; New Jersey Legislature, "Bill A4085/4523."

8. Assemb. 4085, 222d Leg. (N.J. 2026) (as introduced Feb. 19, 2026); Assemb. 4523, 222d Leg. (N.J. 2026) (introduced text dated Mar. 10, 2026); S. 3612, 222d Leg. (N.J. 2026) (as introduced Feb. 19, 2026); S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg. (N.J. 2026) (as adopted by S. Com. Comm., Mar. 16, 2026); Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg. (N.J. 2026) (as reported by Assemb. Consumer Affs. Comm., Mar. 19, 2026); Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 1st Reprint (N.J. 2026); Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 2d Reprint (N.J. 2026); S. 3717, 222d Leg. (N.J. 2026) (as introduced Mar. 5, 2026); S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 1st Reprint (N.J. 2026); S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 2d Reprint (N.J. 2026).

9. Assemb. Consumer Affs. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 (N.J. Mar. 19, 2026); Assemb. Com. & Econ. Dev. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 with Comm. Amendments, at 1 (N.J. May 14, 2026); Assemb. Appropriations Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, with Comm. Amendments (N.J. June 23, 2026); Assemb. Budget Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, with Comm. Amendments, at 1 (N.J. June 28, 2026); S. Com. Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1 (N.J. Mar. 16, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, at 1 (N.J. June 9, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, at 1 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 3d Reprint, at 1 (N.J. July 2, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717 with Comm. Amendments, at 1 (N.J. June 24, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, with Comm. Amendments, at 1 (N.J. June 28, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1 (N.J. June 25, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, at 1 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 2d Reprint, at 1 (N.J. July 2, 2026); New Jersey Legislature, "Bill A4085/4523"; New Jersey Legislature, "Bill S3612/3717," bill page, 2026-2027 session; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for June 30, 2026*, vol. 38, no. 34, 1; Office of the Governor, "Governor Sherrill Signs the Fair Price Protection Act."

10. See, for example, New Jersey Legislature, "Bill A4085/4523"; New Jersey Legislature, "New Jersey General and Permanent Statutes (Updated through P.L.2026, c.30, and J.R.1)," statutes database, N.J.S.A. 56:8-19; *Proposed Enforcement Policy Statement*.

11. New Jersey Legislature, chapter laws index, year 2026; New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session; Fair Price Protection Act, ch. 55, 2026 N.J. Laws (approved July 23, 2026) (Advance Law). The index and the bill page were read on November 9, 2026.

12. Fair Price Protection Act.

13. New Jersey Legislature, Assembly Consumer Affairs Committee, meeting of March 19, 2026, meeting page and archived media list.

14. New Jersey Legislature, "Public Information Assistance," web page; New Jersey Legislature, "Bill A4085/4523"; New Jersey Legislature, "Bill S3612/3717"; *Legislative Digest for June 30, 2026*, 2, 8.

15. Fair Price Protection Act § 2; N.J. Admin. Code tit. 13, ch. 45A, subch. 9 (2022); New Jersey Division of Consumer Affairs, rule proposals page and rule adoptions page.

16. New Jersey Courts, statistics page.

17. Docket, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir.) (CourtListener RECAP docket, last updated October 19, 2026), entries 1-73; United States Court of Appeals for the Second Circuit, "Decisions," search page (opinions and summary orders); United States Court of Appeals for the Second Circuit, "Oral Arguments," search page (No. 25-2818, argued Oct. 19, 2026). The filings in the appeal obtained for this report are two amicus briefs, Brief of Amicus Curiae Chamber of Com. of the U.S. Supporting Plaintiff-Appellant and Reversal, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Jan. 13, 2026); Brief of the Elec. Privacy Info. Ctr. as Amicus Curiae in Support of Defendant-Appellee, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Feb. 17, 2026).

Section 3. What the Law Requires

1. Fair Price Protection Act, ch. 55, 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)); New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session. The Senate passed the Assembly bill after substituting it for its own. Quotations of the Act reproduce the enacted wording of the third reprint and omit the reprint's amendment markers and bracketed deleted matter.

2. New Jersey Legislature, chapter laws index, year 2026; Fair Price Protection Act (title); New Jersey Legislature, "Bill A4085/4523"; Fair Price Protection Act, ch. 55, 2026 N.J. Laws (approved July 23, 2026) (Advance Law).

3. Fair Price Protection Act (title); *id.* §§ 1-9.

4. Fair Price Protection Act § 2.

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.* §§ 2-9.

9. *Id.* § 3(a).

10. *Id.* §§ 2, 3(a).

11. *Id.* § 3(a); Consumer Fraud Act, N.J. Stat. Ann. § 56:8-2 (current through P.L.2026, c.30).

12. Fair Price Protection Act §§ 1-9. The point is an absence, established by reading the whole text.

13. *Id.* § 2.

14. *Id.* §§ 2, 3(a); Assemb. 4523, 222d Leg. §§ 2-3 (N.J. 2026) (introduced text dated Mar. 10, 2026).

15. Office of the Governor, State of New Jersey, "Governor Sherrill Signs the Fair Price Protection Act to Shield New Jersey Grocery Shoppers from Surveillance Pricing," press release, July 23, 2026.

16. Fair Price Protection Act §§ 2, 3(a)-(b).

17. Consumer Fraud Act, N.J. Stat. Ann. § 56:8-1 (current through P.L.2026, c.30).

18. New Jersey Data Privacy Act, ch. 266, §§ 1, 14(a), 2023 N.J. Laws (codified at N.J. Stat. Ann. §§ 56:8-166.4 to -166.19). The Legislature's statutes database shows that the definitions section, N.J.S.A. 56:8-166.4, was amended in 2025; the amended text was not obtained. New Jersey Legislature, "New Jersey General and Permanent Statutes (Updated through P.L.2026, c.30, and J.R.1)," statutes database, N.J.S.A. 56:8-166.4.

19. Fair Price Protection Act §§ 1-9.

20. *Id.* § 3(b).

21. *Id.* § 3(b)(3).

22. *Id.* § 3(c); Assemb. Budget Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, with Comm. Amendments, at 1 (N.J. June 28, 2026).

23. Fair Price Protection Act § 2; N.J. Admin. Code § 13:45A-9.1 (2022). The compilation is the only text of the rule in the collection; the current text was not obtained.

24. Fair Price Protection Act § 3(b)(3).

25. S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717 with Comm. Amendments, at 2 (N.J. June 24, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, with Comm. Amendments, at 2 (N.J. June 28, 2026); S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 2d Reprint, § 3(b)(3) (N.J. 2026); Assemb. Consumer Affs. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 (N.J. Mar. 19, 2026); Assemb. Com. & Econ. Dev. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 with Comm. Amendments, at 1-2 (N.J. May 14, 2026); Assemb. Appropriations Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos.

4085 & 4523, 1st Reprint, with Comm. Amendments (N.J. June 23, 2026); Assemb. Budget Comm. Statement at 1-2; S. Com. Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. Mar. 16, 2026); New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for June 30, 2026*, vol. 38, no. 34, 3. The comparison of the Senate second reprint with the enacted text is this report's (Section 4.2).

26. Fair Price Protection Act § 8.

27. New Jersey Data Privacy Act § 5; N.J. Admin. Code § 13:45A-9.8(e).

28. Fair Price Protection Act § 7.

29. *Id.* § 7(c); Assemb. Budget Comm. Statement at 2.

30. Consumer Fraud Act, N.J. Stat. Ann. § 56:8-13 (current through P.L.2026, c.30); New Jersey Legislature, "General and Permanent Statutes," N.J.S.A. 56:8-13.

31. Assemb. Consumer Affs. Comm. Statement; Assemb. Budget Comm. Statement at 2; S. Com. Comm. Statement at 2; S. Budget & Appropriations Comm. Statement (June 24, 2026) at 2; S. Budget & Appropriations Comm. Statement (June 28, 2026) at 2; Consumer Fraud Act, N.J. Stat. Ann. § 56:8-19 (current through P.L.2026, c.30); *see Cox v. Sears Roebuck & Co.*, 138 N.J. 2, 21 (1994). The Supreme Court has attributed cease and desist orders to N.J.S.A. 56:8-18, whose text is not in the collection. *Weinberg v. Sprint Corp.*, 173 N.J. 233, 248 (2002).

32. Fair Price Protection Act §§ 3(a), 7(c).

33. *Cox*, 138 N.J. at 17-18.

34. Fair Price Protection Act §§ 1-9.

35. N.J. Stat. Ann. § 56:8-19; New Jersey Legislature, "General and Permanent Statutes," N.J.S.A. 56:8-19.

36. N.J. Stat. Ann. § 56:8-19.

37. New Jersey Data Privacy Act §§ 14(a), 16.

38. *Lee v. Carter-Reed Co.*, 203 N.J. 496, 521 (2010).

39. *Weinberg*, 173 N.J. at 237, 250. *Weinberg* was decided four to three; Justice Verniero, for three Justices, dissented on the filed rate doctrine and on whether the plaintiff could prove a loss. *Id.* at 254-56 (Verniero, J., dissenting).

40. *Thiedemann v. Mercedes-Benz USA, LLC*, 183 N.J. 234, 248, 255 (2005).

41. *Lee*, 203 N.J. at 522.

42. *Cox*, 138 N.J. at 24.

43. The opinions describe the private plaintiff as one who suffers a loss from a practice unlawful under the Consumer Fraud Act itself. *See id.* at 21-24; *Lee*, 203 N.J. at 521; *Weinberg*, 173 N.J. at 250-51.

44. Fair Price Protection Act (title); *id.* § 3(a); N.J. Stat. Ann. § 56:8-19.

45. Fair Price Protection Act (title); *id.* § 3(a); N.J. Stat. Ann. § 56:8-19.

46. New Jersey Data Privacy Act § 16; Fair Price Protection Act § 7.

47. Assemb. Consumer Affs. Comm. Statement; Assemb. Com. & Econ. Dev. Comm. Statement at 2; Assemb. Appropriations Comm. Statement; S. Com. Comm. Statement at 2; Assemb. Budget Comm. Statement at 2; S. Budget & Appropriations Comm. Statement (June 24, 2026) at 2; S. Budget & Appropriations Comm. Statement (June 28, 2026) at 2; N.J. Stat. Ann. § 56:8-19.

48. *Cox*, 138 N.J. at 15.

49. Assemb. 4523 § 6; Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg. (N.J. 2026) (as reported by Assemb. Consumer Affs. Comm., Mar. 19, 2026); S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg. (N.J. 2026) (as adopted by S. Com. Comm., Mar. 16, 2026); S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 1st Reprint (N.J. 2026); S. Comm. Substitute, 2d Reprint; Fair Price Protection Act §§ 1-9; S. 3717, 222d Leg. §§ 1-7 (N.J. 2026) (as introduced Mar. 5, 2026); New Jersey Legislature, "Bill S3717," bill page, 2026-2027 session.

50. Fair Price Protection Act § 7; Assemb. Budget Comm. Statement at 2; *Cox*, 138 N.J. at 24.

51. Assemb. Consumer Affs. Comm. Statement; S. Com. Comm. Statement at 1-2; Assemb. Budget Comm. Statement at 2; Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 3d Reprint, at 2-3 (N.J. July 2, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, at 1-3 (N.J. June 9, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, at 1-3 (N.J. June 30, 2026); S. Budget & Appropriations Comm. Statement (June 24, 2026) at 2; S. Budget & Appropriations Comm. Statement (June 28, 2026) at 2; Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. June 25, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, at 1-3 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 2d Reprint, at 1-3 (N.J. July 2, 2026).

52. *Lee*, 203 N.J. at 521-22; *Thiedemann*, 183 N.J. at 248; *Cox*, 138 N.J. at 15.

53. N.J. Stat. Ann. § 56:8-19.

54. Fair Price Protection Act § 4.

55. Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 2d Reprint, § 4 (N.J. 2026); Fair Price Protection Act § 4. The Assembly Budget Committee's statement of June 28, 2026 describes the carve-out but does not list it among its amendments; the second reprint of June 23, 2026 already contains it. Assemb. Budget Comm. Statement at 1-2.

56. Fair Price Protection Act § 5.

57. *Id.* § 8; Assemb. 4085, 222d Leg. § 2(c) (N.J. 2026) (as introduced Feb. 19, 2026). The Data Privacy Act, by contrast, provides that the Director "shall promulgate rules and regulations." New Jersey Data Privacy Act § 15.

58. Fair Price Protection Act § 9.

59. This report's arithmetic. The Act was approved on July 23, 2026. New Jersey Legislature, "Bill A4085/4523." The first month next following July 2026 is August 2026; counting forward, the seventh such month is February 2027 and the 13th is August 2027. Fair Price Protection Act § 9. The Assembly Appropriations, Assembly Budget, and Senate Budget and Appropriations Committee statements describe the prohibition as taking effect "one year after the date of enactment"; the statutory formula controls. Assemb. Appropriations Comm. Statement; Assemb. Budget Comm. Statement at 1; S. Budget & Appropriations Comm. Statement (June 24, 2026) at 1; S. Budget & Appropriations Comm. Statement (June 28, 2026) at 1. The Third Reprint and the Advance Law print the general clause of section 9 as "[1]**[**seventh**]** 13th[1] month"; under the reprint's legend, "Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law," and the superscript numeral 1 marks the Assembly Commerce and Economic Development Committee amendments adopted May 14, 2026, so the enacted clause reads "the 13th month." The words "seventh month" later in section 9 govern section 4 only. Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint, at 2, 6-7 (N.J. 2026); Fair Price Protection Act, ch. 55, 2026 N.J. Laws (approved July 23, 2026) (Advance Law).

60. Fair Price Protection Act § 4(b); Assemb. Appropriations Comm. Statement. The end and report dates are this report's arithmetic: one year from February 1, 2027 is February 1, 2028, and six months before that date is August 1, 2027. Fair Price Protection Act §§ 4(a), 5(b), 9.

61. Fair Price Protection Act §§ 2, 4(a), 7; N.J. Admin. Code § 13:45A-9.1.

62. Fair Price Protection Act § 8; N.J. Const. art. V, § 4, ¶ 6.

63. N.J. Const. art. IV, § 7, ¶ 5.

64. *Furst v. Einstein Moomjy, Inc.*, 182 N.J. 1, 16-20 (2004); *Cox*, 138 N.J. at 16-19.

Section 4. How It Was Enacted

1. Assemb. 4085, 222d Leg. (N.J. 2026) (as introduced Feb. 19, 2026); S. 3612, 222d Leg. (N.J. 2026) (as introduced Feb. 19, 2026); New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session; New Jersey Legislature, "Bill S3612/3717," bill page, 2026-2027 session.

2. New Jersey Legislature, "Bill A4085/4523"; New Jersey Legislature, "Bill S3612/3717."

3. Federal Trade Commission, “FTC Issues Orders to Eight Companies Seeking Information on Surveillance Pricing,” press release, July 23, 2024.

4. Federal Trade Commission, *FTC Surveillance Pricing 6(b) Study: Research Summaries* (staff perspective, January 2025), 1-2, 4-9, 7.

5. Federal Trade Commission, “FTC Surveillance Pricing Study Indicates Wide Range of Personal Data Used to Set Individualized Consumer Prices,” press release, January 17, 2025; Dissenting Statement of Commissioner Andrew N. Ferguson Joined by Commissioner Melissa Holyoak Regarding the Surveillance Pricing 6(b) Staff Research Summaries, Matter No. P246202, at 1-2 (FTC Jan. 17, 2025); FTC, *Surveillance Pricing 6(b) Study*, 1.

6. Federal Trade Commission, “FTC Launches Personalized Pricing and Compensation Inquiry,” press release, October 28, 2026.

7. Elizabeth Warren and Robert P. Casey Jr. to Rodney McMullen, August 5, 2024, 1, 4-5.

8. National Conference of State Legislatures, “Consumer Goods and Services Pricing and Junk Fees: 2026 Legislation,” web page, updated August 20, 2026.

9. Assemb. 4085; Office of the Governor, State of New Jersey, “Governor Sherrill Fiscal Year 2027 Budget Address,” remarks as prepared for delivery, March 10, 2026.

10. Assemb. 4085; S. 3612. The identity rests on a word-by-word comparison of the two texts.

11. Assemb. 4085 § 2(a); S. 3612 § 2(a).

12. New Jersey Legislature, “Bill A4523,” bill page, 2026-2027 session; Assemb. 4523, 222d Leg. (N.J. 2026) (introduced text dated Mar. 10, 2026). This report dates the introduction by the bill history, the Legislature’s record of the action.

13. Assemb. 4523 §§ 1-6.

14. New Jersey Legislature, “Bill S3717,” bill page, 2026-2027 session; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for March 5, 2026*, vol. 38, no. 10, 1; S. 3717, 222d Leg. (N.J. 2026) (as introduced Mar. 5, 2026); New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for March 16, 2026*, vol. 38, no. 14, 2; S. 3717 §§ 1-7; Assemb. 4523 §§ 5-6. The comparison of the two introduced texts is this report’s.

15. New Jersey Legislature, “Bill S3612/3717”; New Jersey Legislature, “Bill A4085/4523”; S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg. (N.J. 2026) (as adopted by S. Com. Comm., Mar. 16, 2026); Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg. (N.J. 2026) (as reported by Assemb. Consumer Affs. Comm., Mar. 19, 2026).

16. S. Comm. Substitute (Mar. 16, 2026) §§ 4-5, 7; Assemb. Comm. Substitute (Mar. 19, 2026) §§ 4-5, 7.

17. New Jersey Legislature, “Bill S3612/3717”; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for June 23 & 24, 2026*, vol. 38, no. 31, 4; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for June 26, 2026*, vol. 38, no. 32, 1; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for June 28, 2026*, vol. 38, no. 33, 1; S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 1st Reprint (N.J. 2026); S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 2d Reprint (N.J. 2026).

18. S. Comm. Substitute, 1st Reprint, §§ 3(b)(3), 5, 7; Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 2d Reprint, §§ 3(b)(3), 5, 7 (N.J. 2026); Fair Price Protection Act, ch. 55, §§ 3(b)(3), 5, 7, 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)). The comparison is this report’s.

19. S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, with Comm. Amendments, at 3 (N.J. June 28, 2026); S. Comm. Substitute, 2d Reprint, §§ 3(c), 5, 7(c); Fair Price Protection Act §§ 3(c), 5, 7(c). The comparison of the two texts, disregarding bracketed deletions and amendment numerals, is this report’s.

20. S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717 with Comm. Amendments, at 2 (N.J. June 24, 2026); S. Budget & Appropriations Comm. Statement (June 28, 2026) at 2; Assemb. Consumer Affs. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 (N.J.

Mar. 19, 2026); Assemb. Com. & Econ. Dev. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 with Comm. Amendments, at 1-2 (N.J. May 14, 2026); Assemb. Appropriations Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, with Comm. Amendments (N.J. June 23, 2026); Assemb. Budget Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, with Comm. Amendments, at 1-2 (N.J. June 28, 2026); S. Com. Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. Mar. 16, 2026).

21. New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for June 30, 2026*, vol. 38, no. 34, 3-4.

22. New Jersey Legislature, "Bill A4085/4523"; Fair Price Protection Act.

23. New Jersey Legislature, "Bill A4085/4523."

24. New Jersey Legislature, "Bill A4085/4523"; Fair Price Protection Act; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for September 10, 2026*, vol. 38, no. 35, 8; Fair Price Protection Act, ch. 55, 2026 N.J. Laws (approved July 23, 2026) (Advance Law).

25. Fair Price Protection Act; Assemb. Com. & Econ. Dev. Comm. Statement at 2; Assemb. Appropriations Comm. Statement; Assemb. Budget Comm. Statement at 2.

26. Assemb. Comm. Substitute (Mar. 19, 2026) §§ 2-6; Assemb. 4085 §§ 1-2; Assemb. 4523 §§ 2-7.

27. Assemb. 4523 § 6; Assemb. Comm. Substitute (Mar. 19, 2026); S. Comm. Substitute (Mar. 16, 2026); S. Comm. Substitute, 1st Reprint; S. Comm. Substitute, 2d Reprint; Fair Price Protection Act; S. 3717 §§ 1-7. Neither committee statement on the substitutes states a purpose. Assemb. Consumer Affs. Comm. Statement; S. Com. Comm. Statement at 1-2.

28. Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 1st Reprint, §§ 2-3, 5, 7 (N.J. 2026). The committee's statement describes the group discount condition as "clearly and conspicuously disclosed"; the text controls. Assemb. Com. & Econ. Dev. Comm. Statement at 1.

29. Assemb. Com. & Econ. Dev. Comm. Statement at 2.

30. Assemb. Comm. Substitute, 2d Reprint, §§ 2, 3(b)(3), 6.

31. *Id.* §§ 4-5, 9.

32. Assemb. Appropriations Comm. Statement.

33. Fair Price Protection Act §§ 3(b)(3), 3(c), 5, 7.

34. Assemb. Budget Comm. Statement at 2; S. Budget & Appropriations Comm. Statement (June 28, 2026) at 3.

35. Fair Price Protection Act §§ 3(a), 7.

36. Tyler Fields, NetChoice, to Nicholas P. Scutari, Craig J. Coughlin, M. Teresa Ruiz, and Louis D. Greenwald, "New Jersey A 4085/S 3612, Fair Price Protection Act: Testimony in Opposition," June 30, 2026, 3; Mary Ellen Peppard, "Op-Ed: Misinformed Pricing Legislation Would Hurt New Jersey Shoppers," *Binje.com*, April 29, 2026, reposted by the New Jersey Food Council; Assemb. Comm. Substitute, 1st Reprint, § 3(b)(3); Assemb. Comm. Substitute, 2d Reprint, § 4; Fair Price Protection Act §§ 4-5.

37. New Jersey Legislature, "Bill A4085/4523"; Assemb. 4085; Assemb. 4523. The counts are this report's arithmetic from the printed lists.

38. LegiScan, "NJ A4085, 2026-2027, Regular Session."

39. New Jersey Legislature, "Bill A4085/4523"; New Jersey Legislature, "Bill S3612/3717."

40. New Jersey Legislature, "Bill A4085/4523." LegiScan prints 9 not voting and 0 abstaining for the Assembly vote, and the Legislature's action line abbreviates that vote as "(51-20-1)"; this report uses the Legislature's session voting record, which its member-level roll call supports. LegiScan, "NJ A4085"; New Jersey Legislature, "Bill A4085/4523."

41. *Legislative Digest for June 30, 2026*, 2, 8.

42. New Jersey Legislature, "Bill A4085/4523"; New Jersey Legislature, "Bill S3612/3717." The counts are this report's arithmetic.

43. United Food and Commercial Workers International Union, "UFCW Celebrates New Jersey's First in the Nation Ban on Surveillance Pricing and Moratorium on Electronic Shelf Labels in Grocery Stores," press release, July 1, 2026; Peppard, "Misinformed Pricing Legislation"; Kathleen Farley, "How the Law Already Prohibits 'Surveillance Pricing' Scenarios," Chamber of Progress, June 3, 2026; Fields to Scutari et al., June 30, 2026, 1; New Jersey Business & Industry Association, "Governor Signs Bill Banning Surveillance Pricing, as NJBIA Warns of Fallout," news item, July 23, 2026. The counts are this report's arithmetic.

44. Peppard, "Misinformed Pricing Legislation"; Assemb. Comm. Substitute, 2d Reprint, § 4.

45. Farley, "How the Law Already Prohibits."

46. Fields to Scutari et al., June 30, 2026, 1-2, 4; Fair Price Protection Act § 7(c).

47. UFCW, "UFCW Celebrates New Jersey's."

48. NJBIA, "Governor Signs Bill Banning Surveillance Pricing."

49. Office of the Governor, State of New Jersey, "Governor Sherrill Signs the Fair Price Protection Act to Shield New Jersey Grocery Shoppers from Surveillance Pricing," press release, July 23, 2026; Fair Price Protection Act §§ 2, 3(a). The count of sixteen is this report's arithmetic from the printed release.

50. New Jersey Legislature, "Bill A4085/4523"; Peppard, "Misinformed Pricing Legislation"; Farley, "How the Law Already Prohibits"; Fields to Scutari et al., June 30, 2026, 4; NJBIA, "Governor Signs Bill Banning Surveillance Pricing"; UFCW, "UFCW Celebrates New Jersey's"; Office of the Governor, "Governor Sherrill Signs the Fair Price Protection Act."

51. Fields to Scutari et al., June 30, 2026, 2; NJBIA, "Governor Signs Bill Banning Surveillance Pricing"; Peppard, "Misinformed Pricing Legislation."

Section 5. Federal Legal Context

1. Federal Trade Commission Act § 6, 15 U.S.C. § 46; Robinson-Patman Act, 15 U.S.C. § 13; Sherman Act, ch. 647, §§ 1-2, 26 Stat. 209 (1890) (as amended through Pub. L. No. 108-237, June 22, 2004); Federal Arbitration Act, 9 U.S.C. §§ 1-16; Equal Credit Opportunity Act, 15 U.S.C. § 1691; Communications Act of 1934 § 230, 47 U.S.C. § 230; Federal Trade Commission Act § 5, 15 U.S.C. § 45; Fair Credit Reporting Act § 615(h)(1), 15 U.S.C. § 1681m(h)(1).

2. Federal Trade Commission, "Surveillance Pricing," feature page; Fed. Trade Comm'n, *Federal Trade Commission's Proposed Enforcement Policy Statement Regarding Personalized Pricing* 8 (Aug. 19, 2026); Federal Trade Commission, "FTC Launches Personalized Pricing and Compensation Inquiry," press release, October 28, 2026.

3. *Proposed Enforcement Policy Statement* at 1.

4. 15 U.S.C. § 45(a)(1); *id.* § 45(n). The text read carries the laws in effect on September 25, 2026.

5. 15 U.S.C. § 13(a); Sherman Act §§ 1-2; 15 U.S.C. § 1691(a). The collection contains no decision on whether section 13(a) reaches a retailer's prices to consumers. This report does not treat statutory price discrimination as equivalent to the Act's "surveillance pricing"; Section 8.2 sets out each source's pricing terms as that source defines them. Regulation B was amended effective July 21, 2026; the amended sections were not read for this report. 12 C.F.R. pt. 1002 (2026); Equal Credit Opportunity Act (Regulation B), 91 Fed. Reg. 21,620 (Apr. 22, 2026).

6. Federal Trade Commission, "FTC Seeks Comment on Enforcement Policy Statement Regarding Personalized Pricing," press release, August 19, 2026, updated August 31, 2026.

7. Federal Trade Commission, "FTC Extends Public Comment on Proposed Policy Statement Regarding Personalized Pricing," press release, September 3, 2026; Regulations.gov, "Federal Trade Commission's Proposed Enforcement Policy Statement Regarding Personalized Pricing," docket FTC-2026-1057 (read Nov. 9, 2026) ("Closed for Comments"; submissions received, 4,597; "Docket Documents," 1) and document FTC-2026-1057-0001 (read Oct. 24, 2026) ("Comment Period Ended: Sep 25, 2026 at 11:59 PM EDT"). A search on November 9, 2026 of Federal Register documents published since January 1, 2026 for "personalized pricing" returned no notice of the statement; the only Commission document it returned was Rule on Unfair or Deceptive Fees in Online Food Delivery Services, 91 Fed. Reg. 20,381 (Apr. 16, 2026) (advance notice of proposed rulemaking). Federal Trade

Commission, "Press Releases," news page (read Nov. 9, 2026) (first page of the listing, releases from October 8 through November 6, 2026).

8. *Proposed Enforcement Policy Statement* at 6, 6 n.20, 7. This report does not treat the statement's "personalized pricing" as equivalent to the Act's "surveillance pricing"; see Section 8.2.

9. Fair Price Protection Act, ch. 55, § 3(a)-(b), 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)); *id.* §§ 1-9. Section 10.2 addresses the detection problem.

10. FTC, "FTC Launches Personalized Pricing and Compensation Inquiry."

11. FTC, "FTC Launches Personalized Pricing and Compensation Inquiry." The cover letter, order, and resolution the release links were not reviewed for this report.

12. S. 3387, One Fair Price Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov; H.R. 4640, Stop AI Price Gouging and Wage Fixing Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov; H.R. 4966, Stop Price Gouging in Grocery Stores Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov.

13. One Fair Price Act of 2025, S. 3387, 119th Cong. (2025); S. 3387, "All Information," Congress.gov; S. 3387 § 2(a)(1)-(3); *id.* § 2(b)-(d).

14. Stop AI Price Gouging and Wage Fixing Act of 2025, H.R. 4640, 119th Cong. (2025); *id.* § 2(a)(1); *id.* § 2(d); *id.* § 3(a). Section 10.5 takes up the wage provisions.

15. H.R. 4966, "All Information," Congress.gov. This report does not treat these bills' terms as equivalent to the Act's "surveillance pricing."

16. *Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011); *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 447 U.S. 557 (1980); *Zauderer v. Off. of Disciplinary Couns.*, 471 U.S. 626 (1985); *Moody v. NetChoice, LLC*, 603 U.S. 707 (2024); *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356 (2023); *Pike v. Bruce Church, Inc.*, 397 U.S. 137 (1970); *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 (2011); *Viking River Cruises, Inc. v. Moriana*, 596 U.S. 639 (2022); *TransUnion LLC v. Ramirez*, 594 U.S. 413 (2021). Several opinions were read in slip or unofficial prints; their pin pages were matched to United States Reports pagination, and subsequent history is stated only as the files show it.

17. *Sorrell*, 564 U.S. at 563-65, 567.

18. *Cent. Hudson*, 447 U.S. at 566.

19. *Zauderer*, 471 U.S. at 651.

20. *Moody*, 603 U.S. at 723 (quoting *Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 615 (2021)); *id.* at 736 n.5.

21. Fair Price Protection Act § 3(a); *id.* § 2; *id.* § 3(b)(2)-(3); N.J. Const. art. I, ¶ 6.

22. *Nat'l Pork Producers*, 598 U.S. at 369 (quoting *Camps Newfound/Owatonna, Inc. v. Town of Harrison*, 520 U.S. 564, 581 (1997)); *id.* at 374-75 (quoting *Pharm. Rsch. & Mfrs. of Am. v. Walsh*, 538 U.S. 644, 669 (2003)).

23. *Nat'l Pork Producers*, 598 U.S. at 385 (plurality opinion) (quoting *Exxon Corp. v. Governor of Md.*, 437 U.S. 117, 127 (1978)); *id.* at 395 (Roberts, C.J., concurring in part and dissenting in part); *id.* at 403 (Kavanaugh, J., concurring in part and dissenting in part).

24. *Pike*, 397 U.S. at 142.

25. Fair Price Protection Act § 2; *id.* § 3.

26. Tyler Fields, NetChoice, to Nicholas P. Scutari, Craig J. Coughlin, M. Teresa Ruiz, and Louis D. Greenwald, "New Jersey A 4085/S 3612, Fair Price Protection Act: Testimony in Opposition," June 30, 2026, 3.

27. *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356 (2023); Fair Price Protection Act §§ 3(b), 4.

28. Fair Price Protection Act § 7. The arbitration agreements in the collection's cases are a debt-adjustment service contract, a cellular telephone service agreement, and an employment agreement. *Atalese v. U.S. Legal Servs. Grp., L.P.*, 219 N.J. 430, 436 (2014); *Concepcion*, 563 U.S. at 336; *Viking River*, 596 U.S. at 647.

29. 9 U.S.C. § 2. Chapter 4 concerns only sexual assault and sexual harassment disputes. *Id.* §§ 401-402.

30. *Concepcion*, 563 U.S. at 339 (quoting *Doctor's Assocs., Inc. v. Casarotto*, 517 U.S. 681, 687 (1996)).

31. *Atalese*, 219 N.J. at 435, 441, 447. The words *Atalese* attributes to the FAA are the Supreme Court's words in *Concepcion*, not statutory text. *Id.* at 441; *Concepcion*, 563 U.S. at 339; 9 U.S.C. §§ 1-16.

32. *Viking River*, 596 U.S. at 660; *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 (2011).

33. 9 U.S.C. § 2; *Concepcion*, 563 U.S. at 339-40; *Atalese*, 219 N.J. at 447.

34. *TransUnion*, 594 U.S. at 427, 424, 431.

35. *Id.*

36. *Id.* at 424, 438. Section 10.2 describes the detection problem.

37. 47 U.S.C. § 230(c)(1); *id.* § 230(e)(3). Section 9.7 describes the platforms' position under the Act.

38. 9 U.S.C. §§ 1-16.

39. H.R. 4640 § 4; S. 3387 §§ 1-3.

40. *Nat'l Retail Fed'n v. James*, No. 25-cv-5500, slip op. at 1-3 (S.D.N.Y. Oct. 8, 2025); Brief of Amicus Curiae Chamber of Com. of the U.S. Supporting Plaintiff-Appellant and Reversal, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Jan. 13, 2026); *FTC v. Amazon.com, Inc.*, No. 2:23-cv-01495-JHC, slip op. at 1-2 (W.D. Wash. Sept. 30, 2024) (order on motion to dismiss); *United States v. RealPage, Inc.*; Proposed Final Judgment and Competitive Impact Statement, 91 Fed. Reg. 59,304, 59,304 (Sept. 18, 2026); *Gibson v. Cendyn Grp., LLC*, No. 24-3576, slip op. at 1 (9th Cir. Aug. 15, 2025).

41. *Nat'l Retail Fed'n*, slip op. at 2-3. Section 6 describes New York's law as a comparator.

42. *Id.*, slip op. at 28.

43. *Id.*, slip op. at 20; *id.*, slip op. at 18 (quoting Pl.'s Opp'n to Mot. to Dismiss 16); *id.*, slip op. at 8.

44. Docket, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir.) (CourtListener RECAP docket, last updated October 19, 2026), entries 31, 56, 64, 67; United States Court of Appeals for the Second Circuit, "Decisions," search page (opinions and summary orders); United States Court of Appeals for the Second Circuit, "Oral Arguments," search page (No. 25-2818, argued Oct. 19, 2026). The docket cited is the Free Law Project's copy, last updated October 19, 2026; the official docket and the parties' briefs were not obtained (Section 2.3). Chamber Amicus Br.; Brief of the Elec. Privacy Info. Ctr. as Amicus Curiae in Support of Defendant-Appellee, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Feb. 17, 2026).

45. Chamber Amicus Br. at 2, 11. The brief's account of the district court differs from the opinion's text at two points; the opinion is quoted here only from its own text. *Id.* at 9, 12.

46. EPIC Amicus Br. at 34.

47. *Nat'l Retail Fed'n*, slip op. at 6-10; Fair Price Protection Act § 3(a). Section 11 treats the appeal as a watch item.

48. *Amazon.com*, slip op. at 1-2, 10 n.6.

49. *Id.*, slip op. at 5, 21, 25, 27.

50. *Id.*, slip op.; Federal Trade Commission, "Amazon.com, Inc. (Amazon eCommerce)," case page, last updated October 31, 2024; Plaintiffs' Second Amended Complaint (redacted), *FTC v. Amazon.com, Inc.*, No. 2:23-cv-01495-JHC (W.D. Wash. Oct. 31, 2024), ECF No. 327.

51. *RealPage* Proposed Final Judgment, 91 Fed. Reg. 59,304, 59,304, 59,306, 59,309, 59,328-32.

52. *Id.* at 59,340, 59,342.

53. U.S. Department of Justice, Antitrust Division, "U.S. and Plaintiff States v. RealPage, Inc.," case page, updated September 4, 2026.

54. *Gibson*, slip op. at 1, 29-30. Its subsequent history was not checked.

55. Fair Price Protection Act § 3(a); *Sorrell*, 564 U.S. at 567.

56. *Nat'l Retail Fed'n*, slip op. at 20.

57. *Sorrell*, 564 U.S. at 573, 579; Fair Price Protection Act § 3(b)-(c).

58. Fair Price Protection Act § 3(b)(2)-(3); *Nat'l Retail Fed'n*, slip op. at 18.

59. Fair Price Protection Act §§ 2-3; Fields to Scutari et al., June 30, 2026, 3; *Nat'l Pork Producers*, 598 U.S. at 385 (plurality opinion); *id.* at 390 (quoting *Conway v. Taylor's Ex'r*, 66 U.S. (1 Black) 603, 634 (1862)).

60. Fair Price Protection Act § 3(a); *Sorrell*, 564 U.S. at 568 (quoting *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 32 (1984)).

61. Fair Price Protection Act § 2; *id.* § 6; National Retail Federation, "NRF Asks Federal Court to Block New York Algorithmic Pricing Law," press release, July 2, 2025. The Federation's words, as its release quotes the complaint, concern New York's statute.

62. *Cent. Hudson*, 447 U.S. at 565; *Proposed Enforcement Policy Statement* at 6; *Nat'l Retail Fed'n*, slip op. at 17.

63. Chamber Amicus Br. at 13; Fair Price Protection Act § 3(b)(3); Fields to Scutari et al., June 30, 2026, 3; *Nat'l Pork Producers*, 598 U.S. at 395 (Roberts, C.J., concurring in part and dissenting in part); *Pike*, 397 U.S. at 142.

64. *Sorrell*, 564 U.S. at 564-72; *Cent. Hudson*, 447 U.S. at 566; *Zauderer*, 471 U.S. at 651; *Moody*, 603 U.S. at 723; *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356 (2023); *Pike*, 397 U.S. at 142.

65. *Nat'l Retail Fed'n*, slip op. at 1-4; Chamber Amicus Br.; Fair Price Protection Act § 7.

Section 6. The Comparative Landscape

1. *See* Fair Price Protection Act, ch. 55, §§ 1-9, 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)) (no section creating or barring a private action); *id.* § 7.

2. *See* Fair Price Protection Act § 3(a); Consumer Fraud Act, N.J. Stat. Ann. § 56:8-19 (current through P.L.2026, c.30).

3. United Food and Commercial Workers International Union, "UFCW Celebrates New Jersey's First in the Nation Ban on Surveillance Pricing and Moratorium on Electronic Shelf Labels in Grocery Stores," press release, July 1, 2026; Kimberly Redmond, "Sherrill Signs NJ Surveillance Pricing Ban (Updated)," *NJBIZ*, July 23, 2026, updated July 24, 2026.

4. Protection From Predatory Pricing Act, ch. 154, § 1, 2026 Md. Laws (approved Apr. 28, 2026) (adding Md. Code Ann., Com. Law §§ 13-321(e), 13-408(a)).

5. Act of June 4, 2026, Pub. Act No. 26-130, §§ 11(e), 19 (Conn. 2026); Act of June 2, 2026, Pub. Act No. 26-100, §§ 44, 66 (Conn. 2026); An Act Concerning Consumer Privacy and Protection, Pub. Act No. 26-64, § 11(e) (Conn. 2026) (approved May 27, 2026). The words quoted also appear in section 11(e) of Public Act No. 26-64. Section 11.6 sets out the repeal and reenactment.

6. N.Y. Gen. Bus. Law § 349-a(4) (McKinney 2025) (added by Act of May 9, 2025, ch. 58, pt. X, § 1, 2025 N.Y. Laws). The section is taken from a transcription of the New York Senate's laws page made for this report on September 24, 2026, whose words match the old-law text reprinted in A9349-B. *See* Assemb. 9349-B, 2025-2026 Leg., Reg. Sess. § 1 (N.Y. 2025) (proposing amendments to N.Y. Gen. Bus. Law § 349-a) (text as reproduced by LegiScan). An official print is not in the collection.

7. Act of Oct. 6, 2025, ch. 338, §§ 1-2, 2025 Cal. Stat. (A.B. 325) (adding Cal. Bus. & Prof. Code §§ 16729, 16756.1) (no express right or bar). For the other three texts, see the three preceding notes.

8. National Conference of State Legislatures, "Consumer Goods and Services Pricing and Junk Fees: 2026 Legislation," web page, updated August 20, 2026. The summaries are the tracker's descriptions, not the bills' words.

9. Seattle, Wash., Ordinance 127515, §§ 1, 3 (Oct. 5, 2026) (Council Bill 121267) (adding Seattle, Wash., Mun. Code ch. 7.35, effective Sept. 1, 2027); *id.* § 1 (adding Seattle, Wash., Mun. Code §§ 7.35.020(B), 7.35.060(A)); Seattle City Clerk, "Ordinance 127515 Introduced as Council Bill 121267," record page (read Nov. 9, 2026) ("City Council Vote: 7-2"; "Date Signed by Mayor: October 5, 2026"). The ordinance is quoted from the signed copy the City Clerk posts.

10. Seattle, Wash., Ordinance 127515, § 1 (adding Seattle, Wash., Mun. Code §§ 7.35.060(A)-(B), 7.35.070(A), 7.35.080).

11. One Fair Price Act of 2025, S. 3387, 119th Cong. § 2(d) (2025); Stop AI Price Gouging and Wage Fixing Act of 2025, H.R. 4640, 119th Cong. § 2(d) (2025).

12. S. 3387, One Fair Price Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov; H.R. 4640, Stop AI Price Gouging and Wage Fixing Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov.

13. Fair Price Protection Act § 3(a).

14. Md. Code Ann., Com. Law § 13-321(b)(2).

15. Pub. Act No. 26-130, § 11(a)(9), (c)(1).

16. Assemb. 9349-B § 349-a(2)(a); Office of the New York State Attorney General, "New Yorkers Join Attorney General James in Celebrating the Passage of the One Fair Price Act," press release, June 10, 2026.

17. Seattle, Wash., Ordinance 127515, § 1 (adding Seattle, Wash., Mun. Code §§ 7.35.010 (definition of "algorithmic-based price discrimination"), 7.35.020(A)-(B)); Fair Price Protection Act §§ 2, 3(a). The comparison of the two texts is this report's reading.

18. N.Y. Gen. Bus. Law § 349-a(2); *Nat'l Retail Fed'n v. James*, No. 25-cv-5500, slip op. at 2 (S.D.N.Y. Oct. 8, 2025); Office of the New York State Attorney General, "Attorney General James Warns New Yorkers About Algorithmic Pricing as New Law Takes Effect," consumer alert, November 5, 2025.

19. Pub. Act No. 26-130, § 11(a)(1), (b). Section 11 of Public Act No. 26-64 had instead required disclosure by a person using a "price setting device." Pub. Act No. 26-64, § 11(a)(7), (b).

20. Fair Price Protection Act § 3(b)(2)-(3).

21. 2025 Cal. Stat. ch. 338, § 1 (Bus. & Prof. Code § 16729(a), (b), (d)(3), (d)(5)).

22. Fair Price Protection Act § 2.

23. Md. Code Ann., Com. Law § 13-321(a)(4), (a)(7), (b)(2).

24. Pub. Act No. 26-130, § 11(a)(8), (a)(10), (c)(1); N.Y. Gen. Bus. Law § 349-a(2); Assemb. 9349-B § 349-a(2)(a).

25. Seattle, Wash., Ordinance 127515, § 1 (adding Seattle, Wash., Mun. Code § 7.35.010 (definitions of "covered retailer," "delivery service provider," "grocery business," and "mixed-use grocery business")).

26. Md. Code Ann., Com. Law § 13-321(b)(1), (d); Fair Price Protection Act § 3(b); *id.* § 7.

27. New York Attorney General, "Celebrating the Passage of the One Fair Price Act"; NCSL, "Pricing and Junk Fees: 2026 Legislation"; New York State Assembly, "A09349 Summary" and "A09349 Actions," bill search and legislative information, 2025-2026 session (read Nov. 9, 2026); New York State Senate, "Senate Bill S8623B," bill page, 2025-2026 legislative session (read Nov. 9, 2026).

28. NCSL, "Pricing and Junk Fees: 2026 Legislation."

29. This report's arithmetic, from a row-by-row extraction of the table as updated August 20, 2026, recomputed for this report: 56 jurisdictions listed, 40 with at least one bill; 245 bill rows, with statuses as printed of "Pending" 140, "Pending - Carryover" 2, "To governor" 2, "To Congress" 2, "Enacted" 13, "Vetoed" 2, "Failed" 16, and "Failed - Adjourned" 68. A row was counted as using a pricing term if its title or summary contained algorithm*, dynamic*, individualized, personalized, surveillance, or "personal data"; the test is mechanical and both over- and under-inclusive. These are not the tracker's figures. NCSL, "Pricing and Junk Fees: 2026 Legislation."

30. NCSL, "Pricing and Junk Fees: 2026 Legislation."

31. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation), art. 22, 2016 O.J. (L 119) 1; Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on Consumer Rights, Amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and Repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council, art. 6(1)(ea), 2011 O.J. (L 304) 64 (as amended through Directive (EU) 2024/825) (consolidated text as of Sept. 27, 2026); Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 (Digital Services Act), art. 26, 2022 O.J. (L 277) 1. EU law is stated from texts printed from, or verified against, the Official Journal, and, for the Consumer Rights Directive as amended, from EUR-Lex's consolidated text, which states that it has no legal effect. *See* Directive 2011/83/EU.

32. GDPR art. 22(1)-(2).

33. Commission Notice: Guidance on the Interpretation and Application of Directive 2011/83/EU of the European Parliament and of the Council on Consumer Rights, 2021 O.J. (C 525) 1, § 3.3.1; EUR-Lex, document information for Regulation (EU) 2016/679 (CELEX 32016R0679); Case C-634/21, *OQ v. Land Hessen* (SCHUFA Holding AG intervening), ECLI:EU:C:2023:957, operative part (Dec. 7, 2023); Case C-203/22, *CK v. Magistrat der Stadt Wien* (Dun & Bradstreet Austria), ECLI:EU:C:2025:117, operative part, point 1 (Feb. 27, 2025).

34. Directive 2011/83/EU, art. 6(1)(ea).

35. Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 Amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as Regards the Better Enforcement and Modernisation of Union Consumer Protection Rules, art. 4(4)(a)(ii), 2019 O.J. (L 328) 7; *id.* art. 7(1); *id.* recital 45.

36. Directive 2011/83/EU, arts. 2, 5(1).

37. *Id.* arts. 23-24.

38. DSA art. 26(1), (3).

39. European Commission, *Fitness Check of EU Consumer Law on Digital Fairness*, Commission Staff Working Document SWD(2024) 230 final (Brussels, October 3, 2024), 202. The statement is Commission staff's, in a document that states that only the text of Union legislation has legal force. *See* European Commission, *Fitness Check*.

40. European Commission, "Digital Fairness Act," Have Your Say initiative page; European Commission, *Commission Work Programme 2026: Europe's Independence Moment*, COM(2025) 870 final (Strasbourg, October 21, 2025), Annex I, item 30; European Parliament, "Digital Fairness Act," Legislative Train Schedule, information updated as of October 25, 2026 (status "Announced") (read Nov. 9, 2026).

41. *Compare* GDPR art. 22(1), and Directive 2011/83/EU, art. 6(1)(ea), *with* Fair Price Protection Act § 3(a).

Section 7. Fiscal and Administrative Analysis

1. Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, at 1-3 (N.J. June 9, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, at 1-3 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 3d Reprint, at 1-3 (N.J. July 2, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. June 25, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, at 1-3 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 2d Reprint, at 1-3 (N.J. July 2, 2026); New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session; New Jersey Legislature, "Bill S3612/3717," bill page, 2026-2027 session. The June 30 and July 2 estimates on the Senate substitute match the estimates of the same dates on the Assembly substitute apart from the bill designations and typography, by this report's comparison.

2. OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1, 3. The June 9 estimate and the June 25 estimate print "courts costs" in the quoted sentence. OLS Fiscal Estimate, Assemb. Comm. Substitute, 1st Reprint, at 1; OLS Fiscal Estimate, S. Comm. Substitute, at 1.

3. OLS Fiscal Estimate, Assemb. Comm. Substitute, 1st Reprint, at 2-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 2d Reprint, at 2-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 2-3; OLS Fiscal Estimate, S. Comm. Substitute, at 2; OLS Fiscal Estimate, S. Comm. Substitute, 1st Reprint, at 2; OLS Fiscal Estimate, S. Comm. Substitute, 2d Reprint, at 2.

4. OLS Fiscal Estimate, Assemb. Comm. Substitute, 1st Reprint, at 1-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 2d Reprint, at 1-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1-3; OLS Fiscal Estimate, S. Comm. Substitute, at 1-2; OLS Fiscal Estimate, S. Comm. Substitute, 1st Reprint, at 1-3; OLS Fiscal Estimate, S. Comm. Substitute, 2d Reprint, at 1-3; Fair Price Protection Act, ch. 55, § 7(c), 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)).

5. OLS Fiscal Estimate, Assemb. Comm. Substitute, 1st Reprint, at 2-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 2d Reprint, at 2-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 2-3; OLS Fiscal Estimate, S. Comm. Substitute, at 2; OLS Fiscal Estimate, S. Comm. Substitute, 1st Reprint, at 2-3; OLS Fiscal Estimate, S. Comm. Substitute, 2d Reprint, at 2-3.

6. Assemb. Appropriations Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, with Comm. Amendments (N.J. June 23, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717 with Comm. Amendments, at 4 (N.J. June 24, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, with Comm. Amendments, at 3 (N.J. June 28, 2026); OLS Fiscal Estimate, Assemb. Comm. Substitute, 1st Reprint, at 1; OLS Fiscal Estimate, Assemb. Comm. Substitute, 2d Reprint, at 1; OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1; OLS Fiscal Estimate, S. Comm. Substitute, at 1; OLS Fiscal Estimate, S. Comm. Substitute, 1st Reprint, at 1; OLS Fiscal Estimate, S. Comm. Substitute, 2d Reprint, at 1; New Jersey Legislature, "Bill A4085/4523." The intervals are this report's arithmetic. The collection does not establish whether the June 30 estimates preceded the floor votes.

7. Fiscal Year 2027 Appropriations Act, ch. 27, 2026 N.J. Laws (approved June 30, 2026, with line item veto); *Fiscal Year 2027 Appropriations Act (P.L.2026, c.27) with Line Item Veto: Language Changes by Resolution Number* (New Jersey Legislature, n.d.).

8. Fiscal Year 2027 Appropriations Act (chapter law print at 200, 201, 322).

9. *Id.* at 202; Fair Price Protection Act § 3(a).

10. Fiscal Year 2027 Appropriations Act (chapter law print at 266).

11. *Id.* at 2; Fair Price Protection Act § 9; New Jersey Legislature, "Bill A4085/4523." Section 9 makes the Act effective on the first day of the 13th month next following enactment, section 4 on the first day of the seventh month, and section 5 immediately. Counting from approval on July 23, 2026, the first month next following is August 2026, the seventh February 2027, and the 13th August 2027.

12. Fair Price Protection Act § 8; *id.* § 4(a).

13. Administrative Procedure Act, N.J. Stat. Ann. § 52:14B-4(a) (compilation updated Mar. 2022); *id.* § 52:14B-4.10. The text is quoted from an unofficial compilation updated March 2022, and the statement about deadlines is limited to what the compilation reproduces. *Id.* §§ 52:14B-1 to -31.

14. New Jersey Data Privacy Act, ch. 266, § 15, 2023 N.J. Laws (codified at N.J. Stat. Ann. §§ 56:8-166.4 to -166.19).

15. New Jersey Division of Consumer Affairs, "Murphy Administration Announces Proposed Rules Establishing Comprehensive Consumer Data Privacy Protections," press release, June 2, 2025; New Jersey Division of Consumer Affairs, rule proposals page and rule adoptions page (read Nov. 9, 2026).

16. OLS Fiscal Estimate, Assemb. Comm. Substitute, 1st Reprint, at 1; OLS Fiscal Estimate, Assemb. Comm. Substitute, 2d Reprint, at 1; OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1; OLS Fiscal Estimate, S. Comm. Substitute, at 1; OLS Fiscal Estimate, S. Comm. Substitute, 1st Reprint, at 1; OLS Fiscal Estimate, S. Comm. Substitute, 2d Reprint, at 1; Fiscal Year 2027 Appropriations Act (chapter law print at 292).

17. Consumer Fraud Act, N.J. Stat. Ann. § 56:8-19 (current through P.L.2026, c.30); Fair Price Protection Act § 7.

18. Assemb. Consumer Affs. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 (N.J. Mar. 19, 2026); Assemb. Com. & Econ. Dev. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 with Comm. Amendments, at 2 (N.J. May 14, 2026); Assemb. Appropriations Comm. Statement; Assemb. Budget Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, with Comm. Amendments, at 2 (N.J. June 28, 2026); S. Com. Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, at 2 (N.J. Mar. 16, 2026); S. Budget & Appropriations Comm. Statement (June 24, 2026) at 2; S. Budget & Appropriations Comm. Statement (June 28, 2026) at 2; OLS Fiscal Estimate, Assemb. Comm. Substitute, 1st Reprint, at 1-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 2d Reprint, at 1-3; OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1-3; OLS Fiscal Estimate, S. Comm. Substitute, at 1-2; OLS Fiscal Estimate, S. Comm. Substitute, 1st Reprint, at 1-3; OLS Fiscal Estimate, S. Comm. Substitute, 2d Reprint, at 1-3.

19. OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1-3; Tyler Fields, NetChoice, to Nicholas P. Scutari, Craig J. Coughlin, M. Teresa Ruiz, and Louis D. Greenwald, "New Jersey A 4085/S 3612, Fair Price

Protection Act: Testimony in Opposition," June 30, 2026, 1-4; New Jersey Business & Industry Association, "Governor Signs Bill Banning Surveillance Pricing, as NJBIA Warns of Fallout," news item, July 23, 2026; Mary Ellen Peppard, "Op-Ed: Misinformed Pricing Legislation Would Hurt New Jersey Shoppers," *Binje.com*, April 29, 2026, reposted by the New Jersey Food Council.

20. Fields to Scutari et al., June 30, 2026, 2-3.

21. NJBIA, "Governor Signs Bill Banning Surveillance Pricing"; Peppard, "Misinformed Pricing Legislation."

22. N.J. Const. art. VIII, § 2, ¶ 5(a); *id.* art. VIII, § 2, ¶ 5(c)(2).

23. Local Mandates Act, N.J. Stat. Ann. § 52:13H-2 (compilation updated Aug. 31, 2023); *id.* § 52:13H-13.

24. Fair Price Protection Act § 2; *id.* § 3(a); *id.* §§ 5, 7-8; N.J. Const. art. VIII, § 2, ¶ 5(c)(2); N.J. Stat. Ann. § 52:13H-3(b).

25. N.J. Const. art. VIII, § 2, ¶ 5(a); Fair Price Protection Act § 8.

26. N.J. Const. art. VIII, § 2, ¶ 5(b); N.J. Stat. Ann. § 52:13H-12(a); *id.* § 52:13H-18.

Section 8. The Evidence Base

1. This statement records an absence across the documents. Assemb. Consumer Affs. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 (N.J. Mar. 19, 2026); Assemb. Com. & Econ. Dev. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 with Comm. Amendments, at 1-2 (N.J. May 14, 2026); Assemb. Appropriations Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, with Comm. Amendments (N.J. June 23, 2026); Assemb. Budget Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, with Comm. Amendments, at 1-2 (N.J. June 28, 2026); S. Com. Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. Mar. 16, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, at 1-3 (N.J. June 9, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, at 1-3 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 3d Reprint, at 1-3 (N.J. July 2, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717 with Comm. Amendments, at 1-4 (N.J. June 24, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, with Comm. Amendments, at 1-3 (N.J. June 28, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. June 25, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, at 1-3 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 2d Reprint, at 1-3 (N.J. July 2, 2026); New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session; LegiScan, "NJ A4085, 2026-2027, Regular Session"; Office of the Governor, State of New Jersey, "Governor Sherrill Signs the Fair Price Protection Act to Shield New Jersey Grocery Shoppers from Surveillance Pricing," press release, July 23, 2026. The Legislative Digest issues and the Legislature's bill page for S3612/3717, which record the same legislative actions, are not counted; none cites a study, dataset, survey, or price comparison. New Jersey Legislature, "Bill S3612/3717," bill page, 2026-2027 session.

2. New Jersey Legislature, "Bill A4085/4523"; Derek Kravitz, "Instacart's AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill, CR and Groundwork Collaborative Investigation Finds," *Consumer Reports*, December 9, 2025, updated December 22, 2025.

3. Fair Price Protection Act, ch. 55, § 5(a), 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)); *id.* § 5(b).

4. Dirk Bergemann et al., "The Limits of Price Discrimination," *American Economic Review* 105, no. 3 (2015): 927; Jean-Pierre Dubé and Sanjog Misra, "Personalized Pricing and Consumer Welfare," *Journal of Political Economy* 131, no. 1 (2023): 147-48; Benjamin Reed Shiller, "Approximating Purchase Propensities and Reservation Prices from Broad Consumer Tracking," *International Economic Review* 61, no. 2 (May 2020): 850, 853; Jie Zhang and Michel Wedel, "The Effectiveness of Customized Promotions in Online and Offline Stores," *Journal of Marketing Research* 46, no. 2 (April 2009): 190, 195; Aniko Hannak et al., "Measuring Price Discrimination and Steering on E-commerce Web Sites," in *Proceedings of the 2014 Conference on Internet Measurement Conference* (ACM,

2014), 305; Jennifer Valentino-DeVries et al., "Websites Vary Prices, Deals Based on Users' Information," *Wall Street Journal*, updated December 24, 2012; Jeff Larson et al., *Unintended Consequences of Geographic Targeting* (ProPublica, September 1, 2015); Kravitz, "Instacart's AI-Enabled Pricing Experiments"; Council of Economic Advisers, *Big Data and Differential Pricing* (Executive Office of the President, February 2015), 3; Sean F. Ennis and Wynne Lam, *Personalised Pricing and Disclosure*, BEIS Research Paper Number 2021/008 (Department for Business, Energy and Industrial Strategy, September 2020), 5.

5. Hannak et al., "Measuring Price Discrimination and Steering," 307; Ipsos, London Economics, and Deloitte, *Consumer Market Study on Online Market Segmentation Through Personalised Pricing/Offers in the European Union*, final report, prepared for the Consumers, Health, Agriculture and Food Executive Agency on behalf of the European Commission, Directorate-General for Justice and Consumers (Luxembourg: Publications Office of the European Union, 2018), 193.

6. For example, the Council of Economic Advisers reported steering or differential pricing "at 4 out of 10 general merchandise web sites and 5 out of 5 travel web sites," affecting "less than 2 percent of the sampled products on each site"; the study tested six travel sites, found evidence at five, and reported price inconsistencies on "typically <0.5% of products" at most sites. *Compare* Council of Economic Advisers, *Big Data and Differential Pricing*, 11-13, *with* Hannak et al., "Measuring Price Discrimination and Steering," 305, 308, 310-11.

7. Fair Price Protection Act § 2. Quotations from the third reprint omit its amendment markers. Section 3.1 analyzes the definitions.

8. Council of Economic Advisers, *Big Data and Differential Pricing*, 4; Dubé and Misra, "Personalized Pricing," 132; Office of Fair Trading, *The Economics of Online Personalised Pricing*, OFT1488 (London: Office of Fair Trading, May 2013), 15; OECD Secretariat, *Personalised Pricing in the Digital Era*, Background Note by the Secretariat, DAF/COMP(2018)13 (OECD, November 20, 2018), 8-9; Competition and Markets Authority, *Algorithms: How They Can Reduce Competition and Harm Consumers* (Competition and Markets Authority, January 19, 2021), 8-10; Ennis and Lam, *Personalised Pricing and Disclosure*, 7-8.

9. Federal Trade Commission, "FTC Issues Orders to Eight Companies Seeking Information on Surveillance Pricing," press release, July 23, 2024; Federal Trade Commission, "FTC Surveillance Pricing Study Indicates Wide Range of Personal Data Used to Set Individualized Consumer Prices," press release, January 17, 2025; Federal Trade Commission, "FTC Seeks Comment on Enforcement Policy Statement Regarding Personalized Pricing," press release, August 19, 2026, updated August 31, 2026.

10. Fair Price Protection Act § 2.

11. Elizabeth Warren and Robert P. Casey Jr. to Rodney McMullen, August 5, 2024, 1; Joseph Turow et al., *Open to Exploitation: American Shoppers Online and Offline* (Annenberg Public Policy Center of the University of Pennsylvania, June 2005), 10.

12. Hannak et al., "Measuring Price Discrimination and Steering," 307.

13. Fair Price Protection Act § 2.

14. Council of Economic Advisers, *Big Data and Differential Pricing*, 6; Office of Fair Trading, *Economics of Online Personalised Pricing*, 5; Ennis and Lam, *Personalised Pricing and Disclosure*, 8.

15. Bergemann et al., "Limits of Price Discrimination," 921-22, 925, 936.

16. Bergemann et al., "Limits of Price Discrimination," 927, 937.

17. Alessandro Acquisti and Hal R. Varian, "Conditioning Prices on Purchase History," *Marketing Science* 24, no. 3 (Summer 2005): 373-74.

18. Office of Fair Trading, *Economics of Online Personalised Pricing*, 5.

19. Council of Economic Advisers, *Big Data and Differential Pricing*, 6; United Kingdom, *Personalised Pricing in the Digital Era: Note by the United Kingdom*, DAF/COMP/WD(2018)127 (OECD, November 21, 2018), 8.

20. Shiller, "Approximating Purchase Propensities," 847, 850, 861-62. The article's Table 3 prints 0.27 percent for the demographics-only gain. Shiller, "Approximating Purchase Propensities," 861.

21. Dubé and Misra, "Personalized Pricing," 147-48, 167, 172.

22. Zhang and Wedel, "Customized Promotions," 190, 195, 205.

23. Hannak et al., "Measuring Price Discrimination and Steering," 305, 308-11, 317.

24. Valentino-DeVries et al., "Websites Vary Prices."

25. Ipsos, London Economics, and Deloitte, *Online Market Segmentation*, 22-23, 171, 190.

26. Ipsos, London Economics, and Deloitte, *Online Market Segmentation*, 175-76, 208.

27. Ipsos, London Economics, and Deloitte, *Online Market Segmentation*, 22, 171.

28. Kravitz, "Instacart's AI-Enabled Pricing Experiments."

29. Kravitz, "Instacart's AI-Enabled Pricing Experiments."

30. Federal Trade Commission, *FTC Surveillance Pricing 6(b) Study: Research Summaries* (staff perspective, January 2025), 7.

31. Council of Economic Advisers, *Big Data and Differential Pricing*, 2; OECD Secretariat, *Personalised Pricing*, 5; Competition and Markets Authority, *Algorithms*, 11; European Commission, *Report from the Commission to the European Parliament and the Council on the Implementation of Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 Amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as Regards the Better Enforcement and Modernisation of Union Consumer Protection Rules*, COM(2024) 258 final/2 (Brussels, September 11, 2024), § 13, para. 2.

32. This statement records an absence. The one grocery price investigation could not test for demographic correlations. Kravitz, "Instacart's AI-Enabled Pricing Experiments."

33. Bergemann et al., "Limits of Price Discrimination," 935; Acquisti and Varian, "Conditioning Prices," 372; Competition and Markets Authority, *Algorithms*, 2; Ennis and Lam, *Personalised Pricing and Disclosure*, 22.

34. Larson et al., *Unintended Consequences*.

35. Julia Angwin et al., "The Tiger Mom Tax: Asians Are Nearly Twice as Likely to Get a Higher Price from Princeton Review," *ProPublica*, September 1, 2015.

36. Akshat Pandey and Aylin Caliskan, "Disparate Impact of Artificial Intelligence Bias in Ridehailing Economy's Price Discrimination Algorithms," in *Proceedings of the 2021 AAAI/ACM Conference on AI, Ethics, and Society* (New York: ACM, 2021), 822, 824.

37. Fair Price Protection Act § 4(a); *id.* § 5(a).

38. Kravitz, "Instacart's AI-Enabled Pricing Experiments."

39. Kravitz, "Instacart's AI-Enabled Pricing Experiments."

40. Kravitz, "Instacart's AI-Enabled Pricing Experiments."

41. Kravitz, "Instacart's AI-Enabled Pricing Experiments."

42. Warren and Casey to McMullen, 1, 3.

43. Peyton Bigora, "Kroger Comes Under Fire for Use of Electronic Shelf Labels," *Grocery Dive*, August 12, 2024.

44. Tyler O'Neill, "Kroger Denies Reports of In-Store Facial Recognition Devices," Spectrum News 1, January 28, 2025.

45. *See* O'Neill, "Kroger Denies Reports"; Bigora, "Kroger Comes Under Fire."

46. FTC, *Surveillance Pricing 6(b) Study*, 4.

47. Walmart, "How the Shelf Got Smarter and Our Jobs Got Easier," web page, March 2, 2026.

48. United Food and Commercial Workers International Union, "UFCW Celebrates New Jersey's First in the Nation Ban on Surveillance Pricing and Moratorium on Electronic Shelf Labels in Grocery Stores," press release, July 1, 2026.

49. Mary Ellen Peppard, "Op-Ed: Misinformed Pricing Legislation Would Hurt New Jersey Shoppers," *Binje.com*, April 29, 2026, reposted by the New Jersey Food Council; UFCW, "UFCW Celebrates New Jersey's."

50. Turow et al., *Open to Exploitation*, 13, 22.

51. Kravitz, “Instacart’s AI-Enabled Pricing Experiments.”

52. Ipsos, London Economics, and Deloitte, *Online Market Segmentation*, 21, 145-46.

53. UFCW, “UFCW Celebrates New Jersey’s”; Kathleen Farley, “How the Law Already Prohibits ‘Surveillance Pricing’ Scenarios,” Chamber of Progress, June 3, 2026.

54. UFCW, “UFCW Celebrates New Jersey’s.”

55. Chamber of Progress, “Chamber of Progress Poll: New Jersey Residents Oppose Algorithmic Pricing Bans,” May 4, 2026.

56. Dubé and Misra, “Personalized Pricing,” 180.

57. Walmart, “How the Shelf Got Smarter”; UFCW, “UFCW Celebrates New Jersey’s”; O’Neill, “Kroger Denies Reports”; Kravitz, “Instacart’s AI-Enabled Pricing Experiments.”

58. OECD Secretariat, *Personalised Pricing*, 19; Ennis and Lam, *Personalised Pricing and Disclosure*, 13.

Section 9. Impact Analysis by Affected Party

1. The Act takes effect “on the first day of the 13th month next following the date of enactment,” except that section 4 takes effect on the first day of the seventh month and section 5 immediately: Fair Price Protection Act, ch. 55, § 9, 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)). The Act was approved on July 23, 2026: New Jersey Legislature, “Bill A4085/4523,” bill page, 2026-2027 session. The dates are this report’s arithmetic: counting from July 2026, the first month next following is August 2026, the seventh is February 2027, and the thirteenth is August 2027.

2. Area price indexes “only measure the average change in prices for each area since the base period”: U.S. Bureau of Labor Statistics, Northeast Information Office, “Consumer Price Index, New York-Newark-Jersey City, August 2026,” news release 26-1508-BOS, September 11, 2026; U.S. Bureau of Labor Statistics, Mid-Atlantic Information Office, “Consumer Price Index, Philadelphia-Camden-Wilmington, August 2026,” news release 26-1519-PHI, September 11, 2026. The Economic Research Service states that its food access indicators do not capture “food affordability”: U.S. Department of Agriculture, Economic Research Service, “Food Access Research Atlas: Documentation,” web page, updated July 27, 2026. See Section 8.8.

3. BLS, “Consumer Price Index, New York-Newark-Jersey City, August 2026,” table 1; BLS, “Consumer Price Index, Philadelphia-Camden-Wilmington, August 2026,” table 1.

4. BLS, “Consumer Price Index, New York-Newark-Jersey City, August 2026”; BLS, “Consumer Price Index, Philadelphia-Camden-Wilmington, August 2026.” The counties in neither area (Atlantic, Cape May, Cumberland, Mercer, and Warren) are this report’s arithmetic, against the county list in New Jersey Department of Human Services, Division of Family Development, *Current Program Statistics, June 2026*, 8, table 7.

5. Fair Price Protection Act § 3(a); *id.* § 2. Quotations of the Act omit the reprint’s amendment markers.

6. Office of the Governor, State of New Jersey, “Governor Sherrill Signs the Fair Price Protection Act to Shield New Jersey Grocery Shoppers from Surveillance Pricing,” press release, July 23, 2026.

7. Tyler Fields, NetChoice, to Nicholas P. Scutari, Craig J. Coughlin, M. Teresa Ruiz, and Louis D. Greenwald, “New Jersey A 4085/S 3612, Fair Price Protection Act: Testimony in Opposition,” June 30, 2026, 2; Mary Ellen Peppard, “Op-Ed: Misinformed Pricing Legislation Would Hurt New Jersey Shoppers,” *Binje.com*, April 29, 2026, reposted by the New Jersey Food Council. She wrote on April 29, 2026, while an earlier version was pending.

8. Fair Price Protection Act § 3(b)(2)-(3). See Section 3.4.

9. See Section 11.

10. Fair Price Protection Act §§ 2-9. See Section 9.10.

11. U.S. Department of Agriculture, Food and Nutrition Service, *Supplemental Nutrition Assistance Program State Activity Report, FY 2023* (USDA Food and Nutrition Service, May 2025), 7-8, tables 5-6; USDA Food and Nutrition Service, *State Activity Report, FY 2023*, 53. The cover prints “Published May 2025”: USDA Food and Nutrition Service, *State Activity Report, FY 2023*.

12. U.S. Department of Agriculture, "Supplemental Nutrition Assistance Program: Number of Persons Participating," table, data as of September 11, 2026, New Jersey row; U.S. Department of Agriculture, "Supplemental Nutrition Assistance Program: Number of Households Participating," table, data as of September 11, 2026, New Jersey row.

13. New Jersey Department of Human Services, *Current Program Statistics, June 2026*, ii, 6, table 5. The federal count exceeds the State count by 14,950 persons and 4,358 households (this report's arithmetic: 754,543 less 739,593; 407,251 less 402,893). See Figure A.3.

14. Fair Price Protection Act §§ 2-9.

15. Office of the Governor, "Governor Sherrill Signs the Fair Price Protection Act."

16. Federal Trade Commission, *FTC Surveillance Pricing 6(b) Study: Research Summaries* (staff perspective, January 2025), 8; Fair Price Protection Act § 2. The statement is staff's, not the Commission's.

17. Council of Economic Advisers, *Big Data and Differential Pricing* (Executive Office of the President, February 2015), 17.

18. Derek Kravitz, "Instacart's AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill, CR and Groundwork Collaborative Investigation Finds," *Consumer Reports*, December 9, 2025, updated December 22, 2025.

19. Fair Price Protection Act § 3(b)(2). The observation is textual. See Section 3.4.

20. USDA, "Number of Persons Participating," New Jersey row. See Sections 8.8 and 11.

21. New Jersey Economic Recovery Act of 2020, ch. 156, § 38(b), 2020 N.J. Laws (approved Jan. 7, 2021) (Food Desert Relief Act, §§ 35-42, codified at N.J. Stat. Ann. §§ 34:1B-303 to -310).

22. New Jersey Economic Development Authority, "New Jersey Food Desert Communities: As Approved by the Board of the New Jersey Economic Development Authority on February 9, 2022," list, February 9, 2022. The sum and the county counts are this report's arithmetic on the list's population and county columns.

23. New Jersey Economic Development Authority, *New Jersey Food Desert Community Designation Methodology: As Approved by the Board of the New Jersey Economic Development Authority on February 9, 2022* (New Jersey Economic Development Authority, 2022), 12-13. No crosswalk between the two constructs is in the collection.

24. Fair Price Protection Act §§ 2-9.

25. Jennifer Valentino-DeVries et al., "Websites Vary Prices, Deals Based on Users' Information," *Wall Street Journal*, updated December 24, 2012. The finding concerns one office supply website.

26. Fair Price Protection Act §§ 2, 3(a).

27. Kravitz, "Instacart's AI-Enabled Pricing Experiments."

28. Fair Price Protection Act § 2. The observation is textual; see Section 3.3.

29. New Jersey Economic Recovery Act of 2020 § 38(b); New Jersey Legislature, "New Jersey General and Permanent Statutes (Updated through P.L.2026, c.30, and J.R.1)," statutes database, N.J.S.A. 34:1B-306. See Section 11.

30. New Jersey Department of Health, "Limited English Proficiency by Language Spoken at Home, New Jersey, 2024," New Jersey State Health Assessment Data, indicator data last updated September 19, 2025, published September 22, 2025 (data source: American Community Survey, U.S. Census Bureau).

31. New Jersey Department of Health, "Limited English Speaking Households," New Jersey State Health Assessment Data (NJSHAD), summary indicator report, indicator data last updated September 19, 2025, published September 22, 2025; New Jersey Department of Health, "Foreign-Born Population," New Jersey State Health Assessment Data (NJSHAD), summary indicator report, indicator data last updated September 17, 2025, published June 25, 2026. The bands are read from the pages' 2024 county maps.

32. Assemb. Consumer Affs. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 (N.J. Mar. 19, 2026); Assemb. Com. & Econ. Dev. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 with Comm. Amendments, at 1-2 (N.J. May 14, 2026); Assemb. Appropriations Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, with Comm. Amendments (N.J. June 23,

2026); Assemb. Budget Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, with Comm. Amendments, at 1-2 (N.J. June 28, 2026); S. Com. Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. Mar. 16, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, at 1-3 (N.J. June 9, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, at 1-3 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 3d Reprint, at 1-3 (N.J. July 2, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717 with Comm. Amendments, at 1-4 (N.J. June 24, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, with Comm. Amendments, at 1-3 (N.J. June 28, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. June 25, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, at 1-3 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 2d Reprint, at 1-3 (N.J. July 2, 2026); Office of the Governor, "Governor Sherrill Signs the Fair Price Protection Act."

33. Fair Price Protection Act §§ 2, 3(a).

34. *Id.* § 3(b)(3)(c); New Jersey Economic Recovery Act of 2020 § 38(e). The observation is textual; the Food Desert Relief Act provision concerns assistance to retailers and other eligible entities, not to shoppers.

35. NJEDA, *Food Desert Community Designation Methodology*, 7, 9, 12; Fair Price Protection Act § 8. See Section 8.8.

36. New Jersey Department of Human Services, *Current Program Statistics, June 2026*, 6, 8, tables 5, 7; USDA Food and Nutrition Service, *State Activity Report, FY 2023*, 5, 7-8, tables 3, 5-6; NJEDA, *Food Desert Community Designation Methodology*, 8, 12-13; U.S. Department of Agriculture, Food and Nutrition Administration, "Characteristics of SNAP Households: Fiscal Year 2023," report page.

37. Fair Price Protection Act § 3(b)(2).

38. Akshat Pandey and Aylin Caliskan, "Disparate Impact of Artificial Intelligence Bias in Ridehailing Economy's Price Discrimination Algorithms," in *Proceedings of the 2021 AAAI/ACM Conference on AI, Ethics, and Society* (New York: ACM, 2021), 824, 829. See Section 8.5.

39. FTC, *Surveillance Pricing 6(b) Study*, 4; Fair Price Protection Act § 3(b). The staff example is a hypothetical; the reading is a textual observation.

40. Fair Price Protection Act §§ 2, 3(a). See Sections 3.3 and 8.8.

41. *Id.* § 2. The absence of a count is an absence in the collection.

42. House Committee on Energy and Commerce Democrats, "Pallone Launches Surveillance Pricing Inquiry," press release, May 12, 2026, with the letter of Ranking Member Frank Pallone Jr. dated May 11, 2026.

43. Federal Trade Commission, "FTC Launches Personalized Pricing and Compensation Inquiry," press release, October 28, 2026. See Section 5.2.

44. Fair Price Protection Act §§ 3(b), 4(b). See Section 3.4.

45. Fields to Scutari et al., June 30, 2026, 2-3; Peppard, "Misinformed Pricing Legislation." See Section 7.5.

46. Fair Price Protection Act §§ 3(a), 7. The Office of Legislative Services describes the penalties as not more than $10,000 for a first offense and not more than $20,000 for any subsequent offense: OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 2.

47. See Section 7.5.

48. Assemb. 4523, 222d Leg. §§ 2, 3(a) (N.J. 2026) (introduced text dated Mar. 10, 2026); Fair Price Protection Act § 2. See Section 4.3.

49. This statement records an absence in the collection.

50. Fair Price Protection Act §§ 2-9.

51. *Id.* §§ 2, 3(a).

52. Kravitz, "Instacart's AI-Enabled Pricing Experiments." See Section 8.4.

53. Fields to Scutari et al., June 30, 2026, 3.

54. Kravitz, "Instacart's AI-Enabled Pricing Experiments."

55. Rule on Unfair or Deceptive Fees in Online Food Delivery Services, 91 Fed. Reg. 20,381 (Apr. 16, 2026) (advance notice of proposed rulemaking). Section 5.2 addresses the Commission's separate proposed policy statement on personalized pricing.

56. FTC, "FTC Launches Personalized Pricing and Compensation Inquiry."

57. Task Force on Employee Misclassification, *Report of Gov. Murphy's Task Force on Employee Misclassification* (July 2019), 5-6. See Section 10.5.

58. Fair Price Protection Act §§ 2-9. See Section 10.5.

59. Veena Dubal, *On Algorithmic Wage Discrimination*, 123 Colum. L. Rev. 1929, 1936-38 (2023).

60. Stop AI Price Gouging and Wage Fixing Act of 2025, H.R. 4640, 119th Cong. § 3(a) (2025); H.R. 4640, Stop AI Price Gouging and Wage Fixing Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov. See Sections 5.2 and 10.5.

61. FTC, "FTC Launches Personalized Pricing and Compensation Inquiry."

62. This statement records an absence in the collection.

63. Fair Price Protection Act §§ 4(a), 5, 9. The date is this report's arithmetic; see the first note to this section.

64. Walmart, "How the Shelf Got Smarter and Our Jobs Got Easier," web page, March 2, 2026.

65. Office of the Governor, "Governor Sherrill Signs the Fair Price Protection Act"; United Food and Commercial Workers International Union, "UFCW Celebrates New Jersey's First in the Nation Ban on Surveillance Pricing and Moratorium on Electronic Shelf Labels in Grocery Stores," press release, July 1, 2026.

66. Walmart, "How the Shelf Got Smarter"; Fields to Scutari et al., June 30, 2026, 3. Walmart's statements say nothing about staffing levels, hours, or pay.

67. Fair Price Protection Act § 5. See Sections 8.6 and 10.6.

68. *Id.* §§ 3(b)(3)(c), 7, 8.

69. OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1; Fiscal Year 2027 Appropriations Act, ch. 27, 2026 N.J. Laws (approved June 30, 2026, with line item veto) (chapter law print at 200, 322). See Sections 7.1 and 7.2.

70. Consumer Fraud Act, N.J. Stat. Ann. § 56:8-19 (current through P.L.2026, c.30); Fair Price Protection Act § 3(b)(3)(c).

71. Fair Price Protection Act §§ 2-9; Sean F. Ennis and Wynne Lam, *Personalised Pricing and Disclosure*, BEIS Research Paper Number 2021/008 (Department for Business, Energy and Industrial Strategy, September 2020), 21. See Section 10.2.

72. OLS Fiscal Estimate, Assemb. Comm. Substitute, 3d Reprint, at 1; Fiscal Year 2027 Appropriations Act (chapter law print at 200, 202, 322). The inference is this report's.

73. Fair Price Protection Act § 8. See Section 11.

Section 10. Institutional Design and Labor Analysis

1. Fair Price Protection Act, ch. 55, § 2, 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)).

2. *Id.* § 3(a).

3. *Id.* § 3(b)-(c); *id.* §§ 4-5.

4. Fair Price Protection Act §§ 2-9; *see id.* § 8 (the Director "may adopt rules").

5. Fair Price Protection Act § 7.

6. *Id.* § 7(c); New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session (history entry of June 28, 2026, and the third reprint listed as "ABU 6/28/26 3R").

7. *Cox v. Sears Roebuck & Co.*, 138 N.J. 2, 21 (1994).

8. *Dugan v. TGI Fridays, Inc.*, 231 N.J. 24, 73 (2017); *id.* at 90 (Albin, J., dissenting).

9. Fair Price Protection Act §§ 3, 7.

10. New Jersey Data Privacy Act, ch. 266, §§ 14(b), 16, 2023 N.J. Laws (codified at N.J. Stat. Ann. §§ 56:8-166.4 to -166.19). The cure requirement runs until the first day of the eighteenth month after the effective date and applies where a cure is deemed possible.

11. Fair Price Protection Act §§ 2-9.

12. Assemb. 4523, 222d Leg. § 6(c)-(d) (N.J. 2026) (introduced text dated Mar. 10, 2026); *compare* Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg. §§ 3-5 (N.J. 2026) (as reported by Assemb. Consumer Affs. Comm., Mar. 19, 2026), S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg. §§ 3-5 (N.J. 2026) (as adopted by S. Com. Comm., Mar. 16, 2026), Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 1st Reprint, § 5 (N.J. 2026), Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 2d Reprint, § 7 (N.J. 2026), S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 1st Reprint, § 7 (N.J. 2026), and S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 2d Reprint, § 7 (N.J. 2026), *with* Fair Price Protection Act §§ 3, 7.

13. One Fair Price Act of 2025, S. 3387, 119th Cong. § 2(d)(3) (2025); S. 3387, One Fair Price Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov.

14. N.J. Admin. Code § 13:45A-9.8(a) (2022); *id.* § 13:45A-9.2(a)10; *id.* § 13:45A-9.8(e).

15. Fair Price Protection Act § 2.

16. Derek Kravitz, "Instacart's AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill, CR and Groundwork Collaborative Investigation Finds," *Consumer Reports*, December 9, 2025, updated December 22, 2025.

17. Ipsos, London Economics, and Deloitte, *Consumer Market Study on Online Market Segmentation Through Personalised Pricing/Offers in the European Union*, final report, prepared for the Consumers, Health, Agriculture and Food Executive Agency on behalf of the European Commission, Directorate-General for Justice and Consumers (Luxembourg: Publications Office of the European Union, 2018), 17, 21, 217. The study is European Union evidence from 2017, not evidence about New Jersey or groceries.

18. *Nat'l Retail Fed'n v. James*, No. 25-cv-5500, slip op. at 2-3, 24 (S.D.N.Y. Oct. 8, 2025); Brief of Amicus Curiae Chamber of Com. of the U.S. Supporting Plaintiff-Appellant and Reversal at 18, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Jan. 13, 2026). The ruling is on appeal (2d Cir. No. 25-2818), argued October 19, 2026; the Second Circuit's searchable opinions and summary orders contained no decision on November 9, 2026 (Section 5.4). United States Court of Appeals for the Second Circuit, "Decisions," search page (opinions and summary orders).

19. Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on Consumer Rights, Amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and Repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council, art. 6(1)(ea), 2011 O.J. (L 304) 64 (as amended through Directive (EU) 2024/825) (consolidated text as of Sept. 27, 2026); Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 Amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as Regards the Better Enforcement and Modernisation of Union Consumer Protection Rules, art. 4(4)(a)(ii), 2019 O.J. (L 328) 7 (the amending act that inserted the point).

20. European Commission, *Report from the Commission to the European Parliament and the Council on the Implementation of Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 Amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as Regards the Better Enforcement and Modernisation of Union Consumer Protection Rules*, COM(2024) 258 final/2 (Brussels, September 11, 2024), § 13, para. 4; European Commission, *Fitness Check of EU Consumer Law on Digital Fairness*, Commission Staff Working Document SWD(2024) 230 final (Brussels, October 3, 2024), 165-66. The Commission states that the test's results "do not allow general conclusions to be drawn." European Commission, *Report on Directive (EU) 2019/2161*, § 13, para. 6.

21. Seattle, Wash., Mun. Code § 8.37.110; N.Y.C. Admin. Code § 20-1506(b); *id.* § 20-1523(c).

22. Seattle, Wash., Ordinance 127515, §§ 1, 3 (Oct. 5, 2026) (Council Bill 121267) (adding Seattle, Wash., Mun. Code § 7.35.050(A)-(C), effective Sept. 1, 2027).

23. Consumer Fraud Act, N.J. Stat. Ann. § 56:8-19 (current through P.L.2026, c.30); *Cox*, 138 N.J. at 24.

24. *Thiedemann v. Mercedes-Benz USA, LLC*, 183 N.J. 234, 238, 248 (2005); *Lee v. Carter-Reed Co.*, 203 N.J. 496, 522 (2010).

25. *Dugan*, 231 N.J. at 56; *see id.* at 60-61.

26. *Dugan*, 231 N.J. at 64-65, 67.

27. *Atalese v. U.S. Legal Servs. Grp., L.P.*, 219 N.J. 430, 435, 447 (2014).

28. *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 340, 351 (2011); *see id.* at 357 (Breyer, J., dissenting) (joined by three Justices).

29. *Atalese* concerned a debt-adjustment service contract, and *Concepcion* a cellular service agreement. *Atalese*, 219 N.J. at 436; *Concepcion*, 563 U.S. at 336.

30. *See Dugan*, 231 N.J. at 56-67; Fair Price Protection Act §§ 2-9.

31. The Judiciary's statistics page states that "The Civil Statistics Report provides a report of filings, resolutions, clearance and backlog by case type"; whether any case type corresponds to Consumer Fraud Act claims was not established. New Jersey Courts, statistics page.

32. *Rosenbach v. Six Flags Ent. Corp.*, 2019 IL 123186, ¶ 21; *id.* ¶ 37 (Karmeier, C.J., for a unanimous court).

33. Fair Debt Collection Practices Act § 813(a), 15 U.S.C. § 1692k(a) (additional damages, with those for class members other than named plaintiffs capped at the lesser of $500,000 or 1 percent of the collector's net worth); Fair Credit Reporting Act §§ 616-617, 15 U.S.C. §§ 1681n-1681o (statutory and punitive damages for willful noncompliance only); Telephone Consumer Protection Act, 47 U.S.C. § 227(b)(3) ($500 for each violation, which a court may treble for a willful or knowing violation). The three texts are unofficial compilations or prints; the current Code's source credits show no later amendment to these sections. Fair Debt Collection Practices Act, 15 U.S.C. § 1692k; Fair Credit Reporting Act, 15 U.S.C. §§ 1681n-1681o; 47 U.S.C. § 227.

34. *Compare* Assemb. 4085, 222d Leg. (N.J. 2026) (as introduced Feb. 19, 2026), Assemb. 4523, S. 3612, 222d Leg. (N.J. 2026) (as introduced Feb. 19, 2026), S. 3717, 222d Leg. (N.J. 2026) (as introduced Mar. 5, 2026), S. Comm. Substitute (Mar. 16, 2026), Assemb. Comm. Substitute (Mar. 19, 2026), Assemb. Comm. Substitute, 1st Reprint, Assemb. Comm. Substitute, 2d Reprint, S. Comm. Substitute, 1st Reprint, and S. Comm. Substitute, 2d Reprint, *with* Fair Price Protection Act §§ 1-9.

35. Kravitz, "Instacart's AI-Enabled Pricing Experiments." The investigation's "shoppers" are customers; the file contains no statement about the pay of Instacart's workers.

36. Task Force on Employee Misclassification, *Report of Gov. Murphy's Task Force on Employee Misclassification* (July 2019), 5; Task Force on Employee Misclassification, *Report*, 6 (citing a 2017 National Employment Law Project report); *see* Task Force on Employee Misclassification, *Report*.

37. Seattle, Wash., Mun. Code § 8.37.050(A); *id.* § 8.37.020; *id.* § 8.37.060(B).

38. N.Y.C. Admin. Code § 20-1522(a), (e); *id.* § 20-1538(b)(2).

39. Act of June 5, 2024, ch. 409, § 8-4-127(11)(b), (d), 2024 Colo. Sess. Laws 2806 (S.B. 24-075) (codified at Colo. Rev. Stat. § 8-4-127).

40. *See* Seattle, Wash., Mun. Code §§ 8.37.010-.250; N.Y.C. Admin. Code §§ 20-1501 to 20-1540; 2024 Colo. Sess. Laws ch. 409, § 8-4-127.

41. Stop AI Price Gouging and Wage Fixing Act of 2025, H.R. 4640, 119th Cong. § 2(a)(1) (2025); *id.* § 3(a); H.R. 4640, Stop AI Price Gouging and Wage Fixing Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov.

42. Federal Trade Commission, "FTC Launches Personalized Pricing and Compensation Inquiry," press release, October 28, 2026. See Section 5.2.

43. Veena Dubal, *On Algorithmic Wage Discrimination*, 123 Colum. L. Rev. 1929, 1935, 1976, 1989 (2023).

44. *Id.* at 1961.

45. *See* Fair Price Protection Act §§ 3, 7; Seattle, Wash., Mun. Code §§ 8.37.070, 8.37.130, 8.37.230; N.Y.C. Admin. Code §§ 20-1507, 20-1511, 20-1523; 2024 Colo. Sess. Laws ch. 409, § 8-4-127(11), (13); Task Force on Employee Misclassification, *Report*, 5.

46. Assemb. Comm. Substitute (Mar. 19, 2026) § 4; Fair Price Protection Act § 4 (the deleted text, bracketed).

47. Fair Price Protection Act § 4.

48. *Id.* § 5.

49. *Id.* § 9. This report's arithmetic: section 4 takes effect on the first day of the seventh month next following enactment, and the seventh month next following July 2026 is February 2027.

50. *Id.* § 2; *id.* §§ 4-5.

51. N.J. Admin. Code § 13:45A-14.7(a) (2022) (compilation last revised June 20, 2022); *see id.* § 13:45A-14.13 (the rule already contemplates labels produced by "electronic data processing equipment").

52. United Food and Commercial Workers International Union, "UFCW Celebrates New Jersey's First in the Nation Ban on Surveillance Pricing and Moratorium on Electronic Shelf Labels in Grocery Stores," press release, July 1, 2026.

53. Walmart, "How the Shelf Got Smarter and Our Jobs Got Easier," web page, March 2, 2026.

54. Fair Price Protection Act §§ 4-5.

55. New Jersey Legislature, "Bill A4085/4523."

56. Fair Price Protection Act § 9. This report's arithmetic: the thirteenth month next following July 2026 is August 2027, and the seventh is February 2027.

57. Actions under section 7 lie for violations of the Act, whose general provisions are not yet in effect, and the section 5 report is due no later than six months before the moratorium ends. *Id.* §§ 5, 7, 9.

Section II. Implementation Risks and Watch Items

1. New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session.

2. This report's arithmetic. Section 9 of the Act provides that the Act takes effect on the first day of the thirteenth month next following enactment, that section 4 takes effect on the first day of the seventh month next following enactment, and that section 5 takes effect immediately. Counting from approval on July 23, 2026, the first month next following is August 2026, the seventh is February 2027, and the thirteenth is August 2027. Fair Price Protection Act, ch. 55, § 9, 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)); New Jersey Legislature, "Bill A4085/4523."

3. Fair Price Protection Act §§ 4-5; Assemb. Appropriations Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, with Comm. Amendments (N.J. June 23, 2026). One year from February 1, 2027 is February 1, 2028, and six months before that date is August 1, 2027.

4. *See* Fair Price Protection Act § 3(a); Consumer Fraud Act, N.J. Stat. Ann. § 56:8-19 (current through P.L.2026, c.30).

5. *Atalese v. U.S. Legal Servs. Grp., L.P.*, 219 N.J. 430, 447 (2014) (Albin, J., for a unanimous Court).

6. *Nat'l Retail Fed'n v. James*, No. 25-cv-5500, slip op. at 28 (S.D.N.Y. Oct. 8, 2025).

7. Docket, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir.) (CourtListener RECAP docket, last updated October 19, 2026), entries 56, 64, 67; United States Court of Appeals for the Second Circuit, "Decisions," search page (opinions and summary orders); United States Court of Appeals for the Second Circuit, "Oral Arguments," search page (No. 25-2818, argued Oct. 19, 2026). The docket cited is the Free Law Project's copy, last updated October 19, 2026. Brief of Amicus Curiae Chamber of Com. of the U.S. Supporting Plaintiff-Appellant and Reversal at 23, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Jan. 13, 2026) (amicus brief for reversal, filed January 13, 2026); Brief

of the Elec. Privacy Info. Ctr. as Amicus Curiae in Support of Defendant-Appellee at 3, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Feb. 17, 2026) (amicus brief for affirmance, dated February 17, 2026); *id.* at 38.

8. Fair Price Protection Act § 3(a); *id.* § 3(b)(3).

9. Fair Price Protection Act § 8.

10. New Jersey Division of Consumer Affairs, rule proposals page and rule adoptions page. As read on November 9, 2026, the Division's proposals page listed its proposed Data Privacy Act rules, N.J.A.C. 13:45L, and no proposal under the Act, and its adoptions page, with entries through November 2, 2026, showed no adoption of them. The pages were read for the entries named; absence from them is not evidence that no rule is planned.

11. New Jersey Legislature, chapter laws index, year 2026; New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session; Fair Price Protection Act, ch. 55, 2026 N.J. Laws (approved July 23, 2026) (Advance Law).

12. Fair Price Protection Act §§ 3(b)(3), 7.

13. Federal Trade Commission, "FTC Seeks Comment on Enforcement Policy Statement Regarding Personalized Pricing," press release, August 19, 2026, updated August 31, 2026; Federal Trade Commission, "FTC Extends Public Comment on Proposed Policy Statement Regarding Personalized Pricing," press release, September 3, 2026; Regulations.gov, "Federal Trade Commission's Proposed Enforcement Policy Statement Regarding Personalized Pricing," docket FTC-2026-1057 and document FTC-2026-1057-0001 (docket read Nov. 9, 2026); Federal Trade Commission, "Press Releases," news page (read Nov. 9, 2026) (first page of the listing, releases from October 8 through November 6, 2026).

14. Fed. Trade Comm'n, *Federal Trade Commission's Proposed Enforcement Policy Statement Regarding Personalized Pricing* 1, 6 n.20 (Aug. 19, 2026).

15. Federal Trade Commission, "FTC Launches Personalized Pricing and Compensation Inquiry," press release, October 28, 2026.

16. S. 3387, One Fair Price Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov; H.R. 4640, Stop AI Price Gouging and Wage Fixing Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov; H.R. 4966, Stop Price Gouging in Grocery Stores Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov.

17. Fair Price Protection Act § 3(b)(3).

18. Tyler Fields, NetChoice, to Nicholas P. Scutari, Craig J. Coughlin, M. Teresa Ruiz, and Louis D. Greenwald, "New Jersey A 4085/S 3612, Fair Price Protection Act: Testimony in Opposition," June 30, 2026; New Jersey Business & Industry Association, "Governor Signs Bill Banning Surveillance Pricing, as NJBIA Warns of Fallout," news item, July 23, 2026; Mary Ellen Peppard, "Op-Ed: Misinformed Pricing Legislation Would Hurt New Jersey Shoppers," *Binje.com*, April 29, 2026, reposted by the New Jersey Food Council; Kathleen Farley, "How the Law Already Prohibits 'Surveillance Pricing' Scenarios," Chamber of Progress, June 3, 2026; Office of the Governor, State of New Jersey, "Governor Sherrill Signs the Fair Price Protection Act to Shield New Jersey Grocery Shoppers from Surveillance Pricing," press release, July 23, 2026. The predictions are those of NetChoice, the New Jersey Business and Industry Association, the New Jersey Food Council, and the Chamber of Progress; each statement is attributed. The Chamber of Progress's post concerns broad bans generally and names New Jersey's proposed legislation without a bill number.

19. Fair Price Protection Act § 4; Walmart, "How the Shelf Got Smarter and Our Jobs Got Easier," web page, March 2, 2026. The statements are the company's own.

20. U.S. Bureau of Labor Statistics, Northeast Information Office, "Consumer Price Index, New York-Newark-Jersey City, August 2026," news release 26-1508-BOS, September 11, 2026; U.S. Bureau of Labor Statistics, Mid-Atlantic Information Office, "Consumer Price Index, Philadelphia-Camden-Wilmington, August 2026," news release 26-1519-PHI, September 11, 2026.

21. Fair Price Protection Act § 4. The deleted provision that made it an unlawful practice to use an electronic shelving label connected to technology employing a pricing strategy based on personal data appears in brackets in the third reprint.

22. Protection From Predatory Pricing Act, ch. 154, § 2, 2026 Md. Laws (approved Apr. 28, 2026); Maryland General Assembly, "Legislation - HB0895," 2026 Regular Session ("Effective Date(s): October 1, 2026"); An Act

Concerning Consumer Privacy and Protection, Pub. Act No. 26-64, § 11 (Conn. 2026) (approved May 27, 2026); Act of June 2, 2026, Pub. Act No. 26-100, §§ 44, 66 (Conn. 2026); Act of June 4, 2026, Pub. Act No. 26-130, §§ 11, 19 (Conn. 2026); Conn. Off. of Legis. Rsch., Public Act Summary: Pub. Act No. 26-64 (Substitute S.B. 4) (2026); Conn. Off. of Legis. Rsch., Public Act Summary: Pub. Act No. 26-100 (Substitute H.B. 5222) (2026); Conn. Off. of Legis. Rsch., Public Act Summary: Pub. Act No. 26-130 (H.B. 5563) (2026). The Office of Legislative Research describes section 44 of Public Act No. 26-100 as replacing the earlier section "with similar provisions with changes to the definitions, exemptions, and requirements," and Public Act No. 26-130 as replacing section 44 "with identical provisions except it expands the prohibition by eliminating the 'in-person' limitation." Version 1.0 of this report stated that section 11 of Public Act No. 26-64 would take effect on October 1, 2026; that statement was incorrect, because the section was repealed on June 2, 2026.

23. Seattle, Wash., Ordinance 127515, §§ 1-3 (Oct. 5, 2026) (Council Bill 121267); Seattle City Clerk, "Ordinance 127515 Introduced as Council Bill 121267," record page (read Nov. 9, 2026). That September 1, 2027 is one month after August 1, 2027 is this report's arithmetic.

24. New York State Assembly, "A09349 Summary" and "A09349 Actions," bill search and legislative information, 2025-2026 session (read Nov. 9, 2026); New York State Senate, "Senate Bill S8623B," bill page, 2025-2026 legislative session (read Nov. 9, 2026); Office of the New York State Attorney General, "New Yorkers Join Attorney General James in Celebrating the Passage of the One Fair Price Act," press release, June 10, 2026; Assemb. 9349-B, 2025-2026 Leg., Reg. Sess. § 1 (N.Y. 2025) (proposing amendments to N.Y. Gen. Bus. Law § 349-a) (text as reproduced by LegiScan); *Nat'l Retail Fed'n*, slip op. at 2.

25. Fair Price Protection Act § 5; Federal Trade Commission, "Surveillance Pricing," feature page (read Nov. 9, 2026); Federal Trade Commission, "FTC Launches Personalized Pricing and Compensation Inquiry," press release, October 28, 2026; Federal Trade Commission, "Press Releases," news page (read Nov. 9, 2026) (first page of the listing, releases from October 8 through November 6, 2026).

26. National Conference of State Legislatures, "Consumer Goods and Services Pricing and Junk Fees: 2026 Legislation," web page, updated August 20, 2026; Seattle, Wash., Ordinance 127515, § 1 (adding Seattle, Wash., Mun. Code §§ 7.35.040, 7.35.060); FTC, "FTC Launches Personalized Pricing and Compensation Inquiry."

Section 12. Conclusion

1. Fair Price Protection Act, ch. 55, §§ 2, 3, 7, 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)).

2. Office of the Governor, State of New Jersey, "Governor Sherrill Signs the Fair Price Protection Act to Shield New Jersey Grocery Shoppers from Surveillance Pricing," press release, July 23, 2026; Fair Price Protection Act §§ 2, 3(a)-(b).

3. Fair Price Protection Act §§ 3(a), 7; Consumer Fraud Act, N.J. Stat. Ann. § 56:8-19 (current through P.L.2026, c.30).

4. Federal Trade Commission Act § 6, 15 U.S.C. § 46; Robinson-Patman Act, 15 U.S.C. § 13; Sherman Act, ch. 647, §§ 1-2, 26 Stat. 209 (1890) (as amended through Pub. L. No. 108-237, June 22, 2004); Equal Credit Opportunity Act, 15 U.S.C. § 1691; Federal Trade Commission Act § 5, 15 U.S.C. § 45; Fed. Trade Comm'n, *Federal Trade Commission's Proposed Enforcement Policy Statement Regarding Personalized Pricing* 8 (Aug. 19, 2026); Regulations.gov, "Federal Trade Commission's Proposed Enforcement Policy Statement Regarding Personalized Pricing," docket FTC-2026-1057 and document FTC-2026-1057-0001 (docket read Nov. 9, 2026); S. 3387, One Fair Price Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov; H.R. 4640, Stop AI Price Gouging and Wage Fixing Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov; H.R. 4966, Stop Price Gouging in Grocery Stores Act of 2025, 119th Cong., "All Information (Except Text)," Congress.gov; *Nat'l Retail Fed'n v. James*, No. 25-cv-5500, slip op. at 28 (S.D.N.Y. Oct. 8, 2025); Federal Trade Commission, "FTC Launches Personalized Pricing and Compensation Inquiry," press release, October 28, 2026.

5. Protection From Predatory Pricing Act, ch. 154, § 1, 2026 Md. Laws (approved Apr. 28, 2026) (adding Md. Code Ann., Com. Law §§ 13-321(e), 13-408(a)); *id.* § 2; Act of June 4, 2026, Pub. Act No. 26-130, § 11(e) (Conn. 2026) (effective July 1, 2027); *id.* § 19; Act of June 2, 2026, Pub. Act No. 26-100, § 66 (Conn. 2026); Seattle, Wash.,

Ordinance 127515, §§ 1, 3 (Oct. 5, 2026) (Council Bill 121267) (adding Seattle, Wash., Mun. Code § 7.35.060, effective Sept. 1, 2027).

6. Assemb. Consumer Affs. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 (N.J. Mar. 19, 2026); Assemb. Com. & Econ. Dev. Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523 with Comm. Amendments, at 1-2 (N.J. May 14, 2026); Assemb. Appropriations Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, with Comm. Amendments (N.J. June 23, 2026); Assemb. Budget Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, with Comm. Amendments, at 1-2 (N.J. June 28, 2026); S. Com. Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. Mar. 16, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, at 1-3 (N.J. June 9, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 2d Reprint, at 1-3 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 3d Reprint, at 1-3 (N.J. July 2, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717 with Comm. Amendments, at 1-4 (N.J. June 24, 2026); S. Budget & Appropriations Comm., Statement to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, with Comm. Amendments, at 1-3 (N.J. June 28, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1-2 (N.J. June 25, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 1st Reprint, at 1-3 (N.J. June 30, 2026); Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, 2d Reprint, at 1-3 (N.J. July 2, 2026); New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session; Derek Kravitz, "Instacart's AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill, CR and Groundwork Collaborative Investigation Finds," *Consumer Reports*, December 9, 2025, updated December 22, 2025; Fair Price Protection Act § 9. The date is this report's arithmetic.

7. Fair Price Protection Act § 5; *id.* §§ 1-9.

Appendix. Tables and Figures

1. Assemb. 4085, 222d Leg. (N.J. 2026) (as introduced Feb. 19, 2026); S. 3612, 222d Leg. (N.J. 2026) (as introduced Feb. 19, 2026); New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for February 19, 2026*, vol. 38, no. 7, 2, 5; S. 3717, 222d Leg. (N.J. 2026) (as introduced Mar. 5, 2026); New Jersey Legislature, "Bill S3717," bill page, 2026-2027 session; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for March 5, 2026*, vol. 38, no. 10, 1; Assemb. 4523, 222d Leg. (N.J. 2026) (introduced text dated Mar. 10, 2026); New Jersey Legislature, "Bill A4523," bill page, 2026-2027 session; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for March 9, 2026*, vol. 38, no. 11, 1; S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg. (N.J. 2026) (as adopted by S. Com. Comm., Mar. 16, 2026); New Jersey Legislature, "Bill S3612/3717," bill page, 2026-2027 session; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for March 16, 2026*, vol. 38, no. 14, 1-2; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for March 19, 2026*, vol. 38, no. 15, 5; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for May 14, 2026*, vol. 38, no. 20, 4; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for June 23 & 24, 2026*, vol. 38, no. 31, 2, 4; Off. of Legis. Servs., Legislative Fiscal Estimate to S. Comm. Substitute for S. Nos. 3612 & 3717, at 1 (N.J. June 25, 2026); New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for June 26, 2026*, vol. 38, no. 32, 1; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for June 28, 2026*, vol. 38, no. 33, 1, 3; S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 1st Reprint (N.J. 2026); S. Comm. Substitute for S. Nos. 3612 & 3717, 222d Leg., 2d Reprint (N.J. 2026); New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for June 30, 2026*, vol. 38, no. 34, 2-4, 8, 16; New Jersey Office of Legislative Services, Office of Public Information, *New Jersey Legislative Digest for September 10, 2026*, vol. 38, no. 35, 8; Fair Price Protection Act, ch. 55, 2026 N.J. Laws (approved July 23, 2026) (codification pending) (enacted text as printed in Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 3d Reprint (N.J. 2026)); New Jersey Legislature, "Bill A4085/4523," bill page, 2026-2027 session; New Jersey Legislature, chapter laws index, year 2026; Fair Price Protection Act, ch. 55, 2026 N.J. Laws (approved July 23, 2026) (Advance Law); Fair Price Protection Act § 9; *id.* §§ 4(a), 5(b). Committee and floor tallies are the Legislature's. A commercial aggregator prints 9 not voting and 0

abstaining for the Assembly vote and 0 not voting for the Senate substitution, where the Legislature prints 8, 1, and 40; the Legislature's member-level roll call supports its own Assembly figures, and the Legislative Digest for June 30, 2026 prints the floor votes as "(51-20-1)" and "(22-14)"; the official journals were not obtained. LegiScan, "NJ A4085, 2026-2027, Regular Session"; New Jersey Legislature, "Bill A4085/4523"; *Legislative Digest for June 30, 2026*, 2, 8. The Senate second reprint's match with the third reprint is this report's comparison (Section 4.2). The dates from February 1, 2027 onward are this report's arithmetic. Taking the approval date, July 23, 2026, as the date of enactment, the first month next following is August 2026, the seventh is February 2027, and the 13th is August 2027, so section 4 takes effect on February 1, 2027 and the remainder of the Act on August 1, 2027; section 5, which takes effect "immediately," is read as taking effect on the approval date. The moratorium begins when section 4 takes effect, Fair Price Protection Act § 4(b); Assemb. Appropriations Comm., Statement to Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 1st Reprint, with Comm. Amendments (N.J. June 23, 2026); one year from February 1, 2027 is February 1, 2028, and six months before it is August 1, 2027.

2. Assemb. 4085; S. 3612; Assemb. 4523; S. Comm. Substitute (Mar. 16, 2026); Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg. (N.J. 2026) (as reported by Assemb. Consumer Affs. Comm., Mar. 19, 2026); Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 1st Reprint (N.J. 2026); Assemb. Comm. Substitute for Assemb. Nos. 4085 & 4523, 222d Leg., 2d Reprint (N.J. 2026); Fair Price Protection Act. A4523 was introduced on March 9, 2026, as the Legislature's bill history records; its introduced text bears March 10, 2026, New Jersey Legislature, "Bill A4523." S3717 (introduced March 5, 2026) is not shown; it matches A4523 except that it has no consumer action, sets the Attorney General's alternative recovery at $50,000, and renumbers the later sections accordingly, S. 3717 §§ 1-7. The Senate substitute's first reprint (June 24, 2026) and second reprint (June 28, 2026) are not shown; the first differs from the Assembly second reprint in the four respects set out in Section 4.2, and the second has the same operative text as the third reprint (this report's comparison), S. Comm. Substitute, 1st Reprint; S. Comm. Substitute, 2d Reprint.

3. *Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011); *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 447 U.S. 557, 562-71 (1980); *Zauderer v. Off. of Disciplinary Couns.*, 471 U.S. 626, 651 (1985); *Moody v. NetChoice, LLC*, 603 U.S. 707, 723-26, 736 n.5 (2024); *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356 (2023); *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970); *Nat'l Retail Fed'n v. James*, No. 25-cv-5500, slip op. at 17-21 (S.D.N.Y. Oct. 8, 2025); Brief of Amicus Curiae Chamber of Com. of the U.S. Supporting Plaintiff-Appellant and Reversal at 11-13, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Jan. 13, 2026); Brief of the Elec. Privacy Info. Ctr. as Amicus Curiae in Support of Defendant-Appellee at 34, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir. Feb. 17, 2026); Tyler Fields, NetChoice, to Nicholas P. Scutari, Craig J. Coughlin, M. Teresa Ruiz, and Louis D. Greenwald, "New Jersey A 4085/S 3612, Fair Price Protection Act: Testimony in Opposition," June 30, 2026, 3; Federal Arbitration Act, 9 U.S.C. § 2; *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 (2011); *Viking River Cruises, Inc. v. Moriana*, 596 U.S. 639, 653 n.4 (2022); *Atalese v. U.S. Legal Servs. Grp., L.P.*, 219 N.J. 430, 447 (2014); *TransUnion LLC v. Ramirez*, 594 U.S. 413 (2021); Communications Act of 1934 § 230, 47 U.S.C. § 230(c)(1), (e)(3); Stop AI Price Gouging and Wage Fixing Act of 2025, H.R. 4640, 119th Cong. § 4 (2025); One Fair Price Act of 2025, S. 3387, 119th Cong. §§ 1-3 (2025); Fair Price Protection Act §§ 2-7.

4. Model labels are this report's classification. New Jersey: Fair Price Protection Act §§ 2-5, 7, 9; New Jersey Legislature, "Bill A4085/4523"; the effective dates are this report's arithmetic from section 9 and the approval date (Section 11). Maryland: Protection From Predatory Pricing Act, ch. 154, § 1, 2026 Md. Laws (approved Apr. 28, 2026) (adding Md. Code Ann., Com. Law §§ 13-321(a)-(e), 13-322 (struck), 13-408(a), 13-411(a)); *id.* § 2. Connecticut: Act of June 4, 2026, Pub. Act No. 26-130, §§ 11, 19 (Conn. 2026); Act of June 2, 2026, Pub. Act No. 26-100, §§ 44, 66 (Conn. 2026); An Act Concerning Consumer Privacy and Protection, Pub. Act No. 26-64, § 11 (Conn. 2026) (approved May 27, 2026). New York statute: N.Y. Gen. Bus. Law § 349-a(1)-(4) (McKinney 2025) (added by Act of May 9, 2025, ch. 58, pt. X, § 1, 2025 N.Y. Laws); Assemb. 9349-B, 2025-2026 Leg., Reg. Sess. § 1 (N.Y. 2025) (proposing amendments to N.Y. Gen. Bus. Law § 349-a) (text as reproduced by LegiScan); *Nat'l Retail Fed'n*, slip op. at 2, 28; Chamber Amicus Br. at 23; EPIC Amicus Br. at 3; Docket, *Nat'l Retail Fed'n v. James*, No. 25-2818 (2d Cir.) (CourtListener RECAP docket, last updated October 19, 2026), entry 67; United States Court of Appeals for the Second Circuit, "Oral Arguments," search page (No. 25-2818, argued Oct. 19, 2026); Office of the New York State Attorney General, "Attorney General James Warns New Yorkers About Algorithmic Pricing as New Law Takes Effect," consumer alert, November 5, 2025. New York bill: Assemb. 9349-B §§ 1, 3; New York State Assembly, "A09349 Summary" and "A09349 Actions," bill search and legislative information, 2025-2026 session (read Nov. 9, 2026); S. 8623-B, 2025-2026 Leg., Reg. Sess. §§ 1, 3 (N.Y. 2025) (proposing amendments to N.Y. Gen. Bus. Law § 349-a); Office of the New York State Attorney General, "New Yorkers Join Attorney General James in Celebrating the Passage of the One Fair Price Act," press release, June 10,

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About This Report

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Statement of conventions. Citations follow the notes and bibliography system of *The Chicago Manual of Style*, 18th edition (2024). Legal authorities are cited in accordance with *The Bluebook: A Uniform System of Citation*, 22nd edition (2025), using the typeface conventions of its Bluepages. Web addresses appear in the Bibliography, not in the notes. The Fair Price Protection Act was enacted as P.L.2026, c.55, approved July 23, 2026; its text is quoted from the Third Reprint of the Assembly Committee Substitute for Assembly Nos. 4085 and 4523, and the session law page and codified section numbers are omitted until the chapter law is published; the Advance Law the Legislature has posted prints the same text and, in its margin, a range of codified section numbers (Section 2.3). Citation elements that no source establishes are omitted rather than supplied by inference. The notes are endnotes, numbered anew in each section and collected in the Notes before the Bibliography; the first citation of a source in each section is given in full.

Currency. All legal, fiscal, and programmatic status stated in this report is current as of November 9, 2026, subject to the developments identified in Section 11, except where a statement is dated to an earlier reading of its record. Pending matters, including bills, appeals, proposed rules, and the Federal Trade Commission's proposed policy statement, are current only to the latest record reviewed for each.

Vote tallies. Vote tallies are reported as the Legislature's bill pages print them. The yes, no, and abstaining figures of the floor tallies match those in the Office of Legislative Services' Legislative Digest for June 30, 2026, which prints no not-voting figures, and each committee and floor tally matches the count of the member-level roll call on the bill pages. The official Journal of the Senate and Minutes of the General Assembly, which the Legislature provides on request, were not reviewed for this report, and the tallies have not been checked against them.

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