

Surveillance Pricing

BY ALFRED NG, ROSMERY IZAGUIRRE | 03/05/2026 05:00 AM EST

PRO POINTS

- Lawmakers across the country are introducing legislation to restrict companies from setting individualized prices based on people's personal information.
- Tech lobbyists and the retail industry have pushed back against these regulations, arguing they would prevent companies from offering discounts to customers.
- Democrats are making such regulations a part of their messaging on affordability heading into the midterm elections, specifically targeting many of their bills to focus on grocery prices.
- Republican lawmakers have challenged companies about their use of personal data to set prices, but have not supported legislation to outlaw the practice.

How We Got Here

A preliminary report on surveillance pricing conducted by the Federal Trade Commission in 2024 found that companies are using algorithms to automatically set prices for people based on their personal data. The study warned these algorithms could potentially set higher prices for people predicted to spend more based on their personal data, such as a new parent shopping for baby formula.

The findings alarmed several state lawmakers, who introduced legislation to ban the practice, but those measures failed to pass in California, Illinois,

Georgia and Colorado after tech and retail industry lobbyists argued these bills would prevent companies from offering customers personalized discounts and loyalty reward programs.

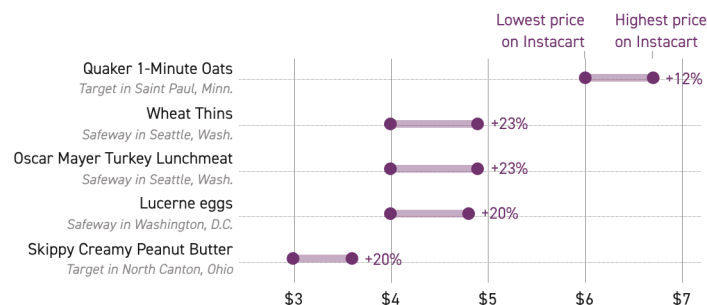
New York is the only state to currently regulate surveillance pricing. Its Algorithmic Pricing Disclosure Act went into effect last November and requires companies to disclose when personal data is used to set prices.

The National Retail Federation challenged New York's disclosure requirement last July, arguing the disclosures violated their free speech rights. A federal judge dismissed the complaint in October, ruling that the government had a legitimate interest in ensuring customers are informed about prices.

In Washington, both Republicans and Democrats raised concerns about surveillance pricing, but the two sides have so far failed to come together on any legislation. Sen. Josh Hawley (R-Mo.) criticized airlines for using data to set prices at a hearing last September, while Democrats called for an investigation into Instacart in December after reports that the company set different prices for the same products.

Instacart charged some customers up to 23 percent more for the same grocery items

Instacart price variation for individual items in September 2025, by store and location



Note: The study was conducted with 193 participants: 179 participated online, and 14 participated in person.

Source: Groundwork Collaborative, Consumer Reports

Rosmery Izaguirre/POLITICO

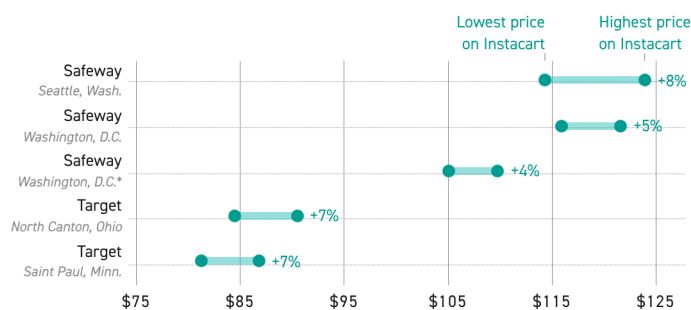
No Republicans have signed onto any federal bills to regulate surveillance pricing.

Advocacy groups such as the Electronic Privacy Information Center, Consumer Reports and Groundwork Collaborative are also pushing lawmakers and regulators to prevent companies from using algorithms and people's data to set personalized prices.

A coalition of consumer advocacy groups sent a letter to the FTC on Feb. 23 asking the agency to establish rules on how people's data can be used for “commercial profiling and price manipulation,” with concerns that the practice could become widespread unless it is regulated soon.

Instacart charged some customers up to 8 percent more for the same basket of groceries

Instacart price variation for basket totals in September 2025, by store and location



*Includes in-person participants only.

Note: The study was conducted with 193 participants: 179 participated online, and 14 participated in person.

Source: Groundwork Collaborative, Consumer Reports

Rosmery Izaguirre/POLITICO

What's Next

State and federal lawmakers are revisiting proposals to ban surveillance pricing this year in New York, Oklahoma, Washington, Arizona, Nebraska, Maryland, Tennessee and Pennsylvania.

The United Food and Commercial Workers International Union, which represents 1.2 million food and commercial workers, has also thrown its support behind the bills.

The House and Senate both have bills introduced by Democrats that would prevent companies from using people's personal data to set prices. No Republicans have signed onto those bills, meaning they are unlikely to advance, and the tech and retail industry lobbies are claiming such

regulations would actually lead to higher costs and prevent companies from offering discounts, according to testimony from a Pennsylvania hearing obtained by POLITICO.

“The difficulty of getting this right has been demonstrated in other states, where similar proposals were ultimately withdrawn or rejected on a bipartisan basis after months of deliberation,” TechNet's executive director for the Pennsylvania and Mid-Atlantic region Margaret Durkin said in a written testimony to Pennsylvania's lawmakers.

Probes from state attorneys general also show that enforcers are taking this issue seriously. While California does not have a law banning surveillance pricing, Attorney General Rob Bonta said he is investigating potential violations of the state's Consumer Privacy Act, as well as anti-monopoly and civil rights laws.



POWER PLAYERS

- **Rep. Rashida Tlaib:** The Michigan Democrat is the lead House sponsor for the Stop Price Gouging in Grocery Stores Act, with 50 co-sponsors supporting the legislation. Sens. Ben Ray Luján (D-NM) and Jeff Merkley (D-Ore.) introduced a companion bill in February.
- **Sen. Josh Hawley:** The senator from Missouri has been the only Republican to publicly challenge companies over surveillance pricing. He has not co-sponsored any bills, but is an indicator that this could be a bipartisan concern.
- **TechNet:** The trade group, which represents companies including Google, Amazon, Meta and Apple, is lobbying against surveillance pricing bills in states.
- **United Food and Commercial Workers International Union:** The union, which represents 1.2 million retail and grocery store employees, is campaigning across states to get lawmakers to support a ban against surveillance pricing.
- **Lindsay Owens:** The executive director of Groundwork Collaborative, which published a report claiming that Instacart charged different prices for the same products through its app. The report resulted in Instacart ending its AI pricing tests, and led to lawmakers calling for legislation regulating surveillance pricing.