March 12th, 2026

Chair Klein and Members of the Committee on Commerce and Consumer Protection,

On behalf of Americans for Prosperity, we write to express our support for Senate File 4199, which would protect Minnesotans from having their private information gathered by retailers without their consent and used to set individualized prices for different shoppers.

SF 4199 prohibits retail stores from using surveillance-based price setting, that is, "offering, setting, or informing a customized price for an item for a specific consumer or group of consumers based, in whole or in part, on personal information collected using electronic surveillance technology." This personal information includes biometrics (facial recognition, fingerprints, voice, iris or retina scans, gait), as well as sensitive data including but not limited to internet search and browsing history, geolocation history, and political views.

Without this bill, personal information could be legally used to set different prices for each individual based on a calculation of how high a price they are willing to pay for an item. The bill makes exceptions for categories such as loyalty programs; senior, student, or military discounts; and cases where the cost of providing a good differs depending on the customer.

Personalized data is already used to create individualized prices for online shoppers. Instacart and Burger King were recently caught charging different customers different prices, a practice long used by airlines based on customers' site activity. A 2025 FTC report found that numerous companies engaged in surveillance pricing.

Meanwhile, major chains, such as Wegmans, Kroger, Home Depot, and Walmart, use facial recognition technologies to scan everyone in their stores. Often the shoppers are unaware that their biometric data is being collected. These practices give an unfair advantage to major retailers who can afford to implement these systems, allowing them to outcompete mom-and-pop stores.

In addition to unfair business practices, surveillance pricing could be utilized by the government. In instances such as the COVID-19 pandemic, it could become a powerful tool in regulating the behavior of private citizens in the model of the Chinese social credit system. These concerns become especially alarming when accounting for the ease with which an individual's personal religious or political beliefs could be used against them.

To protect a level playing field for small businesses and the privacy rights of individuals, we urge you to vote yes on SF 4199.

Sincerely,

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