

Minnesota HF 3794

TESTIMONY IN OPPOSITION

March 4, 2026

Minnesota Legislature Minnesota House Commerce Finance and Policy Committee

Dear Chairs O’Driscoll, Koegel, Vice-Chairs Elkins and Perryman and Members of the Committee:

NetChoice, a trade association of leading internet companies committed to free expression and free enterprise online, appreciates the opportunity to provide testimony on HF 3794. We respectfully urge the Committee to **oppose** this legislation, which, while well-intentioned, would harm the very people it aims to protect, impose significant burdens on small businesses operating in Minnesota, and likely eliminate the personalized discounts and deals that consumers count on every day.

The Definitions in this Bill Are Dangerously Overbroad

The term "surveillance data" as defined in this bill covers virtually any information a business might know about a customer — including data the customer voluntarily shared, data derived from a simple purchase history, or even ordinary inferences drawn from aggregate trends. Under this definition, a loyalty program that offers a returning customer a personalized discount could be construed as unlawful. A staffing platform that uses work history to match a contractor with a job at a particular pay rate could face liability. The bill's authors may not have intended these outcomes, but the text invites precisely this interpretation.

Similarly, the definition of "automated decision system" — which includes any "system, software, or process that uses computation" — is so capacious that it would encompass standard spreadsheet-based pricing models and basic HR software used by businesses of every size. This is not a narrow prohibition on predatory AI-driven price gouging; it is a sweeping mandate that would regulate everyday commerce.

The Bill Would Harm the Workers and Consumers It Purports to Protect

Data-informed pricing is not inherently predatory. Rather, it is often how consumers access lower prices. Airline and hotel comparison tools, insurance marketplaces, and e-commerce platforms use consumer data to surface competitive options and deliver savings. Eliminating the ability to tailor pricing to individual circumstances does not guarantee that everyone pays less; it frequently means everyone pays more as businesses adopt blunt, risk-adjusted pricing strategies that disadvantage lower-risk consumers.

For workers, the bill's wage discrimination provisions could paradoxically harm gig workers and independent contractors who currently benefit from algorithmic transparency about how their pay is calculated. Replacing clear, data-driven pay formulas with opaque human discretion is not obviously an improvement in fairness.

Large technology companies have the legal and engineering resources to adapt to a complex new regulatory framework. Smaller Minnesota businesses — regional retailers, local staffing agencies, community banks — do not. The bill's publication, correction, and disclosure requirements in Subdivision 4 will require ongoing legal review and technical infrastructure that imposes asymmetric costs on smaller operators, concentrating market power among the very large firms this bill seems most concerned about.

Conclusion

NetChoice urges the committee to pause H.F. 3794 and engage in a stakeholder process to develop a more precisely targeted approach. Such an approach should address genuine harms like exploitative surge pricing during emergencies or wage-setting that correlates with protected class characteristics, without sweeping beneficial personalization, loyalty programs, and small-business pricing practices into a new liability regime that will cost consumers the discounts they depend on. We stand ready to work constructively toward that goal.

For these reasons, we respectfully ask the Committee to oppose HF 3794 in its current form.

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NetChoice is a trade association that works to protect free expression and promote free enterprise online.

¹ The views of NetChoice expressed here do not necessarily represent the views of all NetChoice members.