
SENATE BILL 5108

State of Washington

67th Legislature

2021 Regular Session

By Senators Ericksen and Holy

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1 AN ACT Relating to organizations and agencies that produce secret
2 surveillance scores based on individuals' internet activity; amending
3 RCW 42.56.594; adding a new section to chapter 42.56 RCW; adding a
4 new chapter to Title 19 RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The definitions in this section apply
7 throughout this chapter unless the context clearly requires
8 otherwise.

9 (1) "Individual" means a natural person who is physically present
10 in the state of Washington.

11 (2) "Organization" means a legally recognizable commercial or
12 noncommercial entity.

13 (3) "Secret surveillance score" means a number, grade, rank, or
14 similar description, associated with an individual and which is: (a)
15 Unknown or inaccessible to the individual; (b) developed by compiling
16 data created by the individual's internet activity; and (c) intended
17 to be used to predict the individual's behavior, choices, or
18 preferences.

19 (4) "Year" means a period of twelve consecutive months.

1 NEW SECTION. **Sec. 2.** Any organization that uses an individual's
2 internet activity to collect or receive information about the
3 individual for the purpose of creating a secret surveillance score
4 shall, at least annually, invite the individual to affirmatively
5 consent to the collection of information for the purpose of creating
6 a secret surveillance score. An organization may not collect or
7 receive information under this section relating to any individual who
8 does not affirmatively consent to the collection of information for
9 the year in which the information is collected.

10 NEW SECTION. **Sec. 3.** The attorney general may impose a civil
11 penalty not exceeding one thousand dollars against an organization if
12 the attorney general determines that the organization collected or
13 received information in violation of section 2 of this act. An
14 organization that is penalized under this section may challenge the
15 imposition of the penalty by filing a petition in superior court
16 within sixty days of receiving the notice of imposition of the
17 penalty. For the purposes of this section, venue is determined by the
18 county of residence of any individual whose information was allegedly
19 collected or received in violation of section 2 of this act.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.56
21 RCW to read as follows:

22 (1) Any agency that uses an individual's internet activity to
23 collect or receive information about the individual for the purpose
24 of creating a secret surveillance score shall, at least annually,
25 invite the individual to affirmatively consent to the collection of
26 information for the purpose of creating a secret surveillance score.
27 An agency may not collect or receive information under this section
28 relating to any individual who does not affirmatively consent to the
29 collection of information for the year in which the information is
30 collected.

31 (2) For the purposes of this section:

32 (a) "Individual" means a natural person who is physically present
33 in the state of Washington.

34 (b) "Secret surveillance score" means a number, grade, rank, or
35 similar description, associated with an individual and which is: (i)
36 Unknown or inaccessible to the individual; (ii) developed by
37 compiling data created by the individual's internet activity; and

1 (iii) intended to be used to predict the individual's behavior,
2 choices, or preferences.

3 (c) "Year" means a period of twelve consecutive months.

4 **Sec. 5.** RCW 42.56.594 and 2019 c 241 s 7 are each amended to
5 read as follows:

6 (1) Any waiver of the provisions of RCW 42.56.590 ~~((or))~~,
7 42.56.592, or section 4 of this act is contrary to public policy, and
8 is void and unenforceable.

9 (2)(a) Any consumer or individual injured by a violation of RCW
10 42.56.590 or section 4 of this act may institute a civil action to
11 recover damages.

12 (b) Any agency that violates, proposes to violate, or has
13 violated RCW 42.56.590 or section 4 of this act may be enjoined.

14 (c) The rights and remedies available under RCW 42.56.590 and
15 section 4 of this act are cumulative to each other and to any other
16 rights and remedies available under law.

17 NEW SECTION. **Sec. 6.** Sections 1 through 3 of this act
18 constitute a new chapter in Title 19 RCW.

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