

AMENDED IN SENATE AUGUST 21, 2026
AMENDED IN SENATE AUGUST 17, 2026
AMENDED IN SENATE JUNE 24, 2026
AMENDED IN ASSEMBLY APRIL 16, 2026
AMENDED IN ASSEMBLY MARCH 23, 2026
CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 2564

Introduced by Assembly Member Ward
(Principal coauthor: Senator Wahab)
(Coauthor: Assembly Member Kalra)

February 20, 2026

An act to add Part 5.6 (commencing with Section 7200) to Division 4 of the Civil Code, relating to consumer protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 2564, as amended, Ward. Surveillance pricing.

Existing law, the California Consumer Privacy Act of 2018 (CCPA), grants a consumer various rights with respect to personal information that is collected or sold by a business, as defined, including the right to direct a business that sells or shares personal information about the consumer to third parties not to sell or share the consumer's personal information, as specified. Existing law, the California Privacy Rights Act of 2020, approved by the voters as Proposition 24 at the November 3, 2020, statewide general election, amended, added to, and reenacted the CCPA and establishes the California Privacy Protection Agency

and vests the agency with full administrative power, authority, and jurisdiction to enforce those provisions.

Existing law requires a retail grocery store or grocery department within a general retail merchandise store that uses a point-of-sale system to have a clearly readable price indicated on 85% of the total number of packaged consumer commodities offered for sale, subject to specified exemptions.

This bill would, subject to certain exceptions, prohibit a retailer from engaging in surveillance pricing. The bill would define “surveillance pricing” to mean offering or setting a customized price for a good for a specific consumer or group of consumers, based, in whole or in part, on ~~personally identifiable information collected through electronic surveillance technology~~, information, as specified, and determined in whole or in part through the use of any technology, software, program, machine-based system, or computational process that uses statistical modeling, data analytics, artificial intelligence, or other data processing techniques. The bill would also define “surveillance pricing” to mean random variations in prices to different consumers using a website, mobile application, or comparable online technology. *The bill would provide that its provisions do not limit or impair any consumer right or remedy available under any other state or federal law.* The bill would declare that any waiver of these provisions is against public policy and is void and unenforceable.

This bill would declare that its provisions further the purposes and intent of the California Privacy Rights Act of 2020.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 5.6 (commencing with Section 7200) is
2 added to Division 4 of the Civil Code, to read:

3

4 PART 5.6. SURVEILLANCE PRICING

5

6 7200. For purposes of this part, the following definitions apply:

7 (a) “Customized discounted price” means a price that is
8 verifiably lower than the widely available and publicly disclosed
9 bona fide market price and is based, in whole or in part, on
10 personally identifiable information.

1 ~~(b) “Electronic surveillance technology” includes the use of~~
2 ~~technological methods, systems, or tools, including, but not limited~~
3 ~~to, sensors, cameras, device tracking, or biometric monitoring, that~~
4 ~~are capable of gathering personally identifiable information about~~
5 ~~a consumer’s behavior, characteristics, location, or other personal~~
6 ~~attributes, whether in physical or digital environments.~~

7 ~~(c)~~

8 (b) “Goods” has the same meaning as defined in Section 1761.

9 ~~(d)~~

10 (c) “Personally identifiable information” shall have the same
11 meaning as “personal information” as defined in paragraph (1) of
12 subdivision (v) of Section 1798.140 of the Civil Code and any
13 regulations promulgated thereunder.

14 ~~(e)~~

15 (d) (1) “Retailer” shall have the same meaning as that term is
16 defined in Section 6015 of the Revenue and Taxation Code.

17 (2) “Retailer” does not include an entity that is licensed pursuant
18 to Article 1 (commencing with Section 11700) of Chapter 4 of
19 Division 5 of the Vehicle Code who communicates a total price
20 in compliance with Section 1784.41 of this code.

21 ~~(f)~~

22 (e) “Sale price” means a price that is verifiably lower than the
23 widely available and publicly disclosed bona fide market price,
24 available to the general public on the same terms, set without the
25 use of personally identifiable information, and automatically
26 applied to all relevant purchases. “Sale price” includes the price
27 of an individual item, or to all or part of a transaction.

28 ~~(g)~~

29 (f) (1) “Surveillance pricing” means either of the following:

30 (A) Offering or setting a customized price for a good that meets
31 both of the following:

32 (i) The customized price is for a specific consumer or group of
33 consumers, based, in whole or in part, on personally identifiable
34 information ~~collected through electronic surveillance technology,~~
35 including personally identifiable information ~~collected through~~
36 ~~electronic surveillance technology~~ that is gathered, purchased, or
37 otherwise acquired from a third party.

38 (ii) The customized price is determined in whole or in part
39 through the use of any technology, software, program,
40 machine-based system, or computational process that uses

1 statistical modeling, data analytics, artificial intelligence, or other
2 data processing techniques.

3 (B) Random variations in prices to different consumers using
4 a website, mobile application, or comparable online technology.

5 (2) “Surveillance pricing” does not include any of the following:

6 (A) A sale price.

7 (B) Offering a different price for the same good if the difference
8 in price is based solely on costs associated with providing the good
9 to different consumers.

10 (C) Offering a different price for the same good if the difference
11 in price is based solely on the costs arising from an auction or
12 transaction involving bidding or negotiation.

13 7201. (a) Except as provided in subdivision (b), a retailer shall
14 not engage in surveillance pricing.

15 (b) A retailer does not engage in surveillance pricing by doing
16 any of the following:

17 (1) Offering a customized discounted price to a consumer who
18 is terminating or taking steps to terminate a subscription or
19 membership with the retailer.

20 ~~(2) Offering a customized discounted price to a consumer for~~
21 ~~items the consumer has left in their online shopping cart, if both~~
22 ~~of the following apply:~~

23 ~~(A) The customized discounted price is available on equal terms~~
24 ~~to all consumers with similar items left in their online shopping~~
25 ~~cart.~~

26 ~~(B) The retailer does not combine, pair, or cross-reference the~~
27 ~~data about the contents of the consumer’s online shopping cart~~
28 ~~with other personal information about the consumer in determining~~
29 ~~discount eligibility.~~

30 *(2) Offering a customized discounted price to reestablish a*
31 *consumer as a member, rewards program, or subscription enrollee*
32 *if the retailer can demonstrate all of the following:*

33 *(A) The customized discounted price is based exclusively on*
34 *whether the consumer was a membership, rewards program, or*
35 *subscription enrollee with the retailer.*

36 *(B) The customized discounted price is available on equal terms*
37 *to all consumers the retailer seeks to reestablish as enrollees.*

38 *(C) The retailer does not combine, pair, or cross-reference data*
39 *on the consumer’s membership, rewards or subscription enrollment*
40 *status with other personally identifiable information about the*

1 consumer in determining discount eligibility or in setting or
2 offering the discount.

3 (3) Offering a customized discounted price on a specific good
4 to a consumer based on the consumer's prior purchase history, if
5 the retailer can demonstrate all of the following:

6 (A) The customized discounted price is based exclusively on a
7 consumer's prior purchase of a similar or related good or service
8 from the retailer.

9 (B) The customized discounted price is available on equal terms
10 to all consumers who have recently purchased the same related
11 good or service from the retailer.

12 (C) The retailer does not combine, pair, or cross-reference the
13 consumer's history of purchasing that good or service with other
14 personally identifiable information about the consumer in
15 determining discount eligibility or in setting or offering the
16 discount.

17 (4) Offering a customized discounted price on a specific good
18 to a consumer based on the consumer's saved goods if the retailer
19 can demonstrate all of the following:

20 (A) The customized discounted price is based exclusively on the
21 fact that the consumer saved that good on the retailer's website.

22 (B) The customized discounted price is available on equal terms
23 to all consumers with the same saved good.

24 (C) The retailer does not combine, pair, or cross-reference data
25 on the consumer's saved good with other personally identifiable
26 information about the consumer in determining discount eligibility
27 or in setting or offering the discount.

28 (5) Offering a customized discounted price to a consumer who
29 is a first-time visitor to a retailer's website or application if the
30 retailer can demonstrate all of the following:

31 (A) The customized discounted price is based exclusively on the
32 fact that they are visiting the retailer's website or application for
33 the first time.

34 (B) The customized discounted price is available on equal terms
35 to all consumers visiting the website or application for the first
36 time.

37 (C) The retailer does not combine, pair, or cross-reference data
38 about whether the consumer has visited the retailer's website or
39 application with other personally identifiable information about

1 *the consumer in determining discount eligibility or in setting or*
2 *offering the discount.*

3 (6) *Offering a customized discounted price to a consumer for*
4 *a good the consumer has left in their online shopping cart if the*
5 *retailer can demonstrate all of the following:*

6 (A) *The customized discounted price is based exclusively on the*
7 *fact that the consumer has left that good in their shopping cart.*

8 (B) *The customized discounted price is available on equal terms*
9 *to all consumers with the same good left in their online shopping*
10 *cart.*

11 (C) *The retailer does not combine, pair, or cross-reference data*
12 *about the contents of the consumer's online shopping cart with*
13 *other personally identifiable information about the consumer in*
14 *determining discount eligibility or in setting or offering the*
15 *discount.*

16 (3)

17 (7) *Offering a customized discounted price on equal terms if*
18 *all of the following apply:*

19 (A) *The customized discounted price is offered to any of the*
20 *following groups of consumers:*

21 (i) *Consumers who affirmatively purchase or enroll in a loyalty,*
22 *membership, or rewards program.*

23 (ii) *Consumers who belong to a broadly defined group, including*
24 *teachers, active or retired military personnel, veterans of the United*
25 *States Armed Forces, senior citizens, students, or residents of a*
26 *specific geographic area.*

27 (iii) *Consumers who meet eligibility criteria, including criteria*
28 *related to signing up for a mailing list, registering for promotional*
29 *communications, or participating in a promotional event, if any*
30 *consumer could potentially meet the eligibility criteria.*

31 (B) *If the retailer exclusively offers a customized discounted*
32 *price in stores, the current eligibility criteria, available customized*
33 *discounted prices, and any conditions for receiving or earning the*
34 *customized discounted price are clearly and conspicuously*
35 *disclosed in all stores where the discount is available prior to the*
36 *point of sale while the customized discounted price is offered.*

37 (C) (i) *If the retailer offers a customized discounted price online,*
38 *the current eligibility criteria, available customized discounted*
39 *prices, and any conditions for receiving or earning the customized*
40 *discounted price are clearly and conspicuously disclosed on the*

1 retailer's internet website while the customized discounted price
2 is offered. ~~This subparagraph does~~

3 (ii) *Clause (i) does not require a retailer to disclose available*
4 *customized discounted prices on its internet website if all of the*
5 *following apply:*

6 ~~(i)~~

7 (I) The customized discounted price is not offered, determined
8 by, available through, or advertised by the retailer, but is offered
9 by a third-party promotional program.

10 ~~(ii)~~

11 (II) The third-party promotional program's primary business is
12 offering third-party promotional programs.

13 ~~(iii)~~

14 (III) The third-party promotional program does not set, adjust,
15 advise on, or direct the retail price of the good.

16 ~~(iv)~~

17 (IV) The retailer does not set, adjust, advise on, or direct the
18 customized discounted price.

19 (iii) *If a retailer offers a customized discounted price online*
20 *exclusively to consumers enrolled in the retailer's loyalty,*
21 *membership, or rewards program and enrollees are required to*
22 *log into their account to utilize their rewards, the retailer may*
23 *provide the current eligibility criteria, available customized*
24 *discounted prices, and any conditions for receiving or earning the*
25 *discount behind the program account log-in page, provided that*
26 *the disclosure otherwise complies with clause (i).*

27 (D) The customized discounted price is made available on equal
28 terms to all consumers who meet the disclosed eligibility criteria.

29 ~~(4)~~

30 (8) Setting a price or specific terms to extend credit, refusing
31 to extend credit on specific terms, or refusing to enter into a
32 transaction with a specific consumer, if the retailer is acting based
33 on information contained in a consumer report, as defined by
34 subdivision (d) of Section 603 of the federal Fair Credit Reporting
35 Act (15 U.S.C. Sec. 1681).

36 ~~(5)~~

37 (9) Setting a price or specific terms to extend credit, refusing
38 to extend credit on specific terms, or refusing to enter into a
39 transaction with a specific commercial enterprise, if the retailer is

1 acting based on information contained in a commercial credit
2 report, as defined in Section 1785.42.

3 *(c) Nothing in this part limits or impairs any consumer right or*
4 *remedy available under any other state or federal law.*

5 7202. Any waiver of this part is against public policy and is
6 void and unenforceable.

7 SEC. 2. The Legislature finds and declares that this act furthers
8 the purposes and intent of the California Privacy Rights Act of
9 2020.