CHAPTER 55

AN ACT concerning price setting and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.56:8-23.1 Short title.

1. This act shall be known and may be cited as the "Fair Price Protection Act."

C.56:8-23.2 Definitions.

2. As used in this act:

"Bona fide discount" means an offered price that is lower than the price at which groceries and other foodstuffs are advertised or offered for sale to the public in a person's recent, regular course of business, and not for the purpose of establishing a fictitious price to enable the subsequent offer of a reduction.

"Electronic shelving label" means an electronic display that presents the product and pricing information for groceries and other foodstuffs, including, but not limited to, labels that are visible to the consumer only after the consumer has scanned a quick-response (QR) code, barcode, or other code.

"Groceries and other foodstuffs" means dairy products, meat and delicatessen products, produce products, seafood products, carbonated beverages, coffee and other beverages, snack foods, candy products, baked products, paper products, household cleaning items, health and beauty products, frozen foods, pet foods and supplies, and any other edible product not previously listed, except for any food or beverages prepared for immediate consumption on or off the premises of a food service establishment.

"Location" means consumer geolocation data that is used to infer a consumer's identity, permanent residence, or membership in a protected class. "Location" shall not include data used to fulfill a requested good or service .

"Person" means any natural person or a legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trustent thereof.

"Personal data" means any information that is linked or is reasonably linkable to an identified or identifiable consumer.

"Price" means a stated monetary amount advertised or offered to a consumer, including prior to the application of a discount, when a hypothetical discount is proposed, after a discount has been applied, or after all related costs, fees, and other material terms of the transaction that directly affect the amount paid by the consumer have been applied. "Price" shall include an advertisement, price advertisement, price reduction advertisement, and targeted discount as those terms are defined in N.J.A.C.13:45A-9.1 or its successor regulation.

"Surveillance pricing" means an action including a pricing strategy in which the price of groceries and other foodstuffs is, in whole or in part, determined, adjusted, optimized, or recommended by an algorithm or automated system, based, in whole or in part, on using personal data, including data derived or inferred from other data, and that results in price variation for individual consumers or groups of consumers. "Surveillance pricing" shall include the pricing of groceries and other foodstuffs based on data collected through electronic surveillance technology, which involves the use of technological methods, systems, or tools, including, but not limited to, sensors, cameras, device tracking, biometric monitoring, and other forms of observation or data collection capable of gathering information about a consumer's behavior, characteristics, location, or other personal attributes, whether in a physical or digital environment.

C.56:8-23.3 Surveillance pricing, pricing strategy using personal data, considered unlawful practice.

3. a. Notwithstanding any law, regulation, or rule to the contrary, it shall be considered an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for a person to use surveillance pricing or any other pricing strategy that determines or varies the sale price of groceries and other foodstuffs based, in whole or in part, on personal data.

b. The provisions of this section shall not prohibit any person from offering a different price on groceries and other foodstuffs based upon:

(1) reasonable costs associated with providing groceries and other foodstuffs to different consumers, provided that a price shall not be changed more than once in a 24-hour period;

(2) a bona fide discount for which eligibility conditions or criteria are publicly and conspicuously disclosed and uniformly offered based upon those conditions or criteria, and to which any member of a broadly defined group, including, but not limited to a group of teachers or veterans, is eligible; or

(3) a bona fide discount offered as part of a loyalty program, including loyalty programs that allow the accrual or exchange of points, credits, or any similar nonmonetary system of value, or loyalty programs that offer discounts, rebates, or coupons to individual consumers based on their purchases and loyalty programs that include pricing benefits offered by another person, provided that:

(a) consumers opt-in to the loyalty program on a voluntary basis;

(b) all members of the loyalty program receive pricing benefits pursuant to uniform terms and conditions;

(c) the loyalty program provides clear and conspicuous disclosures of all pricing benefits, available discounts, and data practices to participants, and shall, upon request, make the disclosures available to the Division of Consumer Affairs in the Department of Law and Public Safety no later than 14 days from the date the request was made; and

(d) the loyalty program discloses all terms and conditions and data practices to the public.

c. To the extent a person employs personal data to offer a difference in price on groceries and other foodstuffs pursuant to subsection b. of this section, that personal data shall not be used for any other purpose without the consumer's consent.

C.56:8-23.4 One-year moratorium on new use of electronic shelf labels.

4. a. Notwithstanding any provision of law, rule, or regulation to the contrary, there shall be a one-year moratorium on the new use of electronic shelf labels in this State. Upon the expiration of the moratorium, the new use of electronic shelf labels shall be permitted in this State, provided that the new use of electronic shelf labels are in compliance with the provisions of P.L.1960, c.39 (C.56:8-1 et seq.), any other applicable law, and any rule or regulation promulgated by the Director of the Division of Consumer Affairs, unless the Legislature enacts a law to the contrary.

b. Nothing in this section shall be construed to prohibit a person from purchasing, installing, or deploying new electronic shelf labels solely for the purpose of repairing or replacing existing electronic shelf labels that were in operation at the same place of business prior to the effective date of the moratorium.

C.56:8-23.5 Study on electronic shelf labels.

5. a. Before and during the moratorium established pursuant to subsection a. of section 4 of this act, the New Jersey Innovation Authority in the Department of the Treasury established pursuant to P.L.2025, c.190 (C.52:18A-234.8 et seq.), in consultation with the Division of

Consumer Affairs, shall conduct a study on the use of electronic shelf labels. The study shall examine, at a minimum:

(1) the effects of the use of electronic shelf labels; and

(2) the impact of electronic shelf labels on surveillance pricing.

b. No later than six months before the end of the moratorium established pursuant to subsection a. of section 4 of this act, the New Jersey Innovation Authority shall submit the study's findings and conclusions in a report, together with any recommendations for legislative or administrative action, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

C.56:8-23.6 Applicability.

6. Nothing in this act shall be construed to apply to the pricing, advertisement, offer, or sale of food or beverages by an establishment primarily engaged in the preparation and sale of food or beverages for immediate consumption, whether the food or beverages are consumed on or off the premises.

C.56:8-23.7 Civil action brought by Attorney General against violations of act.

7. In addition to any other authority provided by law or regulation, the Attorney General may, for any violation of this act, or any regulations adopted pursuant thereto, or when the Attorney General deems it to be in the public interest, bring a civil action on behalf of the residents of this State in any court of competent jurisdiction to:

a. enjoin the act or practice;

b. enforce compliance with the provisions of this act;

c. obtain for each negligent or greater violation, in addition to any other penalty provided by law, actual monetary damages incurred from the violation; or

d. obtain, for each violation, any other restitution, penalty, or relief the court may deem appropriate.

8. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the provisions of this act.

9. This act shall take effect on the first day of the 13th month next following the date of enactment, except that: the provisions of section 4 shall take effect on the first day of the seventh month next following the date of enactment; the provisions of section 5 shall take effect immediately; and the Director of the Division of Consumer Affairs and the Chief Innovation Officer of the New Jersey Innovation Authority may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act.

Approved July 23, 2026.