
HOUSE BILL 2644

State of Washington

66th Legislature

2020 Regular Session

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

Read first time 01/16/20. Referred to Committee on Innovation, Technology & Economic Development.

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

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

4 NEW SECTION. **Sec. 1.** The legislature finds that Washingtonians
5 are increasingly subjected to automated forms of surveillance and
6 classification in order to participate in public life and access
7 basic social goods, services, and opportunities. The use of
8 artificial intelligence-enabled profiling in sensitive social and
9 political contexts and in important decisions that impact people's
10 lives and access to opportunities is a matter of increasing concern.
11 These practices not only threaten the fundamental rights and
12 privileges of Washingtonians, they menace the foundation and
13 supporting institutions of a free democratic state. The legislature
14 intends to prohibit the use of artificial intelligence-enabled
15 profiling in places of public resort, accommodation, assemblage, or
16 amusement, and in decision making that produces legal effects or
17 similarly significant effects concerning Washingtonians.

18 NEW SECTION. **Sec. 2.** The definitions in this section apply
19 throughout this chapter unless the context clearly requires
20 otherwise.

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

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

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

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

19 NEW SECTION. **Sec. 3.** (1) A person may not operate, install, or
20 commission the operation or installation of equipment incorporating
21 artificial intelligence-enabled profiling in any place of public
22 resort, accommodation, assemblage, or amusement, as defined in RCW
23 49.60.040.

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

33 NEW SECTION. **Sec. 4.** (1) The legislature finds that the
34 practices covered by this chapter are matters vitally affecting the
35 public interest for the purpose of applying the consumer protection
36 act, chapter 19.86 RCW. A violation of this chapter is not reasonable
37 in relation to the development and preservation of business and is an
38 unfair or deceptive act in trade or commerce and an unfair method of

1 competition for the purpose of applying the consumer protection act,
2 chapter 19.86 RCW.

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

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

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

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

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

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

18 NEW SECTION. **Sec. 5.** This act may be known and cited as the
19 artificial intelligence profiling act.

20 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act
21 constitute a new chapter in Title 19 RCW.

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