



**To:** House Commerce Finance and Policy Committee

**From:** Hospitality Minnesota Public Policy Committee

**Hearing Date:** March 4, 2026

**Agenda Items/Bills:** HF 3408 (Surveillance-Based Price Setting Prohibited) / HF 3794 (Prohibiting Surveillance-Based Price and Wage Discrimination)

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Hospitality Minnesota appreciates the Committee's engagement on these bills. The concerns driving this legislation are legitimate – consumers and workers deserve protection from systems that exploit personal data without their knowledge. We share that goal.

Our comments are submitted to ensure the bills are precisely targeted at the harmful conduct the Legislature intends to address, without inadvertently capturing the transparent, uniform, and operationally necessary business practices that Minnesota's restaurants and hospitality businesses rely on every day.

**Overall Request and Recommendation:**

Refine the definition of "retail food store" in HF 3408 to clearly exclude traditional restaurants, and tailor HF 3794 to focus on individualized decisions based on sensitive surveillance data – not routine operational tools.

**Key Points:**

- Without clarification, traditional restaurants could be inadvertently swept into a regulatory framework not designed for their operational model.
- The bills should be narrowed to apply to individualized wage or pricing decisions based on sensitive personal characteristics, or behavioral surveillance, unrelated to bona fide job performance, legitimate business costs, or first-party operational data.
- Clear statutory language, safe harbors for transparent and uniformly applied practices, and carefully defined terms will reduce uncertainty, ensuring enforcement targets the conduct the Legislature intends to regulate.

**I. Shared Objectives**

Hospitality Minnesota supports transparency in consumer transactions and fair, non-discriminatory compensation practices. We do not support the use of opaque systems that exploit sensitive personal data unrelated to legitimate business purposes. The public policy objective of preventing harmful surveillance-based discrimination is serious and worthy of thoughtful legislative attention.

What we are asking is that the tools Minnesota restaurants rely on every day – menu-based pricing, scheduling software, loyalty programs – are not pulled into a framework designed for a very different problem.

## **II. Economic Context**

Restaurants operate on some of the narrowest margins of any industry. Nationally, eating and drinking places directly contribute \$1.54 trillion in economic output, employ nearly 15 million people, and generate more than \$508 billion in labor income. Including indirect and induced effects, total economic impact reaches \$3.66 trillion and 23 million jobs.

Labor costs as a percentage of restaurant sales are already running above historical averages, placing sustained pressure on profitability – particularly for small and independent operators. Any statutory framework affecting wage or pricing practices should account for this economic reality.

When legislation introduces compliance uncertainty, the burden lands hardest on the businesses that are already stretched the thinnest.

## **III. HF 3408 – Definition of “Retail Food Store”**

The bill defines “retail food store” as “a store that offers food for sale to the public, not including sales completed online.” As written, that definition includes every restaurant in Minnesota – which is almost certainly not the intent.

This bill appears aimed at in-store shelf pricing technologies used by grocery and supermarket retailers. Restaurants operate under an entirely different model: pricing is menu-based, publicly posted, and uniform for similarly situated customers. A restaurant does not use electronic shelf labels or real-time shelf-based price display systems. It has a menu.

We urge the Committee to refine this definition to exclude establishments whose primary business is the preparation and service of food for immediate consumption. That is a clean, clear line that preserves the bill’s purpose without creating unintended exposure for the restaurant industry.

## **IV. HF 3408 – Operational Considerations**

The bill’s existing exceptions for reasonable cost differences, publicly disclosed group discounts, and uniformly offered loyalty rewards are a good foundation. The Committee may also wish to ensure that:

- Transparent time-of-day pricing (e.g., lunch versus dinner menus), seasonal pricing, and event-based pricing remain clearly outside the scope of the prohibition.
- Uniform promotions, coupons, and loyalty programs offered on equal terms are expressly preserved.
- Operational technologies that improve price accuracy and reduce waste are not inadvertently restricted when they are not used to individualize prices based on sensitive surveillance data.

These are standard, transparent practices that should not require a compliance attorney to defend.

## **V. HF 3794 – Wage and Pricing Scope**

The bill defines wage to include not only pay rates but also scheduling, task assignment, bonuses, commissions, and other material terms affecting earnings. In a restaurant, nearly everything affects earnings – that is the nature of the business.

Restaurants routinely use forecasting software to align staffing with anticipated customer volume, drawing on sales history, seasonal demand, weather patterns, and employee availability. These systems rely on operational data, not personal surveillance. We recommend the bill be narrowed to focus specifically on individualized wage or pricing decisions based on sensitive personal characteristics or behavioral surveillance unrelated to bona fide job performance, legitimate business costs, or first-party operational data. That tailoring preserves the Legislature’s intent while ensuring routine scheduling and forecasting tools are not mischaracterized as wage discrimination.

## **VI. Implementation and Compliance**

Both bills impose compliance obligations relating to data accuracy, disclosure, and procedural safeguards. For large entities with dedicated compliance infrastructure, these obligations may be manageable. For small and independent restaurants – who represent the majority of Minnesota’s hospitality community – the complexity and potential litigation exposure may present disproportionate burdens. We encourage the Committee to weigh that reality as it considers final bill language.

## **VII. Conclusion**

Hospitality Minnesota respectfully urges refinement of the definition of “retail food store” in HF 3408 to clearly exclude traditional restaurants if that is the Legislature’s intent, and tailoring of HF 3794 to focus on individualized decisions based on sensitive surveillance data unrelated to bona fide job performance or legitimate business operations.

We are not asking the Legislature to abandon the goals of these bills – we are asking that the language be precise enough to achieve them.

Hospitality Minnesota stands ready to work collaboratively with the bill authors as deliberations continue. On behalf of our members, we are grateful for the opportunity to be part of this process.

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