



Surveillance Pricing 2026: 24 States Move to Ban Algorithms

Two shoppers. Same store. Same product. Different prices. Companies are using your browsing history, location, income data, and even when you receive benefit payments to charge you the maximum you'll pay.

States are finally fighting back.

STATE OF SURVEILLANCE

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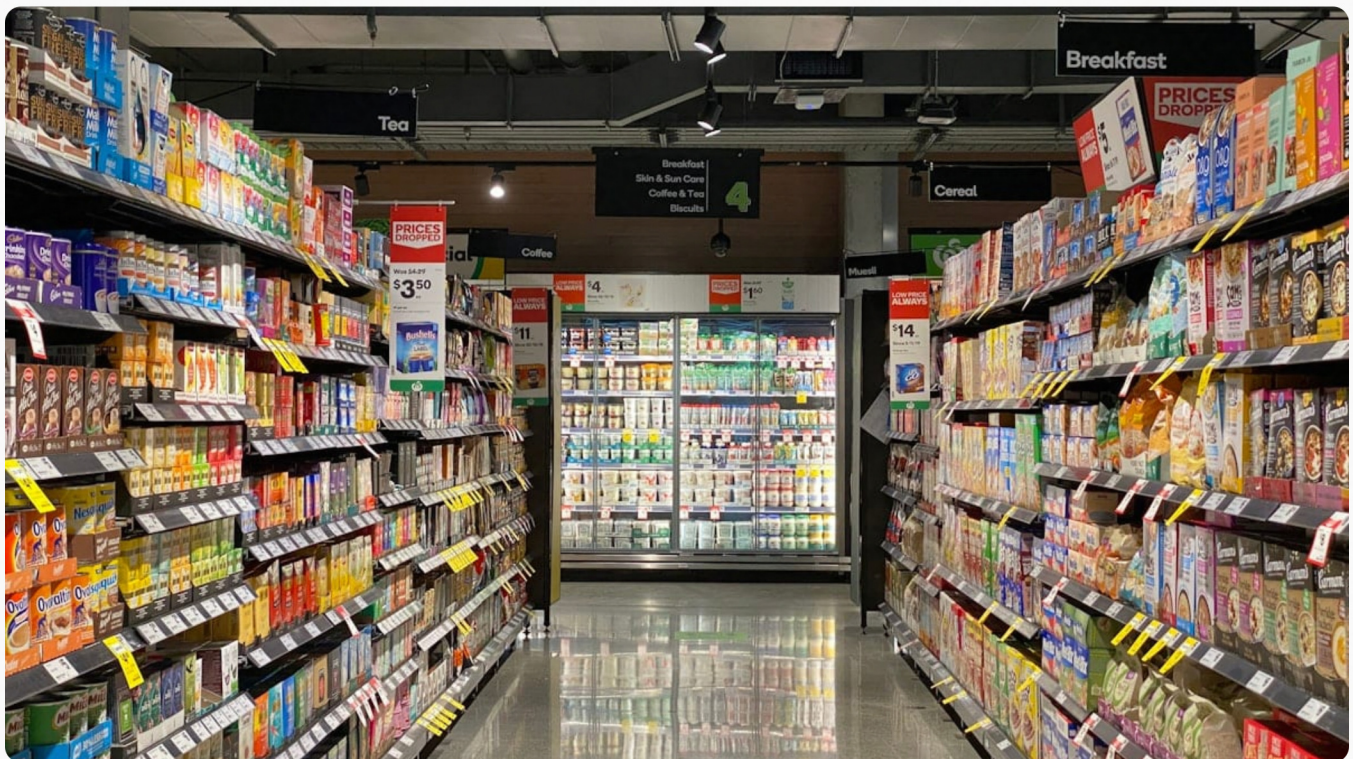


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TL;DR:

Companies are using your personal data (browsing history, location, income level, even when your paycheck hits) to charge you higher prices than the person standing next to you. It's called surveillance pricing, and it's everywhere: groceries, flights, hotels, rideshares. In December 2025, Consumer Reports caught Instacart charging different shoppers up to 23% more for identical items in the same store. The backlash has been swift. Maryland signed the nation's first ban in April 2026. Connecticut followed in May. New York's legislature cleared a One Fair Price Act this month, making the state the third legislature to pass a surveillance pricing ban; the bill now heads to Gov. Hochul. Now 24 states have introduced over 40 bills targeting the practice. New York AG Letitia James is campaigning for Hochul to sign. California's AB 2564 threatens \$12,500 fines per violation. The first class-action lawsuits have landed. The era of personalized price gouging is facing a reckoning.

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How They Decide What You Pay

You're not imagining it. That hotel room really did cost more when you searched from San Francisco than when your friend searched from Tulsa.

Surveillance pricing (also called algorithmic pricing or personalized pricing) uses your data to estimate the maximum you'll pay for something, then charges you that amount. Not the fair market price. Not the cost plus margin. Your price. Individually calculated, invisibly applied.

The inputs are staggering. According to New York AG James's office, companies pull from thousands of data points [\[1\]](#): your purchase history, browsing behavior, how long you lingered on a page, your zip code, your device type, whether you're on iPhone or Android, your estimated income, even the timing of your benefit payments. All of it feeds algorithms that answer one question: how much can we extract from this specific person?

A 2024 White House study found that price-fixing algorithms cost American renters \$3.8 billion in 2023 alone [\[2\]](#). San Diego renters paid an extra \$99 per month. San Francisco, \$62. Los Angeles, \$34. These aren't hypothetical numbers. That's rent money that went straight from tenants' pockets to landlords' algorithms.

The Instacart Smoking Gun

In December 2025, Consumer Reports and the Groundwork Collaborative ran an experiment that blew the lid off [\[3\]](#). They had dozens of shoppers check prices for the same groceries, at the same store, at the same time, on Instacart. The results were damning.

About three-quarters of products showed different prices to different shoppers. Price variations ranged from 7 cents to \$2.56 per item. For a typical grocery basket, the spread was \$9.59, an 8.4% gap between what the cheapest and most expensive shoppers were charged [\[3\]](#).

Annualized, that means some families were paying an estimated \$1,200 more per year for the same groceries as their neighbors.

New York AG James fired off a demand letter to Instacart [\[4\]](#). Under pressure from the investigation and public outrage, Instacart announced it was ending "item price tests."

But there was a catch: they said grocery store partners could still run their own pricing experiments on the platform [\[5\]](#). The tool changed hands. The surveillance didn't stop.

Target Paid \$5 Million. Hotels Charged \$500 Extra.

Instacart wasn't an outlier. It was the one that got caught in the light.

Target paid \$5 million to settle a lawsuit in San Diego County over location-based pricing, charging different amounts based on where customers were shopping from [\[2\]](#). Hotel booking sites were caught charging Bay Area residents over \$500 more per night than shoppers in less affluent zip codes for identical rooms [\[2\]](#).

A 2026 survey found that 92% of grocery shoppers could end up paying above the lowest available price for an identical basket of items [\[1\]](#). That's not a pricing strategy. That's a shakedown with better math.

The 24-State Revolt

Here's where the story turns. Zero states passed surveillance pricing bans in 2025. In the first five months of 2026, the dam broke [\[2\]](#).

Laws Signed

- **Maryland, HB 895** (signed April 28, 2026): Bans dynamic pricing for food retailers and delivery services. Penalties of \$10,000–\$25,000 per violation. No private right of action. Governor Wes Moore signed the nation's first surveillance pricing ban [\[6\]](#).
- **Connecticut, SB 4** (signed May 27, 2026, effective October 1, 2026): Bans surveillance pricing as part of a broader privacy overhaul. Prohibits retailers and delivery services from setting customized prices based on personal data. Exempts loyalty programs and cost-based differences like delivery distance [\[7\]](#).
- **New York, One Fair Price Act** (passed legislature earlier this month, awaiting Governor Hochul): Bans the use of personal data to set individualized prices for any consumer. Companion Protecting Consumers and Jobs from Discriminatory Pricing Act bans electronic shelf labels in grocery stores and pharmacies. Both exempt loyalty programs, coupons, subscription pricing, and senior or veteran discounts. AG Letitia James is the lead advocate. Would make New York the third state with a surveillance pricing ban [\[11\]](#)[\[12\]](#).

- **New York, Algorithmic Pricing Disclosure Act** (effective November 10, 2025): Requires companies using algorithmic pricing to display: "THIS PRICE WAS SET BY AN ALGORITHM USING YOUR PERSONAL DATA." Penalties up to \$1,000 per violation [\[8\]](#). Disclosure only: doesn't ban the practice.

Major Bills Moving

- **California, AB 2564** (introduced February 20, 2026): Would ban surveillance pricing with teeth. Fines up to \$12,500 per violation per consumer, tripled for intentional violations. Allows loyalty programs and publicly disclosed discount criteria. Cleared a key legislative vote in May 2026 [\[9\]](#). AG Rob Bonta opened an investigation into retail, grocery, and hotel surveillance pricing in January [\[10\]](#).
- **Colorado, HB 1210** (vetoed June 2, 2026): Passed the legislature in early May 2026 and would have banned the use of personal data for individualized pricing in retail, with a private right of action and statutory damages. Governor Jared Polis vetoed the bill on June 2, 2026, calling it overly broad and warning it could discourage consumer discounts [\[2\]](#).

The Full Count

As of June 12, 2026, 24 states have introduced over 40 surveillance pricing bills [\[2\]](#). Three states now have laws on the books (or about to be): Maryland (signed), Connecticut (signed, effective Oct 1), and New York (passed legislature, awaiting signature). That already outpaces all of 2025, when not a single bill passed anywhere. CalMatters described it as "roughly half of U.S. states considering bills to regulate algorithmic pricing" [\[2\]](#).

Many proposed bills include private rights of action with statutory damages ranging from \$550 to \$5,000 per violation [\[6\]](#), meaning you could sue, not just wait for the AG to act.

For the three-state wave and the bill text, see [Three States Move to Ban Surveillance Pricing. Industry Starts to Notice.](#) (June 12, 2026).

Federal Action: Slow but Starting

Congress hasn't passed anything yet, but the pressure is building.

The FTC requested information from eight surveillance pricing vendors in July 2024 and

published research findings [\[10\]](#). In March 2026, the House Oversight Committee launched an investigation into surveillance pricing in travel and hospitality [\[10\]](#). Federal bills including the Stop AI Price Gouging Act have been introduced but haven't moved [\[8\]](#).

Don't hold your breath for federal action. The real fight is in statehouses. That's where 40+ bills are moving right now.

The Lawsuits Are Here

The plaintiffs' bar smells blood.

In April and May 2026, two class-action lawsuits landed against JetBlue in the Eastern District of New York. *Phillips v. JetBlue* (filed April 22) and *Squire v. JetBlue* (filed May 1) both allege the airline used individualized consumer data collected through website tracking to charge different customers different prices for the same flights [\[6\]](#).

The legal theories are creative: Electronic Communications Privacy Act violations, state wiretap claims, and unfair trade practices [\[6\]](#). If these cases survive dismissal motions, they'll open the door to similar suits against every company running personalized pricing algorithms.

Faegre Drinker called surveillance pricing "the next frontier of privacy litigation" [\[6\]](#). With over 20 state bills including private rights of action, they're probably right.

Why 2026?

The economics finally got bad enough for people to care.

Inflation hit 3.8%, outpacing wage gains. A Gallup poll found 55% of Americans reporting worsening finances, the highest since the survey began in 2001 [\[2\]](#). When people feel squeezed, learning that algorithms are squeezing them harder hits different.

Assemblymember Chris Ward, who sponsored California's AB 2564, put it plainly: "This practice hits hardest for low-income individuals" [\[2\]](#). He's right. Surveillance pricing is regressive by design. The algorithm's job is to find your ceiling and push you toward it. If your ceiling is lower, you might get a "deal." If it's higher, you pay more. Either way, the company captures the maximum from each person. That's not pricing. That's extraction.

Public opinion backs the backlash. A survey cited by AG James found 66% of New Yorkers support banning surveillance pricing [\[1\]](#). Consumer Reports threw its institutional weight behind Connecticut's SB 4 [\[7\]](#). The political wind is blowing one direction.

What the Industry Says

The California Chamber of Commerce opposes AB 2564, arguing that banning surveillance pricing would eliminate discount opportunities and increase compliance costs [\[2\]](#). Industry groups warn that companies might raise base prices if they can't offer "personalized" lower ones.

This argument would be more convincing if the documented cases involved companies giving people lower prices. The Instacart experiment found shoppers paying *more*, not less. The hotel sites charged Bay Area residents *more*, not less. Target settled for \$5 million because its location-based pricing hurt consumers, not helped them.

Every bill on the table exempts legitimate loyalty programs, coupons, and senior or veteran discounts. The industry isn't fighting for your right to get a deal. It's fighting for the right to charge you more than your neighbor without telling you.

What You Can Do Right Now

- **Use a VPN when shopping online.** It won't solve everything, but it strips your location data from the pricing algorithm. A Bay Area IP address is a price premium waiting to happen.
- **Clear cookies and use private browsing.** Repeat visits to the same product page can trigger higher prices. Shopping in incognito mode resets the tracker.
- **Compare prices across devices.** Check the same product on your phone and laptop. Different device profiles sometimes get different prices.
- **Check your state's bills.** If you're in one of the 24 states with active surveillance pricing legislation, contact your state representative. These bills pass when constituents push.
- **File complaints.** If you catch different prices for the same product, report it to your state AG's consumer protection office. AG investigations started with exactly these complaints.
- **In New York:** Look for the required disclosure: "THIS PRICE WAS SET BY AN

ALGORITHM USING YOUR PERSONAL DATA.” If a company is using algorithmic pricing without that notice, they’re breaking state law.

What’s Next

California’s AB 2564 is the big one to watch. If it passes with \$12,500-per-violation penalties, it effectively sets the national standard, just like CCPA did for data privacy. Companies won’t build separate pricing systems for California and everywhere else. They’ll comply everywhere.

New York’s One Fair Price Act passed the legislature earlier this month and is now on Gov. Hochul’s desk. If she signs, the three-state count is locked. Connecticut’s ban takes effect October 1. The JetBlue lawsuits will signal whether surveillance pricing creates class-action liability.

The algorithms aren’t going away. But for the first time, the people being priced are fighting back, and they’re winning.

Sources

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2. [CalMatters: “Why Surveillance Pricing Bans Are Gaining Traction” \(May 15, 2026\)](#)
3. [Consumer Reports: “Instacart’s AI-Enabled Pricing Experiments May Be Inflating Your Grocery Bill” \(December 2025\)](#)
4. [NY Attorney General: Letter to Instacart on Algorithmic Pricing Practices \(2026\)](#)
5. [Consumer Reports: “Instacart Stops Pricing Tests on Its Platform Amid Outrage”](#)
6. [Faegre Drinker: “Surveillance Pricing: The Next Frontier of Privacy Litigation” \(May 2026\)](#)
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10. [House Energy and Commerce Democrats: Surveillance Pricing Inquiry \(May 11, 2026\)](#)

11. [EPIC: "New York Becomes Third State to Pass Surveillance Pricing Ban" \(June 4, 2026\)](#)
12. [New York Attorney General: "New Yorkers Join AG James in Celebrating the Passage of the One Fair Price Act" \(June 10, 2026\)](#)

Related Coverage

- [Three States Move to Ban Surveillance Pricing. Industry Starts to Notice.](#) (June 12, 2026)
- [Maryland Signs Nation's First Surveillance Pricing Ban](#)
- [Connecticut Passes Data Broker Kill Switch and Surveillance Pricing Ban](#)
- [Surveillance Pricing Bans Sweep the States](#)
- [The Data Broker Loophole: How the Government Buys Your Location Without a Warrant](#)

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