
HOUSE BILL 1672

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By Representatives Kloba, Stonier, Fosse, Doglio, Parshley, Berry, Reed, Cortes, Bronoske, Ryu, Ramel, Scott, Taylor, and Simmons

Read first time 01/28/25. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to technology used by employers in the workplace;
2 adding a new chapter to Title 49 RCW; prescribing penalties; and
3 providing an effective date.

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

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

8 (1) "Algorithm" means a computerized procedure consisting of a
9 set of steps used to accomplish a determined task.

10 (2) "Automated decision system" means an algorithm or
11 computational process that is used to make or assist in making
12 decisions, judgments, or conclusions. "Automated decision system"
13 includes algorithms and computational processes that are derived from
14 machine learning, statistics, data processing, or artificial
15 intelligence.

16 (3) "Automated decision system output" means information, data,
17 assumptions, predictions, scoring, recommendations, decisions, or
18 conclusions generated by an automated decision system.

19 (4) "Biometric data" means data that is generated from the
20 measurement or technological processing of an individual's
21 physiological, biological, or behavioral characteristics and that

1 identifies a person, whether individually or in combination with
2 other data. "Biometric data" includes, but is not limited to:

3 (a) Imagery of the iris, retina, fingerprint, face, hand, palm,
4 vein patterns, and voice recordings, from which an identifier
5 template can be extracted; or

6 (b) Keystroke patterns or rhythms and gait patterns or rhythms
7 that contain identifying information.

8 (5) "Data" means information obtained by any means that, directly
9 or indirectly, identifies, relates to, describes, may reasonably be
10 associated with, or could reasonably be linked to an employee,
11 including:

12 (a) Personal information; as defined in RCW 19.255.005;

13 (b) Biometric data;

14 (c) Health information;

15 (d) Information related to workplace activities;

16 (e) Human resources information and personnel files; and

17 (f) Information related to the employee's internet and digital
18 activities, including electronic communications, private social media
19 activity, and personal internet protocol address.

20 (6) "Department" means the department of labor and industries.

21 (7) "Electronic monitoring" means the collection of information
22 concerning employee activities or communication by any means other
23 than direct, in-person observation, including through the use of a
24 digital device, computer, telephone, wire, radio, camera, or
25 electromagnetic, photoelectronic, or photo-optical system.

26 (8) "Employee" means an employee who is employed in the business
27 of the employee's employer whether by way of manual labor or
28 otherwise.

29 (9) "Employer" means any person, firm, corporation, partnership,
30 business trust, legal representative, or other business entity which
31 engages in any business, industry, profession, or activity in this
32 state and employs one or more employees, and includes the state, any
33 state institution, state agency, political subdivisions of the state,
34 and any municipal corporation or quasi-municipal corporation.

35 (10) "Employment-related decision" means any decision by an
36 employer that:

37 (a) Affects an employee's compensation, benefits, or terms and
38 conditions of employment;

39 (b) Relates to the discipline, evaluation, promotion, or
40 termination of an employee; or

1 (c) Relates to the hiring of an individual or employee for a
2 position or job.

3 (11) "Essential job function" means a fundamental duty of a job
4 or position that an employee with that job or position must be able
5 to perform.

6 (12)(a) "Health information" means personal information that is
7 linked or reasonably linkable to a person and that identifies the
8 person's past, present, or future physical or mental health status.

9 (b) For the purposes of this definition, physical or mental
10 health status includes, but is not limited to:

11 (i) Individual health conditions, treatment, diseases, or
12 diagnosis;

13 (ii) Social, psychological, behavioral, and medical
14 interventions;

15 (iii) Health-related surgeries or procedures;

16 (iv) Use or purchase of prescribed medication;

17 (v) Bodily functions, vital signs, symptoms, or measurements of
18 such information;

19 (vi) Diagnoses or diagnostic testing, treatment, or medication;

20 (vii) Gender-affirming care information;

21 (viii) Reproductive or sexual health information;

22 (ix) Biometric data;

23 (x) Genetic data;

24 (xi) Precise location information that could reasonably indicate
25 a person's attempt to acquire or receive health services or supplies;

26 (xii) Data that identifies a person seeking health care services;
27 or

28 (xiii) Any information that an employer, or the employer's
29 respective processor, processes to associate or identify a person
30 with the data described in (b)(i) through (xii) of this subsection
31 that is derived or extrapolated from nonhealth information, such as
32 proxy, derivative, inferred, or emergent data by any means, including
33 algorithms or machine learning.

34 NEW SECTION. **Sec. 2.** An employer may not engage in electronic
35 monitoring of an employee unless all of the following requirements
36 are met:

37 (1) The employer's purpose in utilizing the electronic monitoring
38 is to:

1 (a) Assist or allow the employee to accomplish an essential job
2 function;

3 (b) Monitor production processes or quality;

4 (c) Ensure compliance with applicable employment or labor laws;

5 (d) Protect the health, safety, or security of the employee; or

6 (e) Track time worked or production output for purposes of
7 determining the employee's compensation;

8 (2) Electronic monitoring is necessary to accomplish the purpose
9 identified pursuant to subsection (1) of this section;

10 (3) The specific form of electronic monitoring is the least
11 invasive means, with respect to the employee, of accomplishing the
12 purpose identified pursuant to subsection (1) of this section;

13 (4) The specific form of electronic monitoring is used with the
14 smallest number of employees and collects the smallest amount of data
15 necessary to accomplish the purpose identified pursuant to subsection
16 (1) of this section; and

17 (5) The employer ensures that only authorized persons have access
18 to any data produced through the electronic monitoring and that the
19 data is only used for the purpose and duration that the employee has
20 been notified of pursuant to section 3 of this act.

21 NEW SECTION. **Sec. 3.** (1) Except as provided for in subsection
22 (5) of this section, at least 15 calendar days prior to commencing
23 any form of electronic monitoring in compliance with section 2 of
24 this act, an employer shall provide notice of the electronic
25 monitoring to each employee who will be subject to it.

26 (2) The notice required under this section must, at a minimum,
27 include the following information:

28 (a) The specific form of electronic monitoring;

29 (b) A description of the intended purpose of the electronic
30 monitoring and why the electronic monitoring is necessary to
31 accomplish that purpose;

32 (c) A description of how any data generated by the electronic
33 monitoring will be used;

34 (d) A description of the technologies that will be used to
35 conduct the electronic monitoring;

36 (e) Whether and, if so, how the data generated by the electronic
37 monitoring will be used to inform employment-related decisions;

1 (f) The name of any person conducting electronic monitoring on
2 the employer's behalf and any associated contract language related to
3 the monitoring;

4 (g) The name of any person, apart from the employer, who will
5 have access to any data generated by the electronic monitoring and
6 the reason why the person will have access to the data;

7 (h) The positions within the employer that will have access to
8 any data generated by the electronic monitoring;

9 (i) When, where, and how frequently monitoring will occur;

10 (j) The period of time for which any data generated by the
11 electronic monitoring will be retained by the employer or another
12 person and when that data will be destroyed;

13 (k) Notice of how the employee may access the data generated by
14 the electronic monitoring and the process to correct any errors in
15 the data; and

16 (l) Notice of the employee's rights pursuant to this section.

17 (3) Notice of electronic monitoring provided pursuant to this
18 section must be written in plain, clear, and concise language and
19 provided to each employee in the employee's primary language.

20 (4) An employer shall provide a new, updated notice to employees
21 if it makes any significant changes to the manner of electronic
22 monitoring or to the way that the employer utilizes the electronic
23 monitoring or any data generated by it.

24 (5) Prior notice of electronic monitoring is not required if:

25 (a) The employer has reasonable grounds to believe that the
26 employee is engaged in conduct that:

27 (i) Is illegal;

28 (ii) Violates the legal rights of the employer or another
29 employee; or

30 (iii) Creates a hostile work environment; and

31 (b) The electronic monitoring is reasonably likely to produce
32 evidence of the conduct.

33 (6) (a) An employer that utilizes electronic monitoring shall
34 annually provide each of its employees with a list of all electronic
35 monitoring systems currently in use by the employer in relation to
36 that employee. The list must be provided in the primary language of
37 the employee.

38 (b) As used in this subsection, "currently in use" means that the
39 employer: (i) Is currently using the system in relation to the
40 employee; (ii) used the electronic monitoring system in relation to

1 the employee within the past 90 days; or (iii) intends to use the
2 electronic monitoring system in relation to the employee within the
3 next 30 days.

4 NEW SECTION. **Sec. 4.** (1) Except for the purposes for electronic
5 monitoring set forth in section 2 of this act, electronic monitoring
6 may not be used:

7 (a) In any manner that violates state or federal labor or
8 employment laws;

9 (b) In relation to workers who are off duty and not performing
10 work-related tasks;

11 (c) To identify employees exercising legal rights;

12 (d) For audio-visual monitoring of bathrooms, locker rooms,
13 changing areas, breakrooms, smoking areas, employee cafeterias,
14 lounges, lactation rooms, or other similarly private areas;

15 (e) To determine the frequency with which employees visit or use
16 bathrooms, locker rooms, changing areas, breakrooms, smoking areas,
17 employee cafeterias, lounges, lactation rooms, or other similarly
18 private areas; or

19 (f) For audio-visual monitoring of any space within an employee's
20 residence or personal vehicle, or a property owned or rented by the
21 employee, unless the monitoring is necessary to ensure the employee's
22 health and safety or to verify the security of employer or client
23 data. Monitoring of employee personal vehicles must comply with RCW
24 49.44.230.

25 (2) Electronic monitoring may not incorporate any form of facial,
26 gait, or emotion recognition technology.

27 (3) Electronic monitoring of employee social networking accounts
28 must comply with RCW 49.44.200.

29 NEW SECTION. **Sec. 5.** (1) An employer may not require an
30 employee to install an application on a personal device for purposes
31 of electronic monitoring or to wear a device or attach, embed, or
32 physically implant a device on the employee's clothing that can be
33 used for electronic monitoring, unless the electronic monitoring is:

34 (a) Necessary to accomplish the employee's essential job
35 functions; and

36 (b) Limited to only the times and activities necessary to
37 accomplish the essential job functions.

1 (2) Any location tracking function of an application or device
2 must be disabled outside of the times when the employee is engaged in
3 activities necessary to accomplish essential job functions.

4 (3) An employer may not require an employee to physically implant
5 a device on the employee's body for purposes of employee monitoring.

6 NEW SECTION. **Sec. 6.** (1) An employer may not use an automated
7 decision system in a manner that:

8 (a) Violates state or federal law;

9 (b) Makes predictions about an employee's behavior that are
10 unrelated to the employee's essential job functions;

11 (c) Identifies, profiles, or predicts the likelihood that an
12 employee will exercise the employee's legal rights;

13 (d) Makes predictions about an employee's emotions, personality,
14 or other sentiments; or

15 (e) Uses customer or client data, including customer or client
16 reviews and feedback, as an input of the automated decision system.

17 (2)(a) An employer may not solely rely on outputs from an
18 automated decision system when making employment-related decisions.

19 (b) An employer may utilize an automated decision system in
20 making employment-related decisions if:

21 (i) The automated decision system outputs considered in making
22 the employment-related decision are corroborated by human oversight
23 of the employee, including supervisory or managerial observations and
24 documentation of the employee's work, personnel records, and
25 consultations with the employee's coworkers;

26 (ii) The employer has conducted an impact assessment of the
27 automated decision system pursuant to section 7 of this act; and

28 (iii) The employer is in compliance with the notice requirements
29 of section 3 of this act.

30 (3) An employer may not use any automated decision system outputs
31 regarding an employee's physical or mental health in relation to an
32 employment-related decision.

33 (4) Automated decision systems used by an employer may not
34 incorporate any form of facial, gait, or emotion recognition
35 technology.

36 NEW SECTION. **Sec. 7.** (1) Prior to utilizing an automated
37 decision system, an employer shall create a written impact assessment
38 of the system that includes, at a minimum:

1 (a) A detailed description of the automated decision system and
2 its purpose;

3 (b) A description of the data utilized by the system;

4 (c) A description of the outputs produced by the system and the
5 types of employment-related decisions in which those outputs may be
6 utilized;

7 (d) The rationale for the use of the system, including reasons
8 for utilizing the system to supplement nonautomated means of decision
9 making;

10 (e) A detailed assessment of the potential risks of utilizing the
11 system, including the risk of:

12 (i) Errors;

13 (ii) Discrimination against employees on the basis of age, sex,
14 marital status, sexual orientation, race, creed, color, national
15 origin, citizenship or immigration status, honorably discharged
16 veteran or military status, or the presence of any sensory, mental,
17 or physical disability or the use of a trained dog guide or service
18 animal by a person with a disability;

19 (iii) Violating employees' legal rights or chilling employees'
20 exercise of legal rights;

21 (iv) Directly or indirectly harming employees' physical health,
22 mental health, safety, sense of well-being, dignity, or autonomy;

23 (v) Harm to employee privacy, including through potential
24 security breaches or inadvertent disclosure of information; and

25 (vi) Negative economic and material impacts to employees,
26 including potential effects on compensation, benefits, work
27 conditions, evaluations, advancement, and work opportunities;

28 (f) A detailed summary of measures taken by the employer to
29 address or mitigate the risks identified pursuant to (e) of this
30 subsection; and

31 (g) A description of any methodology used in preparing the
32 assessment.

33 (2) An employer shall provide a copy of the assessment prepared
34 pursuant to this section to an employee upon request.

35 (3) An employer shall update the assessment required pursuant to
36 this section any time a significant change or update is made to the
37 automated decision system.

38 NEW SECTION. **Sec. 8.** (1) An employer, any person that develops,
39 operates, or maintains electronic monitoring or an automated decision

1 system on behalf of an employer, and any person who collects, stores,
2 analyzes, interprets, disseminates, or otherwise uses data produced
3 or utilized by electronic monitoring or an automated decision system
4 shall implement reasonable security procedures and practices
5 appropriate to the nature of the data to protect employees' personal
6 information from unauthorized or illegal access, destruction, use,
7 modification, or disclosure.

8 (2) Any person that develops, operates, or maintains electronic
9 monitoring or an automated decision system on behalf of an employer
10 and any person who collects, stores, analyzes, interprets,
11 disseminates, or otherwise uses data produced or utilized by
12 electronic monitoring or an automated decision system on behalf of an
13 employer shall, upon termination of the contract with the employer:

14 (a) Return all data and automated decision system outputs to the
15 employer; and

16 (b) Destroy all data and automated decision system outputs in the
17 person's possession.

18 (3) An employer shall, upon request, provide an employee with any
19 data that relates to the employee that was produced or utilized by
20 electronic monitoring or an automated decision system used by the
21 employer.

22 NEW SECTION. **Sec. 9.** An employer may not discharge or in any
23 other manner retaliate against an employee who exercises or attempts
24 to exercise the employee's rights under this chapter.

25 NEW SECTION. **Sec. 10.** (1)(a) An employee may file a complaint
26 with the department alleging a violation under this chapter or
27 applicable rules. The department shall investigate the complaint.

28 (b) The department may not investigate any such alleged violation
29 of rights that occurred more than three years before the date that
30 the employee filed the complaint.

31 (c) If an employee files a timely complaint with the department,
32 the department shall issue either a citation and notice of assessment
33 or a determination of compliance within 90 days after the date on
34 which the department received the complaint, unless the complaint is
35 otherwise resolved. The department may extend the period by providing
36 advance written notice to the employee and the employer setting forth
37 good cause for an extension of the period and specifying the duration
38 of the extension.

1 (d) The department shall send the citation and notice of
2 assessment or the determination of compliance to both the employer
3 and the employee by service of process or using a method by which the
4 mailing can be tracked or the delivery can be confirmed to their last
5 known addresses.

6 (2) If the department's investigation finds that the employee's
7 allegation cannot be substantiated, the department shall issue a
8 determination of compliance to the employee and the employer
9 detailing such finding.

10 (3) The director may initiate an investigation without an
11 employee's complaint to ensure compliance with this chapter.

12 (4) Upon the department's request, an employer shall notify
13 affected employees in writing that the department is conducting an
14 investigation. The department may require the employer to include a
15 general description of each investigation as part of the
16 notification, including the allegations and whether the notified
17 employee may be affected. The employer may consult with the
18 department to provide the information for the description of the
19 notification or investigation.

20 (5) If the department determines that the employer has violated a
21 requirement of this chapter or any rule adopted under this chapter,
22 the department may also order the employer to pay the department a
23 civil penalty of not less than \$1,000. The first violation may not
24 exceed \$1,000. The department may, at any time, waive or reduce any
25 civil penalty assessed against an employer under this section if the
26 department determines that the employer has taken corrective action
27 to remedy a violation. The department shall adopt rules creating a
28 schedule to enhance penalties, not to exceed \$10,000 per violation,
29 based on repeat violations by the employer. The department shall
30 collect civil penalties and deposit them into the supplemental
31 pension fund established under RCW 51.44.033.

32 (6) Upon receiving a complaint, the department may request or
33 subpoena the records of the employer.

34 (7) For enforcement actions under this section, if any person
35 fails to pay an assessment under this chapter, or under any rule
36 under this chapter, after it has become a final and unappealable
37 order, or after the court has entered final judgment in favor of the
38 department, the director may initiate collection procedures in
39 accordance with the collection procedures under RCW 49.48.086.

1 (8) In addition to any enforcement authority provided in this
2 chapter or applicable rules, the department may enforce any violation
3 under this chapter or applicable rules by filing an action in the
4 superior court for the county in which the violation is alleged to
5 have occurred. If the department prevails, it is entitled to
6 reasonable attorneys' fees and costs, in the amount to be determined
7 by the court.

8 NEW SECTION. **Sec. 11.** The department may adopt and implement
9 rules to carry out and enforce the provisions of this chapter.

10 NEW SECTION. **Sec. 12.** Sections 1 through 11 and 13 of this act
11 constitute a new chapter in Title 49 RCW.

12 NEW SECTION. **Sec. 13.** Sections 1 through 10 of this act take
13 effect July 1, 2026.

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