THIRD READING

Bill No: AB 2564
Author: Ward (D), et al.
Amended: 8/21/26 in Senate
Vote: 21

SENATE PRIV., DIGITAL TECH. & CONS. PROT. COMMITTEE: 5-2, 6/22/26
AYES: Gonzalez, McNerney, Padilla, Reyes, Wiener
NOES: Jones, Ochoa Bogh
NO VOTE RECORDED: Cabaldon, Umberg

ASSEMBLY FLOOR: 42-21, 5/27/26 - See last page for vote

SUBJECT: Surveillance pricing

SOURCE: California Federation of Labor Unions
Consumer Reports
TechEquity Action

DIGEST: This bill prohibits "surveillance pricing," as defined, except as provided.

Senate Floor Amendments of 8/21/26 remove references to "electronic surveillance technology," add a series of additional exemptions from the bill, loosen some disclosure requirements, and clarify its interaction with other laws.

Senate Floor Amendments of 8/17/26 refine the definition of "surveillance pricing" and reframe and expand the exclusions therefrom.

ANALYSIS:

Existing law:

1) Establishes the California Consumer Privacy Act (CCPA), which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict

the sale of information; and protection from discrimination for exercising these rights. It places attendant obligations on businesses to respect those rights. (Civil (Civ.) Code § 1798.100 et seq.)

2) Provides that the secret payment of allowances of rebates, refunds, commissions, or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers upon like terms and conditions, to the injury of a competitor and where such payment or allowance tends to destroy competition, is unlawful. (Business (Bus.) & Professions (Prof.) Code § 17045.)

3) Establishes a general prohibition on unfair competition, known as the Unfair Competition Law (UCL), which covers any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising, and any act prohibited under the False Advertising Law. (Bus. & Prof. Code § 17200.)

This bill:

1) Prohibits retailers from engaging in "surveillance pricing."

2) Defines "surveillance pricing" as either of the following:

   a) Offering or setting a customized price for a good if for a specific consumer or group of consumers, based, in whole or in part, on personally identifiable information, including personally identifiable information that is gathered, purchased, or otherwise acquired from a third party. The price must be determined, at least in part, through the use of any technology or computational process that uses statistical modeling, data analytics, AI, or other data processing techniques.

   b) Random variations in prices to different consumers using a website, mobile application, or comparable online technology.

3) Provides that a retailer does not engage in surveillance pricing by doing any of the following:

   a) Offering a customized discounted price to a consumer who is terminating or taking steps to terminate a subscription or membership with the retailer.

b) Offering a customized discounted price to reestablish a consumer as a member, rewards program, or subscription enrollee if the retailer can demonstrate specified conditions.

c) Offering a customized discounted price on a specific good to a consumer based on the consumer's prior purchase history if the retailer can demonstrate specified conditions.

d) Offering a customized discounted price on a specific good to a consumer based on the consumer's saved goods if the retailer can demonstrate specified conditions.

e) Offering a customized discounted price to a consumer who is a first-time visitor to a retailer's website or application if the retailer can demonstrate specified conditions.

f) Offering a customized discounted price to a consumer for items the consumer has left in their online shopping cart if the retailer can demonstrate specified conditions.

g) Offering a customized discounted price on equal terms if all of the following apply:

   i) The customized discounted price is offered to any of the following groups of consumers:

      (1) Consumers who affirmatively purchase or enroll in a loyalty, membership, or rewards program.

      (2) Consumers who belong to a broadly defined group, as specified.

      (3) Consumers who meet eligibility criteria, as specified.

   ii) If the retailer exclusively offers a customized discounted price in stores, the current eligibility criteria, available customized discounted prices, and any conditions for receiving or earning the customized discounted price are clearly and conspicuously disclosed in all stores where the discount is available, as provided.

   iii) If the retailer offers a customized discounted price online, the current eligibility criteria, available customized discounted prices, and any conditions for receiving or earning the customized discounted price are clearly and conspicuously disclosed on the retailer's website while the customized discounted price is offered. Disclosure is not required when the customized price is offered through a third-party promotional program, as provided.

iv) The customized discounted price is made available on equal terms to all consumers who meet the disclosed eligibility criteria.

h) Setting a price or specific terms to extend credit, refusing to extend credit on specific terms, or refusing to enter into a transaction with a specific consumer or commercial enterprise, if the retailer is acting based on information contained in a consumer or commercial credit report, as provided.

4) Defines the relevant terms.

5) Makes any waiver void and unenforceable.

6) Finds and declares that it furthers the purposes of the California Privacy Rights Act.

Comments

Companies regularly and systematically collect, analyze, share, and sell the personal information of consumers. While this data collection can provide consumers various benefits, public fears about the widespread, unregulated amassing of personal information have only grown since privacy was made a part of California's Constitution. One particularly troubling area of this systematic data collection is utilization of this information to engage in differential pricing for consumers based on various elements of that information.

This bill prohibits this practice of "surveillance pricing," defined as offering or setting a customized price for a good for a specific consumer or group of consumers, based, in whole or in part, on personally identifiable information, including personally identifiable information that is gathered, purchased, or otherwise acquired from a third party. This bill provides that a retailer does not engage in surveillance pricing if a customized discount price is offered under a series of specified circumstances.

It should be noted that several other states are also taking action to combat surveillance pricing. Legislation has been introduced and passed through legislatures in four other states. This increased movement toward regulating this practice is driven in part by polling that suggests consumers find surveillance pricing “fundamentally unfair” and support bans.[1]

For a more thorough overview, please see the Senate Privacy, Digital Technologies, and Consumer Protection Committee analysis of this bill, which is incorporated herein by reference.

This bill is sponsored by Consumer Reports, TechEquity, and the California Federation of Labor Unions. It is supported by a wide array of labor, advocacy, and low-income services groups, including the Western Center on Law and Poverty, Equal Rights Advocates, and LGBT Tech. It is opposed by various industry groups, including TechNet and Chamber of Progress.

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.”

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 8/17/26)
California Federation of Labor Unions (co-source)
Consumer Reports (co-source)
TechEquity Action (co-source)
ACLU Cal Action
Alliance of Californians for Community Empowerment Action
American Federation of Musicians, Local 7
American Federation of State, County, and Municipal Employees, AFL-CIO
Buen Vecino
California Food and Farming Network
California Nurses Association
California School Employees Association
California Work and Family Coalition
Cameo Network

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[1] *Strong Majority of Americans Want Corporations to End Deceptive Surveillance Pricing Schemes* (May 21, 2026) Groundwork Collaborative, **https://groundworkcollaborative.org/news/strong-majority-of-americans-want-corporations-to-end-deceptive-surveillance-pricing-schemes/**. All internet citations are current as of August 18, 2026.

Center for AI and Digital Policy
Center for Democracy and Technology
Center on Policy Initiatives
CFT- a Union of Educators & Classified Professionals
Consumer Attorneys of California
Consumer Federation of America
Consumer Federation of California
Consumer Watchdog
Courage California
Economic Security California Action
Electronic Frontier Foundation
Electronic Privacy Information Center
End Child Poverty California Powered by Grace
Equal Rights Advocates
Friends Committee on Legislation of California
Greenlining Institute
Indivisible Ca: Statestrong
Institute for Local Self-reliance
Justice2jobs Coalition
Kapor Center Advocacy
LA Defensa
Los Angeles Alliance for a New Economy
LGBT Tech
Nextgen California
Oakland Privacy
Parent Voices California
Privacy Defense Alliance
Privacy Rights Clearinghouse
Public Law Center
Secure Justice
SEIU California
Sister Warriors Freedom Coalition
Smart - Transportation Division
Tech Oversight California
Techtonic Justice
UDW/AFSCME Local 3930
Ultraviolet Action
Western Center on Law & Poverty
1 Individual

OPPOSITION: (Verified 8/17/26)

Association of National Advertisers
Building Owners and Managers Association of California
CalBroadband
California Business Properties Association
California Chamber of Commerce
California Fuels and Convenience Alliance
California Grocers Association
California Restaurant Association
California Retailers Association
Chamber of Progress
Civil Justice Association of California
Greater Coachella Valley Chamber of Commerce
Greater Conejo Valley Chamber of Commerce
Greater San Fernando Valley Chamber of Commerce
Internet.works
NAIOP California
Orange County Business Council
Technet
USTelecom - the Broadband Association

ARGUMENTS IN SUPPORT: A coalition of legal services organizations, labor associations, civil rights organizations, and consumer, privacy, and family advocacy groups, including SEIU California write:

> California consumers face a new and growing threat to fair pricing. Companies now possess the technology to collect vast amounts of consumer data and deploy artificial intelligence to charge each shopper a personalized price — one calibrated not to the market, but to the maximum that an individual can be made to pay. This practice, known as surveillance pricing, exploits detailed consumer profiles built from purchase histories, location data, browsing habits, and more.
>
> Investigations have already uncovered real-world harms. Consumer Reports revealed that Kroger built 60-plus page profiles for individual consumers from loyalty program data to infer willingness to pay. … A SFGate investigation found that the most popular hotel booking sites show prices substantially higher to San Franciscans using their online booking platforms compared with users browsing from less affluent cities, like Phoenix and

Kansas City. These are not isolated incidents — they reflect an industry trend. …

While California consumers benefit from some privacy protections under the California Consumer Privacy Act, no existing federal or state law prohibits companies from using the data they collect to charge consumers individually different prices. AB 2564 closes this gap. Without legislative intervention, surveillance pricing will become the industry standard, disproportionately harming lower-income Californians who already face the highest costs of living in the nation and have the fewest alternatives.

AB 2564 protects sensible, transparently offered discounts—including for loyalty programs. The bill's exemptions permit a vast array of discounts, and transparency provisions help ensure that discounts are not secretly discriminatory. The bill does not restrict businesses from offering lower prices — it prevents them from secretly charging higher ones based on personal data profiles.

The right to fair and affordable pricing should not be a privilege for the few but a fundamental protection for all Californians.[2]

ARGUMENTS IN OPPOSITION: A coalition led by the California Chamber of Commerce asserts:

AB 2564 prohibits "surveillance pricing," which it loosely defines as "offering or setting a customized price for a good or service[3] for a specific consumer or group of consumers, based, in whole or in part, on personally identifiable information collected through electronic surveillance technology..."

Notably, "electronic surveillance technology" is not actually defined in AB 2564. Instead, the bill only provides a list of examples that are "included," but no description that would help a covered entity determine if the bill applied to the consumer information in their possession. A metaphor helps

[2] *See Consumer Reports Investigation Uncovers Kroger's Widespread Data Collection* (May 21, 2025) Consumer Reports, **https://www.consumerreports.org/media-room/press-releases/2025/05/consumer-reports-investigation-uncovers-krogers-widespread-data-collection-of-loyalty-program-members-to-create-secret-shopper-profiles/**; Keith A. Spencer, *Hotel booking sites show higher prices to travelers from Bay Area* (February 3, 2025) SFGate, **https://www.sfgate.com/travel/article/hotel-booking-sites-overcharge-bay-area-travelers-20025145.php**.
[3] The definition in the bill does not include "services."

illustrate the problem with definitions that only say what they "include." Imagine trying to define what is a "pet" - but the only definition is "Pets includes dogs or cats." Such a definition provides no helpful guidance for anything not listed, such as bird or fish. Are those "pets?" Without a descriptive definition, it is impossible to know. Under AB 2564, the term "electronic surveillance technology" has the same problem – the definition does not describe what makes something an electronic surveillance technology. Instead, it only provides examples. Without a descriptive definition, employers will be left guessing what technologies are or are not covered by the bill.

ASSEMBLY FLOOR: 42-21, 5/27/26
AYES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Caloza, Connolly, Elhawary, Fong, Gabriel, Garcia, Mark González, Haney, Harabedian, Hart, Jackson, Kalra, Lee, Lowenthal, Muratsuchi, Ortega, Pellerin, Ramos, Ransom, Michelle Rodriguez, Rogers, Schiavo, Schultz, Sharp-Collins, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas
NOES: Alanis, Ávila Farías, Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Flora, Gallagher, Jeff Gonzalez, Hadwick, Hoover, Johnson, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa, Wallis
NO VOTE RECORDED: Bains, Calderon, Carrillo, Gipson, Irwin, Krell, McKinnor, Nguyen, Pacheco, Papan, Patel, Petrie-Norris, Quirk-Silva, Celeste Rodriguez, Blanca Rubio, Solache, Soria

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