

# STATE OF NEW YORK

9638

## IN ASSEMBLY

January 21, 2026

Introduced by M. of A. GALLAGHER -- read once and referred to the  
Committee on Labor

AN ACT to amend the labor law, in relation to prohibiting surveillance  
wages

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The labor law is amended by adding a new section 194-c to  
2 read as follows:

3 § 194-c. Surveillance wages prohibited. 1. Definitions. For the  
4 purposes of this section, the following terms shall have the following  
5 meanings:

6 a. "Wage-fixing algorithm" means a mathematical or computational proc-  
7 ess or methodology implementing a set of rules, including without limi-  
8 tation data collected and used in conjunction with any such processes or  
9 methodologies, to be followed in calculations, data processing, data  
10 mining, machine learning, pattern recognition, automated decision-making  
11 or problem-solving operations, including those that transform inputs  
12 into outputs, utilized for the purpose of setting or recommending wages  
13 or compensation for an individual or a class or group to whom an indi-  
14 vidual belongs.

15 "Wage-fixing algorithm" shall not include any such tool whose inputs  
16 are limited to job requirements, job performance, qualifications, labor  
17 market conditions, or the cost of living in an applicable metropolitan  
18 statistical area, micropolitan statistical area, combined statistical  
19 area, county or county equivalent. For the purposes of this section,  
20 "job performance" shall not include customer reviews.

21 b. "Personal data" means any data that identifies, relates to,  
22 describes, is reasonably capable of being associated with, or could be  
23 reasonably linked, directly or indirectly, with a particular person or  
24 device, including but not limited to:

25 (i) name or alias, signature, social security number, postal address,  
26 telephone number, passport number, driver's license or state identifica-  
27 tion card number, insurance policy number, email address, Internet  
28 Protocol address, account name, or other similar identifiers;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (ii) bank account number, credit card number, debit card number, cred-  
2 it score or credit history, financial circumstances, or any other finan-  
3 cial information, medical information, or health insurance information;

4 (iii) records of personal property, products or services purchased,  
5 obtained, or considered, or other purchasing or consuming histories or  
6 tendencies;

7 (iv) personal, political, professional, or religious affiliations,  
8 memberships, relationships, or activities, or status, activity, or  
9 relationships within a social media network, or any other associations  
10 with a group, band, class, or tier of individuals to which the individ-  
11 ual belongs;

12 (v) internet or other electronic network activity information, includ-  
13 ing browsing history, search history, and information regarding a  
14 person's interaction with an internet website application or advertise-  
15 ment;

16 (vi) characteristics of protected classifications under state or  
17 federal law, geolocation identifiers, physical descriptions or charac-  
18 teristics, genetic information, or biometric information; and

19 (vii) inferences drawn from any of the information identified in this  
20 paragraph to create a profile about a person, or a class or group to  
21 which such person belongs, reflecting such person's preferences, charac-  
22 teristics, psychological trends, predispositions, behavior, attitudes,  
23 intelligence, abilities, and aptitudes.

24 "Personal data" shall not include location data that is used by a  
25 for-hire vehicle as defined in section 19-502 of the administrative code  
26 of the city of New York or as otherwise defined in local law or rule, or  
27 a transportation network company vehicle as defined in section sixteen  
28 hundred ninety-one of the vehicle and traffic law, solely to calculate  
29 the fare based on mileage and trip duration between the passenger's  
30 pickup and drop-off locations.

31 c. "Behavioral data" means an individual's observable or measurable  
32 actions, habits, preferences, interests, or vulnerabilities, including  
33 without limitation audio, visual, olfactory, thermal, and other sensory  
34 data, and inferences drawn from any such information to create a profile  
35 about a person, or a class or group to which such person belongs,  
36 reflecting such person's preferences, characteristics, psychological  
37 trends, predispositions, behavior, attitudes, intelligence, abilities,  
38 and aptitudes.

39 2. Surveillance wages prohibited. No employer shall utilize a wage-  
40 fixing algorithm, or the output of a wage-fixing algorithm, in combina-  
41 tion with personal or behavioral data, whether collected or processed by  
42 the employer or a third-party, to set or recommend wages or compen-  
43 sation.

44 3. Rules and regulations. The commissioner may promulgate such rules  
45 and regulations as the commissioner deems necessary and proper to effec-  
46 tuate the purposes and provisions of this section.

47 4. Violations. a. The attorney general may enforce the provisions of  
48 this section by civil action in any court of competent jurisdiction.  
49 Such action may seek to enjoin violations of this section and recover  
50 for each violation, and on behalf of any harmed worker: (i) actual  
51 damages or three thousand dollars, whichever is larger; (ii) treble  
52 damages, where such violation was willful or egregious; (iii) disgorge-  
53 ment of profits obtained directly or indirectly as a result of any  
54 violation of this section; (iv) attorneys' fees and costs; and (v) any  
55 other legal or equitable relief the court may deem just and proper.

1 b. The commissioner may enforce the provisions of this section in  
2 accordance with section two hundred eighteen of this chapter.

3 c. An individual or group of individuals who have been harmed by a  
4 violation of this section may bring in any court of competent jurisdic-  
5 tion a civil action to enjoin violations of this section and recover for  
6 each violation: (i) actual damages or three thousand dollars, whichever  
7 is larger; (ii) treble damages, where such violation was willful or  
8 egregious; (iii) attorneys' fees and costs; and (iv) any other legal or  
9 equitable relief the court may deem just and proper.

10 d. An individual alleging a violation of this section shall be  
11 protected from retaliation pursuant to section two hundred fifteen of  
12 this chapter and any other applicable law.

13 e. In an action alleging a violation of this section, the burden shall  
14 rest with the employer to demonstrate, by a preponderance of the  
15 evidence, that a difference in wages or compensation was due only to  
16 lawful factors.

17 § 2. This act shall take effect on the thirtieth day after it shall  
18 have become a law.