



March 4, 2026

The Honorable Tim O'Driscoll
Co-Chair
House Committee on Commerce Finance
and Policy
Centennial Office Building, 2nd Floor
658 Cedar Street
St. Paul, MN 55155

The Honorable Erin Koegel
Co-Chair
House Committee on Commerce Finance
and Policy
Centennial Office Building, 5th Floor
658 Cedar Street
St. Paul, MN 55155

RE: Oppose HF 3408 - "Prohibition on Surveillance-Based Price Setting"

Dear Chair O'Driscoll, Chair Koegel, and members of the Committee:

On behalf of Chamber of Progress, a tech industry association supporting public policies to build a more inclusive society in which all people benefit from technological advances, **I respectfully urge you to oppose HF 3408, which would harm consumers in Minnesota.**

We share the legislature's concern about affordability. The cost of living is the top issue facing American families,¹ and we understand the impulse to ensure shoppers are getting a fair deal at the grocery store. But HF 3408 risks backfiring on the very families it aims to help. Its sweeping ban on "surveillance pricing" would jeopardize the digital coupons, loyalty rewards, and targeted deals that help Minnesota families stretch their grocery budgets. Its restrictions on electronic shelf labels would limit a technology that reduces food waste and keeps prices accurate, without any evidence that the technology has been used to harm consumers.

Personalized grocery pricing in practice: coupons, discounts, and savings that help Minnesota families

The term "surveillance pricing" suggests that grocery stores are using personal data to charge individual shoppers higher prices. But **despite widespread speculation, there is very little evidence that this is actually happening.** What grocers overwhelmingly use

¹ Erin Doherty, "New poll paints a grim picture of a nation under financial strain," *POLITICO*, Dec. 10, 2025, <https://www.politico.com/news/2025/12/10/poll-affordability-cost-of-living-00678076>.

consumer data for is the opposite: offering discounts, coupons, and targeted promotions that help families save money.

This should not be surprising. Grocery retail is intensely competitive. Across supermarkets, warehouse clubs, online delivery, and neighborhood markets, grocers compete vigorously for every sale. In a market where shoppers can compare prices with a few taps on their phone, using personal data to charge a customer more is a losing strategy.

Personalized pricing is already a familiar part of grocery shopping. In practice, data-driven grocery pricing looks like this:

- *Personalized coupons.* A parent who regularly buys children's cereal receives a discount when a new brand hits the shelves.
- *Senior, military, and student discounts.* A grocer verifies group membership and offers a percentage off, helping stretch fixed incomes and tight budgets.
- *New parent deals.* A customer starts buying diapers and formula, and the store sends targeted coupons on baby essentials.
- *Win-back promotions.* A delivery service notices a customer hasn't ordered in weeks and sends a discount on their most-purchased items.
- *Budget-stretch deals.* A grocer identifies shoppers who consistently buy store-brand products and sale items and directs additional savings their way.
- *Inventory-based offers.* A store offers targeted discounts on overstocked or near-expiration items to shoppers who have bought similar products, reducing food waste while giving families a deal.

Consumers have long accepted and expected personalized grocery deals. 70% of consumers say they value loyalty programs,² and about 1 in 4 consumers earning under \$40,000 choose their supermarket based on loyalty program membership.³ A 2024 survey of more than 10,000 consumers found that 91% are willing to share personal data in exchange for value from brands, with discounts, loyalty points, and exclusive access cited as the top motivators.⁴

HF 3408 would ban these practices and raise grocery costs

HF 3408's ban on "surveillance-based price setting" is broad enough to prohibit the very savings described above. The bill defines "personal information" to include 14 categories of data, from purchase history and browsing activity to financial circumstances and a

² Bobby Stephens and Ramya Murali, *2024 Consumer Loyalty Survey*, Deloitte, Feb. 24, 2025,

<https://www.deloitte.com/us/en/services/consulting/articles/brand-loyalty-program-consumer-behavior.html>.

³ F. Watty, "Supermarket Choice Due to Membership in Its Loyalty Program in U.S. 2023 by Income," Statista, Jan. 11, 2024, <https://www.statista.com/statistics/1548425/supermarket-choice-due-to-loyalty-program-by-income-us/>.

⁴ Marigold, "2024 Global Consumer Trends Index," *GlobeNewswire*, Jan. 16, 2024,

<https://www.globenewswire.com/en/news-release/2024/01/16/2809582/0/en/Annual-Marigold-Global-Consumer-Trends-Index-Reveals-Need-for-Brands-to-Deliver-on-Data-Privacy-and-Personalization-to-Win-Customer-Loyalty.html>.

catch-all covering a consumer's "actions, habits, behaviors, and attributes."⁵ Any customized price based even partly on this data would violate the law.⁶ A grocery app that sends personalized coupons based on what a family buys, a loyalty program that tailors weekly deals to its members, a store that offers a win-back discount to a lapsed customer: all of these use consumer data to deliver targeted savings, and all of them could violate HF 3408.

The economic cost of eliminating these practices would be real. Personalized pricing delivers lower prices for the majority of consumers.⁷ Digital coupons alone save the average American household \$1,465 each year.⁸ Low-income families, especially those with children, are among the most active coupon users and deal-seekers, meaning they would bear the heaviest burden.⁹ **Rather than protecting consumers from unfair pricing, HF 3408 would take away the tools that help Minnesotans save money at the grocery store.**

HF 3408's exemptions concede the value of personalized pricing but make it impossible in practice

HF 3408 does include exemptions for loyalty programs and group discounts, and the fact that those exemptions exist is telling. The bill's drafters recognized that personalized deals and loyalty rewards help consumers. But the conditions attached are so restrictive that they would strip these programs of the features that make them valuable.

The exemption requires that discounts be offered uniformly to all qualifying consumers and that personal information be used solely to administer the discount, not for targeted advertising or any other purpose.¹⁰ That eliminates the "personalized" in personalized savings. A grocer could no longer send a new parent a coupon on diapers because her purchase history shows she just had a baby; the store would have to offer that coupon to every loyalty member, regardless of whether they have children. Yet 71% of consumers say they expect personalized interactions from the companies they buy from, and 76% get frustrated when that doesn't happen.¹¹

Personalization is often what makes grocery discounts viable in the first place. Retailers offer targeted deals because offering the same discount to every customer is far more

⁵ MN HF 3408, Subd. 1(i)(1)-(14).

⁶ MN HF 3408, Subd. 1(l).

⁷ Jean-Pierre Dube and Sanjog Misra, "Personalized Pricing and Consumer Welfare," *Journal of Political Economy* 131, no. 1 (2023): 131-189, <https://www.journals.uchicago.edu/doi/10.1086/720793>.

⁸ Elyssa Kirkham, "Study: Skipping Online Coupons Could Cost You \$1,465 Per Year," *CouponFollow*, May 19, 2021, <https://couponfollow.com/research/coupon-data-study>.

⁹ Stephanie M. Noble et al., "Coupon Clipping by Impoverished Consumers: Linking Demographics, Basket Size, and Coupon Redemption Rates," *International Journal of Research in Marketing* 34, no. 2 (2017): 553-571, <https://doi.org/10.1016/j.ijresmar.2016.08.010>.

¹⁰ MN HF 3408, Subd. 2(b)(3)-(4).

¹¹ McKinsey & Company, "The Value of Getting Personalization Right--or Wrong--Is Multiplying" (2021), <https://www.mckinsey.com/capabilities/growth-marketing-and-sales/our-insights/the-value-of-getting-personalization-right-or-wrong-is-multiplying>.

costly. When a grocer can identify the price-sensitive shoppers a promotion is meant to reach, it can offer deeper savings to those shoppers without cutting revenue across every transaction. If HF 3408 requires every promotion to be offered universally, many grocers will simply stop offering them. The result is not fairer pricing. It is fewer discounts.

HF 3408's electronic shelf label restrictions would raise grocery costs and increase food waste

HF 3408 also restricts the use of electronic shelf labels (ESLs) in any grocery store larger than 10,000 square feet, limiting price changes to once per day at a disclosed time and requiring stores to maintain redundant nondigital price tags for every item.¹² ESLs are digital displays that allow grocers to update pricing centrally rather than replacing paper tags by hand. They improve price accuracy and reduce labor costs by up to 80% for price management tasks,¹³ helping grocers keep operating costs down, costs that would otherwise be passed on to shoppers.

The dual-display mandate is particularly counterproductive. Requiring stores to maintain both electronic and nondigital price presentations for every item doubles the cost of price management and eliminates the primary efficiency benefit of ESL adoption. Grocers would be paying for new technology while still bearing the full labor cost of paper tags.

Opponents worry ESLs will be used to raise prices on consumers. But the largest peer-reviewed empirical study of ESLs in U.S. grocery found that this is not happening. Researchers at UC San Diego, Northwestern, and UT Austin analyzed over 180 million product-level observations across 114 stores before and after ESL adoption.¹⁴ Surge pricing affected just 0.005% of products per day before ESLs, and that figure increased by only 0.0006 percentage points after adoption.¹⁵ As the researchers concluded, surge pricing was "basically nonexistent" before electronic shelf labels, and it stayed nonexistent with them. Discounts were actually slightly *more* common after ESL adoption.

What ESLs do enable is more frequent markdowns on perishable goods nearing expiration, which separate research shows can reduce grocery food waste by up to 21%.¹⁶ In 2022 alone, U.S. grocers wasted 5 million tons of food.¹⁷ ESLs are not a tool for

¹² MN HF 3408, Subd. 4(1)-(2).

¹³ Jessica Vician, "Electronic Shelf Labels Deliver Flexibility & Eliminate Pricing Errors," *IGA Insights*, Jul. 19, 2023, <https://www.iga.com/insights/electronic-shelf-labels>.

¹⁴ Ioannis Stamatopoulos et al., "Electronic Shelf Labels Have Not Led to Surge Pricing in US Grocery Retail, Despite Regulator Concerns," *SSRN*, May 27, 2025, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5271491.

¹⁵ Ioannis Stamatopoulos et al., "Surge Pricing in Aisle Five?" *Kellogg Insight*, Aug. 1, 2025, <https://insight.kellogg.northwestern.edu/article/surge-pricing-in-aisle-five>.

¹⁶ Brian Maloney, "Digital Labels Can Help Grocers Waste Less Food," *McCombs News*, Dec. 17, 2024, <https://news.mcombs.utexas.edu/research/digital-labels-can-help-grocers-waste-less-food/>.

¹⁷ SOLUM, "New Retail Innovation May Eliminate Food Waste For Good," Dec. 8, 2020, <https://www.solumesl.com/en/insights/use-esl-to-reduce-retail-food-waste>.

price gouging; they are a tool for getting consumers better deals on food that would otherwise end up in a landfill.

Minnesota should not be the first state to ban the grocery savings families depend on

No state has enacted a ban on algorithmic or surveillance pricing. Similar bills have been introduced in legislatures across the country, and they have repeatedly stalled or failed to advance. **The reason is straightforward: broad bans on personalized pricing inevitably capture the very savings tools that consumers rely on.** Imposing sweeping restrictions on grocery pricing that do not exist anywhere in the country would put Minnesota grocers at a competitive disadvantage while raising costs for shoppers.

I respectfully urge you to oppose HF 3408. This bill asks Minnesota to ban a hypothetical harm while eliminating real, documented savings that families depend on every day. We welcome the opportunity to discuss narrowly tailored alternatives that address discriminatory pricing without restricting the pro-consumer practices Minnesota families rely on.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Marshall", enclosed within a hand-drawn oval shape.

Kouri Marshall
Senior Director of State & Local Public Policy, Central/Southern Region
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