

**Testimony of Linda Caprara on
behalf of the Maine State Chamber of Commerce
In Opposition to L.D. 1597, An Act to Prohibit the Use of Dynamic Pricing for Certain Consumer Goods and
L.D. 1907, An Act to Protect Consumers from Unfair Dynamic Pricing in Grocery Stores
May 12, 2025**

Good Afternoon, Sen. Curry, Rep. Gere and Members of the Joint Standing Committee on Housing and Economic Development. My name is Linda Caprara. I am the Vice President of Advocacy for the Maine State Chamber of Commerce. We are testifying in opposition to L.D. 1597, An Act to Prohibit the Use of Dynamic Pricing for Certain Consumer Goods and L.D. 1907, An Act to Protect Consumers from Unfair Dynamic Pricing in Grocery Stores.

We firmly believe that all of the bills that deal with pricing will have unintended consequences that could ultimately harm both consumers and businesses if passed. Under the Maine Unfair Trade Practices Act, the State already has the enforcement mechanisms to investigate, stop, and penalize abusive pricing practices.

Both L.D. 1597 and L.D. 1907 as drafted would prohibit dynamic pricing by grocery stores under certain circumstances. L.D. 1907 would prohibit the use of dynamic pricing by grocery stores to electronically change the price of a good or service more than once in a 48-hour period during a severe weather event, natural disaster, a supply chain disruption or another event that can cause a sudden increase in demand for goods or services.

L.D. 1597 would prohibit an eating establishment or grocery store from using dynamic pricing to set prices based upon weather, consumer data or other similar factors including an artificial intelligence enabled price adjustment. The bill would require prices to remain fixed for at least one business day.

These are just a few comments about the bills in general.

- Preserving the ability to adjust prices based on supply and demand helps grocers remain competitive and gives them the flexibility to respond to changing market conditions.
- Dynamic pricing is a legitimate business strategy that can actually benefit consumers when used responsibly by providing lower prices during off peak times, reduce waste and help small grocers manage their inventories, particularly important when dealing in a perishable-goods environment. Limiting it's use could prevent stores from offering discounts to price conscious shoppers.
- Supply chain disruptions are entirely out of the control of a grocer.
- It is unclear what "weather related" events refer to. Is it a thunderstorm? A downpour? A snowstorm?
- L.D. 1597 would also prohibit local restaurants from adjusting prices based on ingredient costs or seasonal availability

- While L.D. 1597 does explicitly create a private right of action, by tying it to the Maine Unfair Trade Practices Act (MUTPA), it effectively allows consumers to sue violators through the existing private right of action under MUTPA. It states "A violation of this section is an unfair trade practice under the Maine Unfair Trade Practices Act." And while L.D. 1907 also does not explicitly create a private right of action, it states "A grocery store engaging in dynamic pricing in violation of this section commits an unfair trade practice under Title 5, chapter 10." Title 5, chapter 10 of the Maine Revised Statutes is the Maine Unfair Trade Practices Act (UTPA) there is a private right of action under that act. While the bill does not directly state that consumers can sue, it states the violations is an unfair trade practice under the Maine UTPA, and it implicitly enables a private right of action through the existing law.

Today, Maine's grocery retailers like all retailers are facing significant challenges in supply chain management and inflationary measures. Ever since COVID, supply chains have fluctuated in every sector. Grocers like all retailers need to be able to respond to these fluctuations and have the latitude to utilize dynamic pricing. Dynamic pricing can benefit consumers when used responsibly by providing lower prices during off peak time which helps small businesses manage their inventories.

L.D. 1597 would discourage businesses from exploring and using innovation with respect to pricing technologies. Artificial intelligence (AI) is the way of the future and Maine companies will need to utilize these tools to stay relevant. Imposing restrictive regulations on grocers ability to use AI related to pricing technologies sets Maine back and restricts innovation. A lot of the dynamic pricing systems today are designed to increase transparency and consumer trust.

Title 5 MRSA section 209 authorizes Maine's Attorney General to bring legal action on behalf of the state if a person (business included) has engaged in unfair or deceptive trade practices. The AG can seek several enforcement actions to address the anti-competitive behavior such as injunctions, restitution, civil penalties.

We urge the Committee to vote ought not to pass on L.D. 1907, L.D. 1597.