ARA

Surveillance Pricing of Groceries in New Jersey

Information current as of November 9, 2026

THE BOTTOM LINE

Beginning August 1, 2027, no person or business may set or vary the price of groceries in New Jersey based on a shopper's personal data. The Fair Price Protection Act, P.L.2026, c.55, was approved on July 23, 2026, but its ban is not yet in effect. Loyalty program and group discounts stay lawful if they meet the law's conditions. The Attorney General enforces the law; whether shoppers may also sue is an open question.

What the law requires

No pricing on personal data. The Act makes it an unlawful practice under New Jersey's Consumer Fraud Act to set or change grocery prices based, in whole or in part, on personal data: information linked or reasonably linkable to an identifiable shopper, including inferred data. It binds any person or business, of any size, and covers paper, cleaning, health and beauty, and pet products as well as food, but not food prepared for immediate consumption, such as restaurant meals.

What stays lawful. Prices may still differ with the reasonable cost of serving different customers, changing no more than once in 24 hours. Discounts open to a broad group, such as teachers or veterans, stay lawful if the eligibility rules are public and applied uniformly. Loyalty discounts stay lawful if shoppers opt in, all members get the same terms, and the program discloses its discounts and data practices.

Electronic shelf labels. From February 1, 2027, new use of electronic shelf labels, the digital price tags on shelves, is paused for one year, though existing labels may be repaired or replaced; the Innovation Authority must study them and report by August 1, 2027.

What it does not do. Stores need not tell shoppers that a price was tailored to them or keep pricing records, and the Act does not address how grocery or delivery workers are paid.

What is in effect and what is still open

The Act takes effect in stages. By the report's count, the study requirement took effect July 23, 2026, the label pause runs from February 1, 2027 to February 1, 2028, and the ban and the Attorney General's power to sue begin August 1, 2027. The Division of Consumer Affairs may write rules but need not; the report found none proposed as of November 9, 2026.

The biggest open question is whether shoppers can sue. The Act neither grants nor bars suits by shoppers, and no decision the report reviewed answers whether one who proves a measurable loss may sue under the Consumer Fraud Act, which awards triple damages and attorneys' fees; the report gives the strongest argument on each side without predicting the answer. This summary treats every statement about the ban's effects as a projection.

The numbers behind the law

By the numbers. These figures come from legislative records, federal and state agencies, and a published investigation, cited in full in the report:

51 to 20	**The final General Assembly vote on June 30, 2026,** with 8 members not voting and 1 abstaining. The Senate passed the bill 22 to 14 the same day, with 4 not voting.
0 of 16	**Documents in the law's enactment record that cite a study, dataset, survey, or price comparison on the practice it bans.** The count describes the documents, not what legislators knew.
3 in 4	**About three in four products were offered at different prices to different shoppers on Instacart** in a September 2025 test by Consumer Reports and Groundwork Collaborative, by up to 23 percent per item. Whether personal data set those prices was not established, and Consumer Reports later reported that Instacart stopped offering the technology.
739,593	**People receiving SNAP food benefits in New Jersey in June 2026,** in 402,893 households, as counted by the state's Division of Family Development. No source measures the grocery prices they pay.
$11.3 million	**State funds for the Division of Consumer Affairs in the FY2027 budget,** with no line for this Act. All six legislative fiscal estimates call the law's cost and revenue "indeterminate."

The stakes are highest for households with little room in their grocery budgets, including the roughly 1.5 million people, as of 2020, in the 50 areas the state designated as food deserts. The law names none of these groups, and the research disagrees on whether price-sensitive shoppers gain or lose. What it offers every shopper is disclosure: loyalty programs that rely on the exception must publish their terms and data practices.

Both sides of the question

Consistent with ARA's nonpartisan mandate, the report presents the case for and against on equal terms. **Supporters**, including the Governor, the Attorney General, and the United Food and Commercial Workers, back the law as a way to keep grocery prices from being set on shoppers' personal data; the New Jersey Institute for Social Justice warned that such pricing could worsen strain on low-income communities and communities of color. **Critics**, including the New Jersey Food Council, NetChoice, the Chamber of Progress, and the New Jersey Business and Industry Association, warn of fewer discounts, higher prices, lost loyalty programs, and vague definitions; none gave a cost figure, and some described provisions later dropped from the bill. **The research record** carries a caution for both sides: economists find that tailored pricing can help or hurt shoppers depending on the market, and no study has measured whether New Jersey grocery prices are individualized at all. The report states both sets of facts and lets readers weigh them.

Where New Jersey stands

Nothing is enforced yet. No enforcement action, lawsuit, rule, or study report under the Act appears in the records reviewed. The ban begins on August 1, 2027, which is also the deadline for the Innovation Authority's report.

No court has ruled on a ban like this one. In October 2025, a federal judge dismissed a First Amendment challenge to New York's law requiring a notice on prices set by an algorithm using personal data; the appeals court heard argument on October 19, 2026 and had not ruled as of November 9, 2026. New York requires disclosure, while New Jersey bans the practice.

No federal rule applies. No federal statute reviewed addresses consumer prices set on personal data. The Federal Trade Commission's August 2026 policy statement is a nonbinding proposal; public comment closed on September 25, 2026, and no final version had been issued as of November 9, 2026. In October 2026, the Commission also began a study of whether and how nine companies, including Instacart, Target, and Walmart, use personal data to set prices and, at ride-share and food-delivery firms, worker pay; it is an information-gathering study, not a rule. Three bills in Congress, one cosponsored by Senator Booker of New Jersey, have not moved past committee.

Other states, and one city, are acting. Maryland's law took effect on October 1, 2026, and Connecticut's takes effect on July 1, 2027; both bar private lawsuits. Seattle takes a different approach: its ordinance, whose rules take effect on September 1, 2027, will bar large grocers and grocery delivery services from adjusting prices based on tracking or analysis of shoppers' personal information and will let shoppers injured by a violation sue the largest grocers, large grocery-selling stores, and

delivery services. New York's legislature passed a ban in June 2026, but as of November 9, 2026, the report found no record that the bill had been sent to or acted on by the Governor.

A practical step before the ban begins

If you shop for groceries online or use a store loyalty card, keep receipts and dated screenshots of the prices you are shown: the law does not require stores to disclose tailored prices or to keep pricing records, so any future claim would likely depend on records like these. Grocers and delivery services, including small independents, should check their pricing and discounts against the law's three exceptions before August 1, 2027. The law's text is on the Legislature's bill page for A4085/4523 at njleg.state.nj.us, and the Division of Consumer Affairs posts rule proposals at njconsumeraffairs.gov.

About this summary. Agard Research Associates Inc. (ARA) is a nonpartisan, nonprofit research institute in New Jersey. This document summarizes the full ARA report, New Jersey's Prohibition on Surveillance Pricing of Groceries (September 2026; updated November 2026), which contains complete citations for every figure above. It neither supports nor opposes any party, candidate, or legislation, and it is general information, not legal advice. Version 1.2, November 2026.

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