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**HOUSE BILL 2644**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Smith, Eslick, Santos, Pollet, and Kloba

AN ACT Relating to artificial intelligence-enabled profiling; adding a new chapter to Title 19 RCW; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that Washingtonians are increasingly subjected to automated forms of surveillance and classification in order to participate in public life and access basic social goods, services, and opportunities. The use of artificial intelligence-enabled profiling in sensitive social and political contexts and in important decisions that impact people's lives and access to opportunities is a matter of increasing concern. These practices not only threaten the fundamental rights and privileges of Washingtonians, they menace the foundation and supporting institutions of a free democratic state. The legislature intends to prohibit the use of artificial intelligence-enabled profiling in places of public resort, accommodation, assemblage, or amusement, and in decision making that produces legal effects or similarly significant effects concerning Washingtonians.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Artificial intelligence-enabled profiling" means the automated or semiautomated process by which the external or internal characteristics of an individual are analyzed to determine, infer, or categorize an individual's state of mind, character, propensities, protected class status, political affiliation, religious beliefs or religious affiliation, immigration status, or employability.

(2) "Artificial intelligence-enabled profiling technology" means any computer software or application that performs artificial intelligence-enabled profiling.

(3) "Consumer" means a natural person residing in Washington.

(4) "Person" means one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons. "Person" includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons. "Person" also includes any political subdivision of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof.

NEW SECTION. **Sec.**  (1) A person may not operate, install, or commission the operation or installation of equipment incorporating artificial intelligence-enabled profiling in any place of public resort, accommodation, assemblage, or amusement, as defined in RCW 49.60.040.

(2) A person may not use artificial intelligence-enabled profiling to make decisions that produce legal effects or similarly significant effects concerning consumers. Decisions that include legal effects or similarly significant effects concerning consumers include, without limitation, denial or degradation of consequential services or support, such as financial or lending services, housing, insurance, educational enrollment, criminal justice, employment opportunities, health care services, and access to basic necessities, such as food and water.

NEW SECTION. **Sec.**  (1) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) Any consumer aggrieved by a violation of this chapter has a right of action in any court of competent jurisdiction against the offending party.

(3) A plaintiff prevailing in an action under this chapter may recover:

(a) Actual damages, but not less than statutory damages of one thousand dollars for each violation, against an entity that negligently violates a provision of this chapter;

(b) Actual damages, but not less than statutory damages of five thousand dollars for each violation, against an entity that intentionally or recklessly violates a provision of this chapter;

(c) Reasonable attorneys' fees and costs, including expert witness fees and other litigation expenses; and

(d) Other relief, including an injunction, as the court may deem appropriate.

NEW SECTION. **Sec.**  This act may be known and cited as the artificial intelligence profiling act.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 19 RCW.

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