ADVISORY NEIGHBORHOOD COMMISSION 1E
GOVERNMENT OF THE DISTRICT OF COLUMBIA
2605 SHERMAN AVE NW | WASHINGTON DC 20001 | ANC1E.ORG | 1E@ANC.DC.GOV

CHAIR	VICE CHAIR	SECRETARY	TREASURER
Commissioner Josh Jacobson 1E06@anc.dc.gov	Commissioner Audra Grant 1E02@anc.dc.gov	Commissioner Brad Howard 1E01@anc.dc.gov	Commissioner Philippa Hawker 1E03@anc.dc.gov

Commissioner Rashida Brown 1E04@anc.dc.gov	Vacant 1E05@anc.dc.gov	Commissioner Brian Footer 1E07@anc.dc.gov

RESOLUTION #: 1E-2026-124
INTRODUCED: OCT. 21, 2026
SPONSOR(S): COMMISSIONER PHILIPPA HAWKER, 1E03
LATEST ACTION: **ADOPTED**[10/28/2026]

RESOLUTION

Resolution Urging the Council of the District of Columbia to Enact and Make Enforceable B26-0667, the Surveillance Pricing Prohibition Amendment Act of 2026

On Oct. 21, 2026, Commissioner Philippa Hawker (1E03), introduced the following resolution for consideration by Advisory Neighborhood Commission 1E:

WHEREAS, Surveillance pricing, charging one customer a different price than another for the same good or service based on personal information about that customer, can already be done in the District: a December 2025 study by Consumer Reports, the Groundwork Collaborative, and More Perfect Union found identical grocery items offered at different prices to different shoppers at the same time, in the same stores, including two stores in the District, in some cases as much as 23 percent higher, through algorithmic price-testing software, although it did not find that the differences tracked shoppers' demographics; and

WHEREAS, The Federal Trade Commission's January 2025 initial staff findings reported that data as ordinary as a customer's location, browsing history, and the items left in an online cart is used to set individual prices, and that the systems doing so are sold as a service by intermediaries, with much of the data reaching sellers through data brokers; and on August 19, 2026 the Commission proposed an enforcement policy under which a business that sets

individualized prices using personal data, where customers expect a uniform price, should clearly and conspicuously disclose that the price is personalized, the basis for that personalization, and the types of data on which it is based; and

WHEREAS, B26-0667, introduced on April 20, 2026 by Councilmember Henderson and eight co-introducers and heard by the Committee on Public Works and Operations on October 19, 2026, would make surveillance-based price discrimination an unfair or deceptive trade practice under the Consumer Protection Procedures Act, and so would carry the private right of action at D.C. Official Code § 28-3905(k), which provides "[t]reble damages, or $1,500 per violation, whichever is greater"; and

WHEREAS, A customer shown a single price has no way to learn that it was set using her personal information, and so cannot bring that action or file the complaint on which enforcement ordinarily depends; at the October 19 hearing the Department of Licensing and Consumer Protection described surveillance pricing as a complaint type that requires a consumer to be highly aware of the practice, and said it had not yet taken an investigation or enforcement action specifically concerning it; and New York has required since November 10, 2025 that a customer be told when a price was set by an algorithm using her personal data, a requirement since sustained against constitutional challenge; and

WHEREAS, The bill as introduced assigns no agency responsibility for the new prohibition, grants no rulemaking authority, requires no record of how a price was set, provides no resources to examine a pricing system, and requires no report to the Council; and at the October 19 hearing the Office of the Attorney General testified that it has two data analysts for the entire agency, who can review pricing data but would need additional resources, while the Department of Licensing and Consumer Protection testified that its investigators lack the specialized skills the work requires, and its Director testified in writing that "[a]t a minimum, the Act as written would require two full-time investigators, weights and measures professionals, attorneys, funding for non-personnel services, and systems upgrades to implement"; and

WHEREAS, The Consumer Protection Procedures Act reaches prices charged to customers but not pay offered to workers, so B26-0667 cannot reach the individualized pay that for-hire drivers are offered by the same kind of system that quotes riders individualized fares; NOW, THEREFORE, BE IT

RESOLVED, ANC 1E supports B26-0667 and urges the Committee on Public Works and Operations to report it favorably with the following amendments; and

RESOLVED, ANC 1E urges the Council to conform the long title of the bill, which refers only to "algorithmic pricing of consumer goods," to the operative text, which reaches "a good or a service" however its price is set, so that transportation, delivery, ticketing, and lodging are not narrowed out of the measure; and

RESOLVED, ANC 1E urges the Council to amend proposed § 28-3901(16), which reaches only personal information "collected through electronic surveillance technology, technological methods, systems, or tools," to reach personal information however obtained, including information bought or licensed from a data broker or pricing vendor and information about a household, a device, or a group of consumers, and to reach any portion of the price, including fees; and

RESOLVED, ANC 1E urges the Council to require that, wherever the law permits a price or discount to be set using a customer's personal information, the customer be told so with the price and be able to obtain on request the categories of information used, without which no customer can invoke § 28-3905(k) or file a complaint; and

RESOLVED, ANC 1E urges the Council to make both the seller that deploys a pricing system and the vendor that supplies or operates it liable, and to provide that using an automated or third-party system is not a defense; and

RESOLVED, ANC 1E urges the Council to state in proposed § 28-3904(mm) that prices varied uniformly by time, inventory, aggregate demand, or the verifiable cost of delivery to a location are not prohibited; that a price test using a customer's personal information to decide the price that customer is shown is prohibited; and that any exception for discounts or loyalty programs is limited to offers made on equal, published terms to every customer who knowingly chooses to qualify; and

RESOLVED, ANC 1E urges the Council to name the Office of the Attorney General and the Department of Licensing and Consumer Protection as the implementing authorities, in addition to and not in place of § 28-3905(k); grant them rulemaking authority, with implementing guidance due within a fixed period; require sellers and pricing vendors to retain the inputs and logic used to set prices, securely and for use only in enforcement, and to produce them to either authority on request without a subpoena; and fund outreach so that residents know the practice is prohibited and where to report it; and

RESOLVED, ANC 1E urges the Council to authorize the implementing authorities to audit a seller's or vendor's pricing system, including through test purchases, and to ensure through the fiscal impact statement that whichever agency enforces the prohibition has the staff, tools, and training to carry out that audit, a prohibition being of no practical effect if no agency is equipped to detect a violation of it; and

RESOLVED, ANC 1E urges the Council to require the implementing authorities to report annually on complaints received, investigations opened, enforcement actions taken, and penalties collected, and to review that report at its annual performance oversight hearings; and

RESOLVED, ANC 1E asks the Department of For-Hire Vehicles and the Council committees of jurisdiction to define the ban on using personal information to set fares in B26-818, the For-Hire Passenger Service Reform Act of 2026, consistently with B26-0667, including as to information from data brokers, and to examine algorithmic pay-setting in the for-hire industry beyond the payment-transparency provisions of B26-818; and

RESOLVED, ANC 1E designates Commissioner Philippa Hawker to represent the Commission in all matters relating to this Resolution, including the submission of a statement for the record on B26-0667 before the hearing record closes on November 2, 2026. In the event the designated representative Commissioner cannot carry out their representative duties for any reason, ANC 1E authorizes the Chair to designate another Commissioner to represent the Commission in all matters relating to this Resolution; and

BE IT FINALLY RESOLVED, ANC 1E directs that a copy of this Resolution be transmitted to the Committee on Public Works and Operations, the Committee on the Judiciary and Public Safety, Councilmember Christina Henderson, the Councilmember for Ward 1, the Chairman of the Council, the Attorney General for the District of Columbia, the Department of Licensing and Consumer Protection, the Department of For-Hire Vehicles, and the Office of the Mayor.

CERTIFIED**,** that Advisory Neighborhood Commission 1E, on Oct. 28, 2026, at a properly noticed regular meeting of the Commission, with a quorum present, adopted this resolution by unanimous consent.

Josh Jacobson

COMMISSIONER JOSH JACOBSON
CHAIR, ANC 1E

COMMISSIONER BRAD HOWARD
SECRETARY, ANC 1E