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**SUBSTITUTE HOUSE BILL 2401**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Hudgins, Smith, Van Werven, Wylie, and Kloba)

READ FIRST TIME 02/05/20.

1 AN ACT Relating to the use of artificial intelligence in job  
2 applications; adding a new section to chapter 49.44 RCW; and creating  
3 a new section.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.44  
6 RCW to read as follows:

7 (1) An employer that asks applicants to record video interviews  
8 and uses an artificial intelligence analysis of the applicant-  
9 submitted videos shall do all of the following when considering  
10 applicants for positions based in Washington before asking applicants  
11 to submit video interviews:

12 (a) Notify each applicant before the interview that artificial  
13 intelligence may be used to analyze the applicant's video interview  
14 and consider the applicant's fitness for the position.

15 (b) Provide the applicant with information before the interview  
16 explaining how the artificial intelligence works and what general  
17 types of characteristics it uses to evaluate applicants.

18 (c) Obtain, before the interview, consent from the applicant to  
19 be evaluated by the artificial intelligence program as described in  
20 the information provided.

21 (2) An employer may not:

1 (a) Use artificial intelligence to evaluate applicants who have  
2 not consented to the use of artificial intelligence analysis;

3 (b) Share applicant videos, except with persons whose expertise  
4 or technology is necessary in order to evaluate an applicant's  
5 fitness for a position; or

6 (c) Reject an applicant solely for refusing to consent to the use  
7 of artificial intelligence analysis.

8 (3) Upon request from the applicant, employers, within thirty  
9 days after receipt of the request, must delete an applicant's  
10 interviews and instruct any other persons who received copies of the  
11 applicant video interviews to also delete the videos, including all  
12 electronically generated backup copies. Any other such person shall  
13 comply with the employer's instructions.

14 (4) For the purposes of this section, a polygraph test or similar  
15 assessment administered pursuant to RCW 43.101.080(19) is not  
16 considered artificial intelligence.

17 NEW SECTION. **Sec. 2.** This act may be known and cited as the  
18 artificial intelligence video interview act.

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