Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

ENGROSSED

This Version Includes All Amendments Adopted on Second Reading in the House of Introduction

LLS NO. 26-0542.01 Brita Darling x2241 **HOUSE BILL 26-1210**

HOUSE SPONSORSHIP

Bacon and Mabrey, Brown, Clifford, Froelich, Garcia, Lindsay, Martinez, Mauro, Nguyen, Rutinel, Sirota, Smith, Story, Titone, Willford, Woodrow, Zokaie

SENATE SPONSORSHIP

Weissman and Jodeh, Cutter, Lindstedt, Marchman, Sullivan, Wallace

House Committees
Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

CONCERNING LIMITING THE USE OF INTIMATE PERSONAL DATA TO MAKE INFERENCES THAT IMPACT A PERSON'S FINANCIAL 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

HOUSE
Amended 2nd Reading
March 26, 2026

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 themself 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".

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

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

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

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

(qqqq) VIOLATES PART 19 OF THIS ARTICLE 1.

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

PART 19

PROHIBITING INDIVIDUALIZED PRICE

AND WAGE SETTING USING SURVEILLANCE DATA

6-1-1901. Definitions.

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

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

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

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

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

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

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

(II) DISPLAYING PRICES IN THE APPROPRIATE CURRENCY;

(III) CALCULATING JURISDICTION-SPECIFIC TAXES; OR

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

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

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

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

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

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

(7) "LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM" MEANS A LOYALTY, REWARDS, OR CLUB CARD PROGRAM ESTABLISHED FOR THE GENUINE PURPOSE OF PROVIDING BENEFITS TO CONSUMERS WHO VOLUNTARILY PARTICIPATE IN THAT PROGRAM, REGARDLESS OF WHETHER THOSE BENEFITS ARE PROVIDED DIRECTLY BY A BUSINESS OR THROUGH A LOYALTY PROGRAM PARTNER. AS USED IN THIS SUBSECTION (7), "LOYALTY PROGRAM PARTNER" MEANS A THIRD PARTY THAT PROVIDES LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM BENEFITS TO CONSUMERS WHO CONSENT TO PARTICIPATE IN A LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM OFFERED BY A DIFFERENT SELLER.

(8) "ONLINE BEHAVIORS" MEANS AN INDIVIDUAL'S ACTIONS, HABITS, PREFERENCES, AFFILIATIONS, ASSOCIATIONS, FINANCIAL CIRCUMSTANCES, OR INTERESTS THAT ARE OBSERVABLE, MEASURABLE, OR INFERRED THROUGH DIGITAL, ONLINE, OR ELECTRONIC OBSERVATION OR SURVEILLANCE OF A CONSUMER OR WORKER, INCLUDING ASSOCIATIONS WITH, SIMILARITIES TO, OR DIFFERENCES FROM A GROUP, BAND, CLASS, OR

TIER OF OTHER INDIVIDUALS.

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

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

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

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

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

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

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

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

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

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

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

(I) THE FEDERAL GOVERNMENT;

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

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

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

(1) **Individualized price setting.**

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

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

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

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

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

(A) ALL CONSUMERS WHO MEET THE PUBLICLY DISCLOSED ELIGIBILITY CRITERIA, INCLUDING CRITERIA RELATED TO VOLUME PURCHASES, SIGNING UP FOR A MAILING LIST, REGISTERING FOR PROMOTIONAL COMMUNICATIONS, OR PARTICIPATING IN A PROMOTIONAL EVENT; OR

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

(IV) A DISCOUNTED PRICE IS OFFERED ON EQUAL TERMS PURSUANT TO PUBLICLY DISCLOSED TERMS AND CONDITIONS TO ALL MEMBERS, ENROLLEES, OR PARTICIPANTS IN A LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM.

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

(VI) DIFFERENTIAL PRICES ARE OFFERED OR PROVIDED TO A CONSUMER AS A GOOD FAITH CREDIT, REFUND, REBATE, OR DISCOUNT BELOW THE PRICE PREVIOUSLY OFFERED TO THE CONSUMER IN RESPONSE

TO:

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

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

(C) A BILLING DISPUTE OR DISCREPANCY;

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

(E) OTHER CUSTOMER SERVICE INTERACTIONS IN WHICH THE PERSON PROVIDES A CREDIT, REFUND, REBATE, OR DISCOUNT BELOW THE PRICE PREVIOUSLY OFFERED TO THE CONSUMER TO ADDRESS A CONSUMER'S CONCERNS OR TO MAINTAIN THE CONSUMER RELATIONSHIP;

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

(A) HOSPITAL DISCOUNTED CARE;

(B) SLIDING SCALE FEES; OR

(C) CHARITY CARE OR MEDICAL FINANCIAL ASSISTANCE POLICIES;

(VIII) THE PERSON AND CONSUMER HAVE A SUBSCRIPTION OR OTHER CONTINUOUS AGREEMENT THAT INCLUDES A MONTHLY OR OTHER RECURRING PRICE THAT WAS NOT INFORMED BY A PWSA; OR;

(IX) A REFUSAL TO EXTEND CREDIT ON SPECIFIC TERMS OR THE REFUSAL TO ENTER INTO A FINANCIAL TRANSACTION WITH A SPECIFIC CONSUMER IS BASED ON DATA PROVIDED IN A CONSUMER REPORT COVERED BY THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC. 1681 ET SEQ., OR REQUIRED TO BE PROVIDED AS PART OF THE

APPLICATION FOR THE FINANCIAL TRANSACTION.

(2) **Individualized wage setting.**

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

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

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

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

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

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

(b) FOR WORKERS TO REQUEST AND RECEIVE INFORMATION REGARDING WHAT DATA IS CONSIDERED BY THE PRICE OR WAGE SETTING

ALGORITHM AND HOW THE PRICE OR WAGE SETTING ALGORITHM CONSIDERS THE DATA WHEN SETTING PARTICULAR WAGES; AND

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

6-1-1903. Rule-making authority.

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

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

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