

S.2992 prohibits Amazon from favoring Prime over non-Prime offers

Amazon Prime subscribers expect to compare products in search results, where a **Prime** badge means that Amazon guarantees free delivery by the promised date. For a product to be eligible for Prime, a marketplace seller needs to use Amazon's fulfillment services and provide inventory to Amazon's distribution network.

The screenshot shows an Amazon search results page for "furnace filters". The top navigation bar includes the Amazon Prime logo, delivery location (Steve Mclean 22101), search bar, and account/order links. Below the navigation, there are 1-48 of over 7,000 results. Three product listings are visible:

- Vega AC Air Furnace Filters - Cut to Fit - Washable (20x30x1, 2 Pack)**: Price \$26⁹⁹ (\$13.50/Count). Delivery: "Get it Wed, Feb 16 - Fri, Feb 18 FREE Shipping".
- Filtrete 16x25x1, AC Furnace Air Filter, MPR 1000, Micro Allergen Defense, 4-Pack**: Price \$53⁹⁹ (\$13.50/Count). Delivery: "prime Today 5 PM - 10 PM FREE delivery today".
- Aprilaire 413 Replacement Furnace Air Filter for Aprilaire Whole Home Air Purifiers, MERV 13, Healthy Home...**: Price \$169⁹⁹ (\$42.50/Count). Delivery: "prime FREE One-Day Get it Tomorrow, Feb 11".

Blue arrows point from a text box on the right to the Prime delivery badges for the second and third listings.

S. 2992 prohibits Amazon from featuring **Prime** badges only for sellers who use Amazon's fulfillment services.

In the example above, the first seller cannot display the **Prime** badge since they are not using Amazon's fulfillment services, although that seller is promising free shipping with 7-day delivery. Prime subscribers often look for the Prime badge to ensure faster free delivery by Amazon.

But Amazon may not favor Prime offers from Amazon or from marketplace sellers, since that favors sellers who use Amazon's fulfillment services. That is unlawful conduct under S. 2992 Section 2:

It shall be unlawful... to preference the covered platform operator's own products, services, or lines of business over those of another business user on the covered platform in a manner that would materially harm competition

It shall be unlawful for a person operating a covered platform... in connection with any covered platform user interface including search or ranking functionality, treat the products services, or lines of business of the covered platform operator more favorably relative to those of another business user.