

Date of Hearing: April 29, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

AB 2564 (Ward) – As Amended April 16, 2026

Policy Committee:	Privacy and Consumer Protection	Vote:	10 - 4
	Judiciary		8 - 3

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill prohibits retailers from engaging in “surveillance pricing,” defined as setting or offering a customized price for a good for a specific consumer or group of consumers based on personally identifiable information collected through electronic surveillance technology, and authorizes public prosecutors to bring civil penalty actions for violations.

Specifically, this bill:

- 1) Authorizes the Attorney General, city attorneys of cities with populations over 750,000, county counsels, and specified other public prosecutors to bring civil actions, with civil penalties up to \$12,500 per violation; treble penalties plus disgorgement of revenues for intentional violations; and reasonable attorney’s fees and costs.
- 2) Authorizes consumers to bring private actions for injunctive relief only, with recovery of reasonable attorney’s fees and costs.
- 3) Provides that each violation with respect to an individual consumer or transaction constitutes a separate violation.

FISCAL EFFECT:

- 1) Costs (General Fund) to the Department of Justice of an unknown, but potentially significant, amount to investigate and enforce violations of the bill by the Attorney General’s Office. Actual costs will depend on the number of enforcement actions pursued and the resources required to investigate alleged violations, including analysis of retailer pricing systems, algorithmic review, and litigation. Civil penalty revenue recovered may partially offset enforcement costs.
- 2) Cost pressures (Trial Court Trust Fund, General Fund) of an unknown but potentially significant amount to the courts for processing civil penalty actions brought by public prosecutors and consumer-brought injunctive actions. Actual costs will depend on the volume of enforcement actions filed and the complexity of each case. It generally costs approximately \$1,000 to operate a courtroom for one hour. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a demand for increased funding for courts from the General Fund. The state budget provides an annual General Fund backfill to the Trial Court Trust Fund to offset revenue reductions, totaling approximately \$117.3 million in 2025-26.

The Legislative Analyst's Office recently warned of General Fund structural deficits of around \$35 billion per year beginning in the 2027-28 fiscal year.

COMMENTS:

1) **Purpose.** According to the author:

With the rise of artificial intelligence and data collection, businesses increasingly use personal data to set prices, often leading to unfair and discriminatory pricing practices. This legislation aims to establish safeguards that ensure transparency, fairness, and consumer protections in pricing algorithms. AB 2564 will prohibit the practice of surveillance pricing by making it unlawful for businesses to use personal data when charging different prices for the same product, or service whether online or during in-store checkout.

2) **Background.** Surveillance pricing refers to the practice of using consumer data, including location, device type, browsing history, purchase patterns, and behavioral profiling, to set individualized prices for the same good based on an algorithmic assessment of each consumer's perceived willingness or ability to pay. The practice is distinct from dynamic pricing, which adjusts prices uniformly for all consumers based on market conditions, demand, or inventory. A January 2025 Federal Trade Commission preliminary report found that at least 250 businesses had adopted technologies capable of implementing surveillance pricing. Investigative reporting has documented examples in hotel booking (prices varied by \$200 to \$500 per night based on the consumer's IP address location), test preparation (higher prices in ZIP codes with higher Asian populations), travel aggregation (higher prices steered to Mac users), and in-store retail (app prices raised when a consumer's device entered a store parking lot).

California's existing consumer privacy framework under the California Consumer Privacy Act (CCPA) provides rights around data collection, disclosure, and the sale of personal information, but does not prohibit businesses from using lawfully collected data to set individualized prices. The CCPA permits differential pricing based on the "value provided to the business by the consumer's data" so long as the practice is disclosed. This bill closes that gap by prohibiting individualized pricing based on surveillance-collected data, while preserving discounts that are publicly disclosed, uniformly applied, and either available to any consumer meeting publicly disclosed criteria or available to broadly defined groups or affirmatively-enrolled loyalty program members.

3) **Support and Opposition.** The bill is supported by a broad coalition of consumer protection, privacy, and labor organizations. Supporters argue that surveillance pricing allows companies to extract maximum profit from each consumer based on inferred willingness to pay, disproportionately harming lower-income Californians who already face the highest costs of living in the state. The bill is opposed by a coalition of business and industry organizations. Opponents argue that the bill's definitions are overbroad and will create litigation risk for retailers offering common discount programs. They also argue that the bill's absence of an intent requirement for the base civil penalty creates pass-through liability for retailers who purchase data from third parties without knowing how that data was collected.

- 4) **Related Legislation.** AB 446 (Ward), of the 2025-26 Session, was substantively similar to this bill when it was heard in the Assembly. AB 446 was never referred to Assembly Appropriations, progressed to the Senate floor, and was substantially amended in Senate Appropriations to apply only to grocery establishments. The author moved the amended bill to the Senate inactive file.

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