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 Assembly, do enact as follows:

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

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

a. "Wage-fixing algorithm" means a mathematical or computational process or methodology implementing a set of rules, including without limitation data collected and used in conjunction with any such processes or methodologies, to be followed in calculations, data processing, data mining, machine learning, pattern recognition, automated decision-making or problem-solving operations, including those that transform inputs into outputs, utilized for the purpose of setting or recommending wages or compensation for an individual or a class or group to whom an individual belongs.

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

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

(i) name or alias, signature, social security number, postal address, telephone number, passport number, driver's license or state identification card number, insurance policy number, email address, Internet 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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(ii) bank account number, credit card number, debit card number, credit score or credit history, financial circumstances, or any other financial information, medical information, or health insurance information;

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

(iv) personal, political, professional, or religious affiliations, memberships, relationships, or activities, or status, activity, or relationships within a social media network, or any other associations with a group, band, class, or tier of individuals to which the individual belongs;

(v) internet or other electronic network activity information, including browsing history, search history, and information regarding a person's interaction with an internet website application or advertisement;

(vi) characteristics of protected classifications under state or federal law, geolocation identifiers, physical descriptions or characteristics, genetic information, or biometric information; and

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

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

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

2. Surveillance wages prohibited. No employer shall utilize a wage-fixing algorithm, or the output of a wage-fixing algorithm, in combination with personal or behavioral data, whether collected or processed by the employer or a third-party, to set or recommend wages or compensation.

3. Rules and regulations. The commissioner may promulgate such rules and regulations as the commissioner deems necessary and proper to effectuate the purposes and provisions of this section.

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

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

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

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

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

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