Testimony of
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before the

Ohio House Technology and Innovation Committee
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regarding

HB 665

Thank you Chair Claggett, Vice-Chair Workman and all the members of the House Technology and Innovation Committee for the opportunity to submit testimony on HB 665. This is an enormously important issue for consumers. There are new technologies in grocery stores that threaten family budgets, and everyone's individual privacy.

While we support the good work the sponsors and committee are doing on surveillance pricing, HB 665 is missing a critical piece to be truly successful in banning the predatory practice of surveillance pricing – a ban on electronic shelf labels (ESLs).

I serve as the Secretary Treasurer of UFCW Local 1059. Along with our partners at UFCW Locals 75 and 880, we represent nearly 62,000 members in Ohio who work in retail grocery stores, food processing, healthcare, and the cannabis industry. Our members put food on the table for Ohio families. And unfortunately, today the cost of food in Ohio is not affordable for many working families.

Grocery prices are rising. In Ohio over the last 12 months, food prices have risen 4.4%. While the rise in prices have several causes there is one challenge that is newer and can be addressed by legislation - restrictions on Surveillance Pricing and Electronic Shelf Labels. Large grocery retailers are adopting new technologies that exploit consumers for profit and make it harder for struggling families to eat. Corporations collect information about where we go, what we watch and what food we buy. Retailers are already using that data to set individual prices for different customers.

ESLs are essentially cloud connected devices that can deploy the use of customer data and surveillance technology to set different prices for different customers. ESL combined with the computing power of AI makes individual pricing a reality today, not sometime far off in the future. Using personal customer data and AI, a store can calculate the maximum amount of money a customer is willing to pay and reflect that number on the ESL when the customer is in the aisle.

We know this is happening because we are seeing it in our stores. Grocery retail chains are already using ESLs around the country. Kroger began using ESLs in dozens of stores in 2018; and Wal-Mart announced it is adding ESLs to every store.

If companies have the ability to treat groceries like an Uber ride, then legislators must support regulating the tools that would allow this potentially discriminatory pricing on food. Unless action is taken, ESLs and surveillance pricing will only continue to drive up the costs of groceries.

Addressing surveillance pricing without simultaneously banning ESLs will not solve the problem. Stores would still be able to increase prices based on time of day or proximity to a holiday, or event like the Super Bowl. This pricing may not be as sophisticated or individualized as it would be in combination with surveillance pricing, but it is still predatory.

We are seeking to ban the use of electronic shelf labels because food is a necessity, not a luxury, and the price should be clearly understood. Analog price tags are the best protection for consumers.

Unless action is taken, ESLs and surveillance pricing will only continue to contribute to the rising costs of groceries and the affordability crisis we have heard so much about. A ban on ESLs is necessary, and this bill must be amended accordingly. I respectfully urge the committee to amend HB665 and pass it. Thank you very much for allowing me to submit testimony.