

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0542.01 Brita Darling x2241

HOUSE BILL 26-1210

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House Committees

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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. Definitions.**

3 AS USED IN THIS PART 19, UNLESS THE CONTEXT OTHERWISE
4 REQUIRES:

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

8 (2) "CONSUMER" HAS THE MEANING SET FORTH IN SECTION
9 6-1-732 (1)(d).

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

14 (4) (a) "INDIVIDUALIZED PRICE SETTING" MEANS USING A PWSA
15 OR THE OUTPUT OF A PWSA IN DETERMINING A PRICE OFFERED TO A
16 CONSUMER.

17 (b) "INDIVIDUALIZED PRICE SETTING" DOES NOT INCLUDE THE USE
18 OF LOCATION DATA OR AN INTERNET PROTOCOL ADDRESS SOLELY FOR THE
19 PURPOSE OF DETERMINING THE JURISDICTION WHERE AN INDIVIDUAL IS
20 LOCATED IF THE LOCATION DATA OR INTERNET PROTOCOL ADDRESS IS
21 USED SOLELY FOR THE PURPOSE OF:

22 (I) LIMITING OFFERED PRODUCTS OR SERVICES TO THOSE
23 AVAILABLE IN THAT JURISDICTION;

24 (II) DISPLAYING PRICES IN THE APPROPRIATE CURRENCY;

25 (III) CALCULATING JURISDICTION-SPECIFIC TAXES; OR

26 (IV) COMPLYING WITH JURISDICTION-SPECIFIC DISCLOSURE OR
27 OTHER REGULATORY REQUIREMENTS.

1 (5) (a) "INDIVIDUALIZED WAGE SETTING" MEANS USING A PWSA
2 OR THE OUTPUT OF A PWSA IN DETERMINING A WAGE OFFERED TO A
3 WORKER.

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

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

8 (II) PAY EQUITY STUDIES, COMPENSATION REVIEWS, OR OTHER
9 ACTIVITIES NECESSARY TO COMPLY WITH FEDERAL AND STATE
10 ANTIDISCRIMINATION AND PAY EQUITY LAWS.

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

12 (7) "ONLINE BEHAVIORS" MEANS:

13 (a) AN INDIVIDUAL'S ACTIONS, HABITS, PREFERENCES,
14 AFFILIATIONS, FINANCIAL CIRCUMSTANCES, OR INTERESTS THAT ARE
15 OBSERVABLE, MEASURABLE, OR INFERRED THROUGH ELECTRONIC
16 SURVEILLANCE, DATA SCRAPING, DATA PURCHASE, WEB BROWSING
17 HISTORY, GEOLOCATION, OR PURCHASE HISTORY; OR

18 (b) INFERENCES ASSOCIATED WITH A GROUP, BAND, CLASS, OR TIER
19 OF INDIVIDUALS WITH SIMILAR OBSERVABLE AND MEASURABLE ACTIONS,
20 HABITS, PREFERENCES, AFFILIATIONS, FINANCIAL CIRCUMSTANCES, OR
21 INTERESTS.

22 (8) "PERSONAL CHARACTERISTICS" INCLUDES PERSONAL DATA, AS
23 DEFINED IN SECTION 6-1-1303 (17)(a), INCLUDING PUBLICLY AVAILABLE
24 INFORMATION; SENSITIVE DATA, AS DEFINED IN SECTION 6-1-1303 (24);
25 GENETIC INFORMATION, AS DEFINED IN SECTION 10-3-1104.6 (2)(c); AND
26 BOTH MUTABLE AND IMMUTABLE QUALITIES, FEATURES, ATTRIBUTES, OR
27 TRAITS OF AN INDIVIDUAL.

1 (9) "PRICE" MEANS THE AMOUNT CHARGED TO A CONSUMER IN
2 RELATION TO A TRANSACTION, INCLUDING ALL RELATED COSTS AND FEES
3 AND OTHER MATERIAL TERMS OF THE TRANSACTION THAT HAVE A DIRECT
4 BEARING ON THE AMOUNT PAID BY THE CONSUMER.

5 (10) "PRICE OR WAGE SETTING ALGORITHM" OR "PWSA" MEANS
6 ANY TECHNOLOGY, SOFTWARE, PROGRAM, MACHINE-BASED SYSTEM, OR
7 COMPUTATIONAL PROCESS THAT:

8 (a) USES STATISTICAL MODELING, DATA ANALYTICS, ARTIFICIAL
9 INTELLIGENCE, OR OTHER DATA PROCESSING TECHNIQUES TO ANALYZE
10 SURVEILLANCE DATA; AND

11 (b) IS A SUBSTANTIAL FACTOR IN SETTING, OFFERING, OR
12 DETERMINING A PRICE OR A WAGE OFFERED TO AN INDIVIDUAL.

13 (11) "SUBSTANTIAL FACTOR" MEANS MORE THAN A DE MINIMIS OR
14 INCIDENTAL FACTOR THAT INFORMS THE PRICE OR WAGE OFFERED TO AN
15 INDIVIDUAL.

16 (12) (a) "SURVEILLANCE DATA" MEANS DATA OBTAINED THROUGH
17 OBSERVATION, INFERENCE, OR SURVEILLANCE OF A CONSUMER OR
18 WORKER THAT IS RELATED TO PERSONAL CHARACTERISTICS, ONLINE
19 BEHAVIORS, OR BIOMETRICS OF THE INDIVIDUAL OR A GROUP, BAND,
20 CLASS, OR TIER TO WHICH THE INDIVIDUAL BELONGS.

21 (b) "SURVEILLANCE DATA" INCLUDES INFORMATION GATHERED,
22 PURCHASED, OR OTHERWISE ACQUIRED.

23 (13) "WAGE" MEANS THE MATERIAL TERMS OFFERED TO A WORKER
24 IN EXCHANGE FOR LABOR, INCLUDING THE AMOUNT TO BE PAID FOR THE
25 LABOR, WHETHER PAID BY TIME RATE, PIECE RATE, SALARY, BONUSES,
26 COMMISSIONS, AND OTHER INCENTIVES AND TASK ASSIGNMENTS THAT
27 HAVE A DIRECT IMPACT ON EARNINGS.

1 (14)(a) "WORKER" MEANS AN INDIVIDUAL PERFORMING WORK FOR
2 WAGES OR OTHER COMPENSATION AND INCLUDES AN EMPLOYEE, AS
3 DEFINED IN SECTION 8-4-101, AND ANY OTHER INDIVIDUAL PERFORMING
4 WORK ON BEHALF OF OR FOR THE BENEFIT OF AN EMPLOYER OR OTHER
5 PERSON.

6 (b) "WORKER" DOES NOT INCLUDE A WORKER ENGAGED BY:

7 (I) THE FEDERAL GOVERNMENT;

8 (II) A PUBLIC ENTITY, AS DEFINED IN SECTION 24-10-103 (5); OR

9 (III) THE STATE, AS DEFINED IN SECTION 24-10-103 (7).

10 **6-1-1902. Prohibition against individualized price or wage**
11 **setting - publication of procedures.**

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

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

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

17 (I) DIFFERENTIAL PRICES ARE JUSTIFIED BASED ON DIFFERENCES IN
18 COST IN PROVIDING A GOOD OR SERVICE TO DIFFERENT CONSUMERS,
19 INCLUDING BASED ON CONSUMER SELECTIONS, DELIVERY DISTANCE, OR
20 DELIVERY TIME;

21 (II) DIFFERENTIAL PRICES ARE JUSTIFIED BY TEMPORAL
22 DIFFERENCES, INCLUDING PRICE FLUCTUATIONS BASED ON SUPPLY AND
23 DEMAND;

24 (III) A PUBLIC DISCOUNTED PRICE IS OFFERED ON EQUAL TERMS
25 PURSUANT TO PUBLICLY DISCLOSED ELIGIBILITY CRITERIA TO:

26 (A) ALL CONSUMERS WHO MEET THE PUBLICLY DISCLOSED
27 ELIGIBILITY CRITERIA, INCLUDING CRITERIA RELATED TO VOLUME

1 PURCHASES, SIGNING UP FOR A MAILING LIST, REGISTERING FOR
2 PROMOTIONAL COMMUNICATIONS, OR PARTICIPATING IN A PROMOTIONAL
3 EVENT; OR

4 (B) ALL MEMBERS OF A BROADLY DEFINED AND PUBLICLY
5 RECOGNIZED GROUP OF CONSUMERS, INCLUDING TEACHERS, ACTIVE OR
6 RETIRED MILITARY PERSONNEL, SENIOR CITIZENS, STUDENTS, OR
7 RESIDENTS OF A CERTAIN AREA BASED ON PUBLICLY DISCLOSED
8 ELIGIBILITY CRITERIA;

9 (IV) A DISCOUNTED PRICE IS OFFERED ON EQUAL TERMS PURSUANT
10 TO PUBLICLY DISCLOSED TERMS AND CONDITIONS TO ALL MEMBERS,
11 ENROLLEES, OR PARTICIPANTS IN A LOYALTY, MEMBERSHIP, OR REWARDS
12 PROGRAM. FOR PURPOSES OF THIS SECTION:

13 (A) A "LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM" IS A
14 LOYALTY, REWARDS, OR CLUB CARD PROGRAM ESTABLISHED FOR THE
15 GENUINE PURPOSE OF PROVIDING BENEFITS TO CONSUMERS THAT
16 VOLUNTARILY PARTICIPATE IN THAT PROGRAM REGARDLESS OF WHETHER
17 THOSE BENEFITS ARE PROVIDED DIRECTLY BY A BUSINESS OR THROUGH A
18 LOYALTY PROGRAM PARTNER; AND

19 (B) A "LOYALTY PROGRAM PARTNER" IS A THIRD PARTY THAT
20 PROVIDES LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM BENEFITS TO
21 CONSUMERS WHO CONSENT TO PARTICIPATE IN A LOYALTY, MEMBERSHIP,
22 OR REWARDS PROGRAM OFFERED BY A DIFFERENT SELLER;

23 (V) THE PERSON OPERATES AS AN INSURER COMPLYING WITH
24 SECTION 10-3-1104.9 AND ASSOCIATED RULES AND ONLY INPUTS
25 RISK-RELEVANT DATA INTO A PRICE OR WAGE SETTING ALGORITHM THAT
26 INFORMS DECISIONS RELATED TO THE AMOUNT A CONSUMER MUST PAY
27 FOR AN INSURANCE POLICY OR CONTRACT;

1 (VI) DIFFERENTIAL PRICES ARE OFFERED OR PROVIDED TO A
2 CONSUMER AS A GOOD FAITH CREDIT, REFUND, REBATE, OR DISCOUNT
3 ISSUED IN RESPONSE TO:

4 (A) A CONSUMER'S COMPLAINT, INQUIRY, OR EXPRESSION OF
5 DISSATISFACTION REGARDING A GOOD OR SERVICE;

6 (B) A SERVICE DISRUPTION, ERROR, OR OTHER FAILURE TO DELIVER
7 A GOOD OR SERVICE AS PROMISED OR EXPECTED;

8 (C) A BILLING DISPUTE OR DISCREPANCY;

9 (D) A REQUEST FOR ACCOUNT RETENTION OR CANCELLATION; OR

10 (E) OTHER CUSTOMER SERVICE INTERACTION IN WHICH THE
11 PERSON PROVIDES A CREDIT, REFUND, REBATE, OR DISCOUNT TO ADDRESS
12 A CONSUMER'S CONCERNS OR TO MAINTAIN THE CONSUMER RELATIONSHIP;

13 (VII) DIFFERENTIAL PRICES ARE OFFERED PURSUANT TO THE
14 FOLLOWING ESTABLISHED NEED-BASED DISCOUNT PROGRAMS THAT ARE
15 PUBLICLY DISCLOSED AND STRUCTURED TO PROVIDE REDUCED PRICING OR
16 FINANCIAL ASSISTANCE BASED ON OBJECTIVE ELIGIBILITY CRITERIA
17 RELATED TO INCOME OR FINANCIAL NEED:

18 (A) HOSPITAL DISCOUNTED CARE;

19 (B) SLIDING SCALE FEES; OR

20 (C) CHARITY CARE OR MEDICAL FINANCIAL ASSISTANCE POLICIES;

21 OR

22 (VIII) A REFUSAL TO EXTEND CREDIT ON SPECIFIC TERMS OR THE
23 REFUSAL TO ENTER INTO A FINANCIAL TRANSACTION WITH A SPECIFIC
24 CONSUMER IS BASED ON DATA PROVIDED IN A CONSUMER REPORT
25 COVERED BY THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C.
26 SEC. 1681 ET SEQ.

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

1 (a) A PERSON SHALL NOT ENGAGE IN INDIVIDUALIZED WAGE
2 SETTING.

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

5 (I) THE PERSON OFFERS INDIVIDUALIZED WAGES BASED SOLELY ON
6 DATA SPECIFIC TO THE INDIVIDUAL WORKER THAT IS DIRECTLY RELATED
7 TO THE TASKS THE WORKER WAS HIRED TO PERFORM, INCLUDING DATA
8 ASSOCIATED WITH A WORKER'S PERFORMANCE OR GENERATION OF NEW
9 BUSINESS; AND

10 (II) THE PERSON DISCLOSES IN PLAIN LANGUAGE BEFORE HIRING A
11 WORKER TO PERFORM WORK, AND TO ALL WORKERS WHOSE WAGES ARE
12 SET IN WHOLE OR IN PART THROUGH A PRICE OR WAGE SETTING
13 ALGORITHM, WHAT DATA IS CONSIDERED AND HOW THE PRICE OR WAGE
14 SETTING ALGORITHM CONSIDERS THE DATA. TO THE EXTENT THESE
15 DISCLOSURES DUPLICATE DISCLOSURES REQUIRED UNDER EQUAL PAY,
16 WAGE AND HOUR, OR OTHER EXISTING LAWS, A PERSON'S OBLIGATIONS
17 UNDER THIS SUBSECTION (2)(b)(II) MAY BE FULFILLED BY COMPLYING
18 WITH APPLICABLE LAW.

19 (3) **Publication of procedures.** A PERSON THAT USES A PRICE OR
20 WAGE SETTING ALGORITHM SHALL DEVELOP AND PUBLISH REASONABLE
21 PROCEDURES:

22 (a) TO ENSURE THE ACCURACY OF ALL DATA CONSIDERED BY THE
23 PRICE OR WAGE SETTING ALGORITHM;

24 (b) FOR WORKERS TO REQUEST AND RECEIVE INFORMATION
25 REGARDING WHAT DATA IS CONSIDERED BY THE PRICE OR WAGE SETTING
26 ALGORITHM AND HOW THE PRICE OR WAGE SETTING ALGORITHM
27 CONSIDERS THE DATA WHEN SETTING PARTICULAR WAGES; AND

1 (c) TO ALLOW A WORKER TO CORRECT OR CHALLENGE THE
2 ACCURACY OF DATA CONSIDERED BY THE PRICE OR WAGE SETTING
3 ALGORITHM.

4 **6-1-1903. Rule-making authority.**

5 THE ATTORNEY GENERAL MAY ADOPT RULES AS NECESSARY FOR
6 THE PURPOSE OF IMPLEMENTING AND ENFORCING THIS PART 19.

7 **SECTION 3. Act subject to petition - effective date -**

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

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