

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 26-0542.01 Brita Darling x2241

HOUSE BILL 26-1210

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A BILL FOR AN ACT

101 **CONCERNING LIMITING THE USE OF INTIMATE PERSONAL DATA TO**
102 **MAKE INFERENCES THAT IMPACT A PERSON'S FINANCIAL**
103 **POSITION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Surveillance data is defined in the bill as data that is obtained through observation, inference, or surveillance of consumers or workers and that is related to personal characteristics, behaviors, or biometrics of an individual or group. The bill prohibits discrimination against a consumer or worker through the use of automated decision systems used

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.*

to engage in:

- Individualized price setting based on surveillance data regarding a consumer; or
- Individualized wage setting based on surveillance data regarding a worker.

An automated decision system is defined in the bill and includes, in part, information derived from any technology, software, program, machine-based system, or computational process that uses artificial intelligence or other data processing techniques to assist, inform, or replace human decision-making.

The bill also specifies activities that are not prohibited as individualized price or wage setting based on surveillance data regarding a consumer or worker.

The attorney general or a district attorney may bring a civil action on behalf of the state against a person that violates the prohibition against individualized price or wage setting based on surveillance data to seek the imposition of civil penalties. In addition, a person aggrieved by a violation of the prohibition specified in the bill may bring a civil action on behalf of themselves or a group of similarly situated persons to restrain further violations and to recover damages, costs, and reasonable attorney fees.

A violation of the prohibition against individualized price setting or individualized wage setting is a deceptive trade practice under the "Colorado Consumer Protection Act".

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-105, **add**
3 (1)(qqqq) as follows:

4 **6-1-105. Unfair or deceptive trade practices - definitions.**

5 (1) A person engages in a deceptive trade practice when, in the
6 course of the person's business, vocation, or occupation, the person:

7 (qqqq) VIOLATES PART 19 OF THIS ARTICLE 1.

8 **SECTION 2.** In Colorado Revised Statutes, **add** part 19 to article
9 1 of title 6 as follows:

10 **PART 19**

11 **PROHIBITING INDIVIDUALIZED PRICE**

1 AND WAGE SETTING USING SURVEILLANCE DATA

2 **6-1-1901. Legislative declaration.**

3 (1) THE GENERAL ASSEMBLY FINDS AND DETERMINES THAT:

4 (a) INDIVIDUALIZED PRICE AND WAGE SETTING BASED ON
5 SURVEILLANCE DATA RAISES SERIOUS CONCERNS ABOUT PRIVACY, FAIR
6 COMPETITION, AND DISCRIMINATORY TREATMENT;

7 (b) INDIVIDUALIZED PRICE AND WAGE SETTING BASED ON
8 SURVEILLANCE DATA INVOLVES THE IMPOSITION OF INDIVIDUALIZED
9 PRICES OR WAGES BASED ON AUTOMATED PROCESSING OF PERSONAL DATA
10 TO HELP IDENTIFY THE HIGHEST AMOUNT A PARTICULAR CONSUMER IS
11 LIKELY TO PAY FOR A GOOD OR SERVICE OR THE LOWEST AMOUNT AN
12 INDIVIDUAL WORKER IS LIKELY TO ACCEPT FOR WORK;

13 (c) THE USE OF AUTOMATED DECISION SYSTEMS TO EVALUATE AND
14 MANIPULATE VAST QUANTITIES OF SURVEILLANCE DATA TO IDENTIFY
15 INDIVIDUALIZED PRICES AND WAGES ALLOWS LARGE COMPANIES TO
16 CHARGE CONSUMERS DESPERATE TO PURCHASE CERTAIN GOODS OR
17 PRODUCTS MORE AND TO PAY VULNERABLE WORKERS LESS. FOR EXAMPLE,
18 BEHAVIORAL DATA REVEALING REPEATED PURCHASES OF GOODS NEEDED
19 TO FACILITATE SANITARY INSULIN INJECTIONS COULD BE EXPLOITED TO
20 OFFER A DIABETIC CONSUMER HIGHER PRICES ON THOSE PRODUCTS, OR
21 FINANCIAL DATA REGARDING A RECENT PAYDAY LOAN COULD BE
22 EXPLOITED TO OFFER A DESPERATE WORKER LOWER WAGES.

23 (d) INDIVIDUALIZED PRICE AND WAGE SETTING BASED ON
24 SURVEILLANCE DATA ALSO HELPS THE LARGE CORPORATIONS THAT HAVE
25 ACCESS TO DATA AND COMPUTING POWER INCREASE THEIR MARKET POWER
26 AT THE EXPENSE OF SMALL BUSINESSES;

27 (e) INDIVIDUALIZED PRICE AND WAGE SETTING BASED ON

1 SURVEILLANCE DATA ALSO POSES EXTRAORDINARY RISKS TO OUR PRIVACY
2 BY INCENTIVIZING THE COLLECTION AND PURCHASE OF VAST INFORMATION
3 ABOUT PERSONAL CHARACTERISTICS, BEHAVIORS, AND BIOMETRICS, OFTEN
4 WITHOUT OUR KNOWLEDGE OR CONSENT;

5 (f) A JANUARY 2025 FEDERAL TRADE COMMISSION REPORT
6 SUGGESTS THAT INDIVIDUALIZED PRICING TOOLS ARE ACTIVELY BEING
7 DEVELOPED AND MARKETING ACROSS A RANGE OF INDUSTRIES, INCLUDING
8 CONSUMER-FACING BUSINESSES, LIKE GROCERY AND RETAIL STORES, AS
9 WELL AS PROVIDERS OF FINANCIAL SERVICES, INCLUDING CREDIT CARD
10 COMPANIES;

11 (g) MEANWHILE, AUTOMATED DECISION SYSTEMS ARE USED BY GIG
12 ECONOMY GIANTS TO DETERMINE HOW LITTLE COMPENSATION AN
13 INDIVIDUAL WORKER MAY ACCEPT TO PERFORM A JOB. AS MORE AND
14 MORE COMPANIES REQUIRE WORKERS, RANGING FROM HEALTH-CARE
15 PROVIDERS AND CONSTRUCTION WORKERS TO ENGINEERS AND TEACHERS,
16 TO SHIFT TO A GIG-MODEL OF EMPLOYMENT, THE INDUSTRY'S
17 SURVEILLANCE AND WAGE-SETTING SYSTEMS ARE EXPANDING ACROSS THE
18 MARKETPLACE.

19 (h) INDIVIDUALIZED WAGE SETTING BASED ON SURVEILLANCE
20 DATA HAS ALSO BEGUN IMPACTING WORKERS IN TRADITIONAL
21 EMPLOYMENT, PARTICULARLY THEIR ACCESS TO BONUS AND INCENTIVE
22 COMPENSATION.

23 (2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT:

24 (a) THIS PART 19 PROHIBITS INDIVIDUALIZED PRICE AND WAGE
25 SETTING BASED ON SURVEILLANCE DATA THAT INVOLVES THE USE OF
26 AUTOMATED DECISION SYSTEMS TO PROCESS PERSONAL DATA IN ORDER TO
27 INCREASE CORPORATE PROFITS AT THE EXPENSE OF COLORADO WORKERS,

1 CONSUMERS, AND SMALL BUSINESSES WHILE ALLOWING BUSINESSES TO
2 RETAIN PRICING FLEXIBILITY; AND

3 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS PART
4 19 BE BROADLY INTERPRETED TO ACHIEVE ITS INTENDED PURPOSES AND
5 POLICIES.

6 **6-1-1902. Definitions.**

7 AS USED IN THIS PART 19, UNLESS THE CONTEXT OTHERWISE
8 REQUIRES:

9 (1) (a) "AUTOMATED DECISION SYSTEM" MEANS ANY
10 TECHNOLOGY, SOFTWARE, PROGRAM, MACHINE-BASED SYSTEM, OR
11 COMPUTATIONAL PROCESS THAT USES STATISTICAL MODELING, DATA
12 ANALYTICS, ARTIFICIAL INTELLIGENCE, OR OTHER DATA PROCESSING
13 TECHNIQUES, AS WELL AS TECHNOLOGY THAT GENERATES A SCORE,
14 RANKING, CLASSIFICATION, OR PREDICTION ABOUT A NATURAL PERSON,
15 AND THAT IS USED TO ASSIST, INFORM, OR REPLACE HUMAN
16 DECISION-MAKING.

17 (b) "AUTOMATED DECISION SYSTEM" INCLUDES STATISTICAL,
18 RULES-BASED, AND MULTIMODAL DECISION SYSTEMS OR SYSTEMS
19 GENERATING OR PROCESSING TEXT, IMAGES, AUDIO, OR A COMBINATION
20 OF MODALITIES.

21 (2) "BEHAVIORS" MEANS:

22 (a) AN INDIVIDUAL'S OBSERVABLE, MEASURABLE, OR INFERRED
23 ACTIONS, HABITS, PREFERENCES, INTERESTS, OR VULNERABILITIES,
24 INCLUDING THE INDIVIDUAL'S POLITICAL, PERSONAL, OR PROFESSIONAL
25 AFFILIATIONS, WEB BROWSING HISTORY, INTERNET PROTOCOL ADDRESSES
26 USED, LOCATIONS FREQUENTED, PURCHASE HISTORY, FINANCIAL
27 CIRCUMSTANCES, OR CONSUMER BEHAVIORS; OR

1 (b) INFERENCES ASSOCIATED WITH A GROUP, BAND, CLASS, OR TIER
2 OF INDIVIDUALS IN WHICH THE INDIVIDUAL BELONGS.

3 (3) "BIOMETRICS" HAS THE SAME MEANING AS "BIOMETRIC
4 IDENTIFIER", AS DEFINED IN SECTION 6-1-1303, AND INCLUDES BIOMETRIC
5 IDENTIFIERS ASSOCIATED WITH A WORKER.

6 (4) "CONSUMER" MEANS AN INDIVIDUAL WHO HAS, OBTAINS,
7 MAINTAINS, USES, PURCHASES, OR LEASES GOODS, SERVICES, OR REAL OR
8 PERSONAL PROPERTY OR THE PERSONAL REPRESENTATIVE OF THAT
9 INDIVIDUAL.

10 (5) "INDIVIDUALIZED" MEANS SPECIFIC TO OR INFERRED ABOUT AN
11 INDIVIDUAL OR GROUP, BAND, CLASS, OR TIER OF INDIVIDUALS WITH
12 PARTICULAR PERSONAL CHARACTERISTICS, BEHAVIORS, OR BIOMETRICS.

13 (6) "INDIVIDUALIZED PRICE SETTING" MEANS USING AN
14 AUTOMATED DECISION SYSTEM TO INFORM INDIVIDUALIZED PRICES BASED
15 ON SURVEILLANCE DATA REGARDING A CONSUMER.

16 (7) (a) "INDIVIDUALIZED WAGE SETTING" MEANS USING AN
17 AUTOMATED DECISION SYSTEM TO INFORM INDIVIDUALIZED WAGES BASED
18 ON SURVEILLANCE DATA REGARDING A WORKER.

19 (b) "INDIVIDUALIZED WAGE SETTING" DOES NOT INCLUDE:

20 (I) A PERSON'S DECISION NOT TO HIRE AN INDIVIDUAL WHO HAS
21 NOT PREVIOUSLY WORKED FOR OR THROUGH THE PERSON OR THE PERSON'S
22 AFFILIATES OR SUBSIDIARIES; OR

23 (II) PAY EQUITY STUDIES, COMPENSATION REVIEWS, OR OTHER
24 ACTIVITIES NECESSARY TO COMPLY WITH FEDERAL AND STATE
25 ANTIDISCRIMINATION AND PAY EQUITY LAWS.

26 (8) "INSURER" HAS THE MEANING SET FORTH IN SECTION 10-1-102.

27 (9) "PERSONAL CHARACTERISTICS" INCLUDES PERSONAL DATA, AS

1 DEFINED IN SECTION 6-1-1303 (17)(a), INCLUDING DE-IDENTIFIED DATA
2 AND PUBLICLY AVAILABLE INFORMATION; SENSITIVE DATA, AS DEFINED IN
3 SECTION 6-1-1303 (24); GENETIC INFORMATION, AS DEFINED IN SECTION
4 10-3-1104.6 (2)(c); AND BOTH MUTABLE AND IMMUTABLE QUALITIES,
5 FEATURES, ATTRIBUTES, OR TRAITS OF AN INDIVIDUAL.

6 (10) "PRICE" MEANS THE AMOUNT CHARGED TO A CONSUMER IN
7 RELATION TO A TRANSACTION, INCLUDING ALL RELATED COSTS AND FEES
8 AND OTHER MATERIAL TERMS OF THE TRANSACTION THAT HAVE A DIRECT
9 BEARING ON THE AMOUNT PAID BY THE CONSUMER OR THE VALUE OF THE
10 GOOD OR SERVICE OFFERED OR PROVIDED TO THE CONSUMER.

11 (11)(a) "SURVEILLANCE DATA" MEANS DATA OBTAINED THROUGH
12 OBSERVATION, INFERENCE, OR SURVEILLANCE OF A CONSUMER OR
13 WORKER THAT IS RELATED TO PERSONAL CHARACTERISTICS, BEHAVIORS,
14 OR BIOMETRICS OF THE INDIVIDUAL OR A GROUP, BAND, CLASS, OR TIER IN
15 WHICH THE INDIVIDUAL BELONGS.

16 (b) "SURVEILLANCE DATA" INCLUDES INFORMATION GATHERED,
17 PURCHASED, OR OTHERWISE ACQUIRED.

18 (12) "WAGE" MEANS THE MATERIAL TERMS OFFERED TO A WORKER
19 IN EXCHANGE FOR LABOR, INCLUDING THE AMOUNT TO BE PAID FOR THE
20 LABOR, WHETHER PAID BY TIME RATE, PIECE RATE, SALARY, BONUSES,
21 COMMISSIONS AND OTHER INCENTIVES, SCHEDULING, TASK ASSIGNMENT,
22 OR OTHER SIMILAR MATERIAL TERMS THAT HAVE A DIRECT IMPACT ON
23 EARNINGS OR ON THE VALUE OF THE TASK TO THE WORKER.

24 (13) "WORKER" MEANS AN INDIVIDUAL PERFORMING WORK FOR
25 WAGES OR OTHER COMPENSATION AND INCLUDES AN EMPLOYEE, AS
26 DEFINED IN SECTION 8-4-101, AND ANY OTHER INDIVIDUAL PERFORMING
27 WORK ON BEHALF OF OR FOR THE BENEFIT OF AN EMPLOYER OR OTHER

1 PERSON.

2 **6-1-1903. Prohibition against individualized price or wage**
3 **setting - publication of procedures - rules.**

4 (1) **Individualized price setting.**

5 (a) A PERSON SHALL NOT ENGAGE IN INDIVIDUALIZED PRICE
6 SETTING.

7 (b) A PERSON HAS NOT ENGAGED IN INDIVIDUALIZED PRICE
8 SETTING IF THE PERSON CAN DEMONSTRATE THAT:

9 (I) DIFFERENTIAL PRICES ARE JUSTIFIED BASED ON DIFFERENCES IN
10 COST IN PROVIDING A GOOD OR SERVICE TO DIFFERENT CONSUMERS,
11 INCLUDING BASED ON CONSUMER SELECTIONS, DELIVERY DISTANCE, OR
12 DELIVERY TIME;

13 (II) DIFFERENTIAL PRICES ARE JUSTIFIED BY TEMPORAL
14 DIFFERENCES, INCLUDING DYNAMIC PRICING AND PRICE FLUCTUATIONS
15 BASED ON SUPPLY AND DEMAND;

16 (III) DIFFERENTIAL PRICES ARE BASED ON PUBLICLY DISCLOSED
17 ELIGIBILITY CRITERIA THAT ANY CONSUMER COULD POTENTIALLY MEET,
18 INCLUDING SIGNING UP FOR A MAILING LIST, REGISTERING FOR
19 PROMOTIONAL COMMUNICATIONS, OR PARTICIPATING IN A PROMOTIONAL
20 EVENT, AND THE TERMS AND CRITERIA FOR RECEIVING THE DIFFERENCE IN
21 PRICE ARE CONVEYED CLEARLY AND CONSPICUOUSLY AND ARE DISCLOSED
22 IN CLEAR AND PROMINENT TERMS IN SUCH A MANNER THAT AN ORDINARY
23 CONSUMER WOULD NOTICE AND UNDERSTAND THEM;

24 (IV) DIFFERENTIAL PRICES ARE OFFERED OR PROVIDED TO A
25 COMMONLY UNDERSTOOD SOCIAL GROUPING, SUCH AS TEACHERS,
26 VETERANS, SENIOR CITIZENS, OR STUDENTS, AND:

27 (A) THE TERMS AND CRITERIA FOR RECEIVING THE DIFFERENCE IN

1 PRICING ARE PUBLICLY AVAILABLE, ARE CONVEYED CLEARLY AND
2 CONSPICUOUSLY, AND ARE DISCLOSED IN CLEAR AND PROMINENT TERMS
3 IN SUCH A MANNER THAT AN ORDINARY CONSUMER WOULD NOTICE AND
4 UNDERSTAND THEM; AND

5 (B) ANY CONSUMER CAN OBTAIN THE DISCOUNT IF THEY CAN
6 DEMONSTRATE THAT THEY ARE PART OF THE GROUP;

7 (V) DIFFERENTIAL PRICES ARE OFFERED AS PART OF A LOYALTY,
8 MEMBERSHIP, OR REWARDS PROGRAM THROUGH WHICH:

9 (A) THE DIFFERENCE IN PRICE IS MADE AVAILABLE TO ANY
10 CONSUMER IN THE LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM WHO
11 MEETS THE DISCLOSED ELIGIBILITY CRITERIA, WHICH ARE PUBLICLY
12 AVAILABLE, ARE CONVEYED CLEARLY AND CONSPICUOUSLY, AND ARE
13 DISCLOSED IN CLEAR AND PROMINENT TERMS IN SUCH A MANNER THAT AN
14 ORDINARY CONSUMER WOULD NOTICE AND UNDERSTAND THEM;

15 (B) PRICES ARE NOT INDIVIDUALIZED BETWEEN CONSUMERS WHO
16 ARE PART OF THE PROGRAM;

17 (C) CURRENT DISCOUNTS, PROMOTIONS, AND REWARDS, OR ANY
18 OTHER BENEFIT PROVIDED TO PROGRAM MEMBERS, ARE PUBLICLY
19 DISCLOSED, CLEARLY AND CONSPICUOUSLY, AND IN SUCH A MANNER THAT
20 AN ORDINARY CONSUMER WOULD NOTICE AND UNDERSTAND THEM; AND

21 (D) IF THE LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM
22 ALLOWS A CONSUMER TO ACCRUE AND EXCHANGE POINTS, CREDITS, OR
23 ANY SIMILAR NONMONETARY SYSTEM OF VALUE FOR A PRODUCT OR
24 SERVICE, THE PROGRAM DOES NOT CHARGE A DIFFERENT PRICE FOR THE
25 POINTS, CREDITS, OR SIMILAR NONMONETARY SYSTEM OF VALUE TO
26 DIFFERENT CONSUMERS FOR THE SAME OR SUBSTANTIALLY SIMILAR
27 PRODUCT OR SERVICE; OR

1 (VI) THE PERSON OPERATES AS AN INSURER COMPLYING WITH
2 SECTION 10-3-1104.9 AND ASSOCIATED RULES AND ONLY INPUTS
3 RISK-RELEVANT DATA INTO AN AUTOMATED DECISION SYSTEM THAT
4 INFORMS DECISIONS RELATED TO THE AMOUNT A CONSUMER MUST PAY
5 FOR AN INSURANCE POLICY OR CONTRACT.

6 (c) A PERSON HAS NOT ENGAGED IN INDIVIDUALIZED PRICE
7 SETTING IF THE PERSON CAN DEMONSTRATE THAT A REFUSAL TO EXTEND
8 CREDIT ON SPECIFIC TERMS OR THE REFUSAL TO ENTER INTO A
9 TRANSACTION WITH A SPECIFIC CONSUMER IS BASED ON DATA PROVIDED
10 IN A CONSUMER REPORT COVERED BY THE FEDERAL "FAIR CREDIT
11 REPORTING ACT", 15 U.S.C. SEC. 1681 ET SEQ.

12 (2) **Individualized wage setting.**

13 (a) A PERSON SHALL NOT ENGAGE IN INDIVIDUALIZED WAGE
14 SETTING.

15 (b) A PERSON HAS NOT ENGAGED IN INDIVIDUALIZED WAGE
16 SETTING IF THE PERSON CAN DEMONSTRATE THAT:

17 (I) THE PERSON OFFERS INDIVIDUALIZED WAGES BASED SOLELY
18 ON:

19 (A) DATA SPECIFIC TO THE INDIVIDUAL WORKER THAT IS DIRECTLY
20 RELATED TO THE TASKS THE WORKER WAS HIRED TO PERFORM, INCLUDING
21 DATA ASSOCIATED WITH A WORKER'S PERFORMANCE, ADHERENCE TO
22 WORKPLACE SAFETY PROTOCOLS, OR GENERATION OF NEW BUSINESS; OR

23 (B) DIFFERENCES IN THE COST OF LIVING IN THE CITY OR STATE
24 WHERE THE WORKER IS ASSIGNED TO PERFORM WORK AS COMPARED TO
25 THE OTHER CITIES OR STATES WHERE WORKERS ENGAGE IN SIMILAR WORK
26 FOR THE SAME EMPLOYER OR ENTITY; AND

27 (II) THE PERSON DISCLOSES IN PLAIN LANGUAGE BEFORE HIRING A

1 WORKER TO PERFORM WORK, AND TO ALL WORKERS WHOSE WAGES ARE
2 SET IN WHOLE OR IN PART THROUGH AN AUTOMATED DECISION SYSTEM,
3 WHAT DATA IS CONSIDERED AND HOW THE AUTOMATED DECISION SYSTEM
4 CONSIDERS THE DATA.

5 **(3) Publication of procedures - rules.** PURSUANT TO
6 PROCEDURES SPECIFIED BY THE ATTORNEY GENERAL BY RULE, A PERSON
7 THAT USES AN AUTOMATED DECISION SYSTEM TO ASSIST OR REPLACE
8 HUMAN DECISION-MAKING RELATED TO PRICES OR WAGES SHALL DEVELOP
9 AND PUBLISH REASONABLE PROCEDURES:

10 (a) TO ENSURE THE ACCURACY OF ALL DATA CONSIDERED BY THE
11 AUTOMATED DECISION SYSTEM;

12 (b) FOR CONSUMERS OR WORKERS TO REQUEST AND RECEIVE
13 INFORMATION REGARDING WHAT DATA IS CONSIDERED AND HOW THE
14 AUTOMATED SYSTEM CONSIDERS THE DATA WHEN SETTING PARTICULAR
15 PRICES OR WAGES; AND

16 (c) TO ALLOW A CONSUMER OR WORKER TO CORRECT OR
17 CHALLENGE THE ACCURACY OF DATA CONSIDERED BY THE AUTOMATED
18 DECISION SYSTEM.

19 **6-1-1904. Rule-making authority.**

20 THE ATTORNEY GENERAL SHALL ADOPT RULES AS NECESSARY FOR
21 THE PURPOSE OF IMPLEMENTING AND ENFORCING THIS PART 19.

22 **6-1-1905. No displacement of other applicable laws.**

23 NOTHING IN THIS PART 19, INCLUDING THE ENFORCEMENT
24 AUTHORITY GRANTED TO THE ATTORNEY GENERAL OR A DISTRICT
25 ATTORNEY PURSUANT TO THIS PART 19, PREEMPTS OR OTHERWISE AFFECTS
26 ANY OTHER RIGHT, CLAIM, REMEDY, PRESUMPTION, OR DEFENSE
27 AVAILABLE AT LAW OR IN EQUITY.

1 **6-1-1906. Enforcement by attorney general or district attorney**
2 **- civil penalties - attorney fees - costs - private right of action.**

3 (1) A PERSON THAT VIOLATES THIS PART 19 ENGAGES IN A
4 DECEPTIVE TRADE PRACTICE.

5 (2) (a) THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY MAY
6 BRING A CIVIL ACTION ON BEHALF OF THE STATE AGAINST A PERSON THAT
7 VIOLATES THIS PART 19 TO SEEK THE IMPOSITION OF CIVIL PENALTIES.

8 (b) (I) A COURT MAY ORDER THAT A PERSON THAT VIOLATES THIS
9 PART 19 PAY A CIVIL PENALTY OF NOT MORE THAN TEN THOUSAND
10 DOLLARS FOR EACH VIOLATION. THE STATE TREASURER SHALL CREDIT
11 CIVIL PENALTIES COLLECTED PURSUANT TO THIS SUBSECTION (2)(b)(I) TO
12 THE GENERAL FUND.

13 (II) A VIOLATION OF THIS PART 19 CONSTITUTES A SEPARATE
14 VIOLATION WITH RESPECT TO EACH CONSUMER, WORKER, OR
15 TRANSACTION INVOLVED.

16 (c) THE ATTORNEY GENERAL OR A DISTRICT ATTORNEY SHALL BE
17 AWARDED COSTS AND REASONABLE ATTORNEY FEES IN ALL ACTIONS IN
18 WHICH THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY PREVAILS IN
19 AN ACTION BROUGHT PURSUANT TO THIS PART 19.

20 (3) IN ADDITION TO OTHER REMEDIES PROVIDED AT LAW OR IN
21 EQUITY, A PERSON AGGRIEVED BY A VIOLATION OF THIS PART 19 MAY
22 BRING A CIVIL ACTION ON BEHALF OF THEMSELF OR A GROUP OF SIMILARLY
23 SITUATED PERSONS TO RESTRAIN FURTHER VIOLATIONS AND TO RECOVER
24 DAMAGES, COSTS, AND REASONABLE ATTORNEY FEES, INCLUDING THE
25 GREATER OF:

26 (a) THE AMOUNT OF ACTUAL DAMAGES SUSTAINED, INCLUDING
27 PREJUDGMENT INTEREST EITHER OF EIGHT PERCENT PER YEAR OR AT THE

1 RATE PROVIDED IN SECTION 13-21-101, WHICHEVER IS GREATER, FROM
2 THE DATE ON WHICH THE CLAIM UNDER THIS PART 19 ACCRUED OR THREE
3 TIMES THE AMOUNT OF ACTUAL DAMAGES SUSTAINED IF IT IS ESTABLISHED
4 BY CLEAR AND CONVINCING EVIDENCE THAT THE PERSON VIOLATING THIS
5 PART 19 ENGAGED IN BAD FAITH CONDUCT OR INTENTIONALLY VIOLATED
6 THIS PART 19; OR

7 (b) THREE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS PART
8 19, WITH EACH VIOLATION OF THIS PART 19 CONSTITUTING A SEPARATE
9 VIOLATION WITH RESPECT TO EACH CONSUMER, WORKER, OR
10 TRANSACTION INVOLVED.

11 **SECTION 3. Act subject to petition - effective date -**
12 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
13 the expiration of the ninety-day period after final adjournment of the
14 general assembly (August 12, 2026, if adjournment sine die is on May 13,
15 2026); except that, if a referendum petition is filed pursuant to section 1
16 (3) of article V of the state constitution against this act or an item, section,
17 or part of this act within such period, then the act, item, section, or part
18 will not take effect unless approved by the people at the general election
19 to be held in November 2026 and, in such case, will take effect on the
20 date of the official declaration of the vote thereon by the governor.

21 (2) This act applies to conduct occurring on or after the applicable
22 effective date of this act.