

SB2255



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2255

Introduced 2/7/2025, by Sen. Robert Peters

SYNOPSIS AS INTRODUCED:

New Act

Creates the Surveillance-Based Price and Wage Discrimination Act. Provides that a person shall not use surveillance data as part of an automated decision system to inform the individualized price assessed to a consumer for goods or services. Provides that a person shall not use surveillance data as part of an automated decision system to inform the individualized wage paid to an employee. Sets forth exemptions to the provisions. Provides that the Attorney General shall enforce the Act. Sets forth provisions concerning private rights of action and penalties for violations.

LRB104 08574 SPS 18626 b

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Surveillance-Based Price and Wage Discrimination Act.

6 Section 5. Definitions. As used in this Act:

7 "Automated decision system" means any system, software, or
8 process, including one derived from machine learning,
9 statistics, or other data processing or artificial
10 intelligence techniques and excluding passive computing
11 infrastructure, that uses computation, the result of which is
12 used to assist or replace human decision-making.

13 "Behaviors" mean an individual's observable, measurable,
14 or inferred actions, habits, preferences, interests, or
15 vulnerabilities, including an individual's political,
16 personal, or professional affiliations, web browsing history,
17 purchase history, financial circumstances, or consumer
18 behaviors.

19 "Biometric information" means data or information
20 generated by the technological, processing, measurement, or
21 analysis of a consumer's or employee's biological, physical,
22 or behavioral characteristics, that can be used for the
23 purpose of uniquely identifying an individual. "Biometric

1 information" includes fingerprints, voiceprints, scans or
2 records of an eye retina or iris, facial maps, facial
3 geometry, facial templates, genetic information, or other
4 unique biological, physical, or behavioral patterns or
5 characteristics.

6 "Consumer" has the meaning set forth in the Consumer Fraud
7 and Deceptive Business Practices Act.

8 "Employee" has the meaning set forth in the Illinois Wage
9 Payment and Collection Act.

10 "Genetic information" has the meaning set forth in the
11 Health Insurance Portability and Accountability Act of 1996,
12 as specified in 45 CFR 160.103.

13 "Individualized" means specific to an individual or group,
14 band, class, or tier of individuals with particular personal
15 characteristics, behaviors, or biometric information.

16 "Insurer" means every person engaged as principal,
17 indemnitor, surety, or contractor in the business of making
18 insurance contracts.

19 "Personal characteristics" means individual qualities,
20 features, attributes, or traits, including immutable
21 characteristics, such as race and eye color, mutable
22 characteristics, such as address, weight, citizenship, or
23 parenthood status, and any other personally identifiable
24 information that could be used to identify an individual,
25 including social security number, name, or phone number.

26 "Price" means the amount charged to a consumer in relation

1 to a transaction, including all related costs and fees, and
2 any other material terms of the transaction that has a direct
3 bearing on the amount paid by the consumer or the value of the
4 good or service to the consumer.

5 "Surveillance data" means data obtained through
6 observation, inference, or surveillance of a consumer or
7 employee that is related to personal characteristics,
8 behaviors, or biometric information of the individual or
9 group, band, class, or tier of individuals of which the
10 individual is a part. "Surveillance data" includes information
11 gathered, purchased, or otherwise acquired.

12 "Wage" has the meaning set forth in the Illinois Wage
13 Payment and Collection Act.

14 Section 10. Prohibit surveillance-based price
15 discrimination.

16 (a) A person shall not use surveillance data as part of an
17 automated decision system to inform the individualized price
18 assessed to a consumer for goods or services. A person does not
19 violate this subsection if the person assesses different
20 prices to different consumers based on the cost of providing
21 the good or service to the different consumers.

22 (b) This Section shall not apply to:

23 (1) an insurer in compliance with the Illinois
24 Insurance Code that only uses risk-relevant data as part
25 of an automated decision system that informs decisions

1 related to any costs assessed to a consumer for an
2 insurance policy; or

3 (2) an entity that declines to extend credit at
4 specific terms to a consumer or enter into a transaction
5 with a consumer based on data provided in a consumer
6 report in compliance with the Fair Credit Reporting Act.

7 Section 15. Prohibit surveillance-based wage
8 discrimination.

9 (a) A person shall not use surveillance data as part of an
10 automated decision system to inform the individualized wage
11 paid to an employee. A person does not violate this subsection
12 if the person:

13 (1) offered individualized wages based solely on:

14 (A) data specific to the individual employee that
15 is directly related to the tasks the employee was
16 hired to perform; or

17 (B) differences in the cost to the employee of
18 providing labor to the person;

19 (2) discloses in plain language before hiring an
20 employee whose wages are set in whole or in part through
21 automated decision-making what data is considered and how
22 automated decision-making considers that data; and

23 (3) developed and proactively provided to employees
24 reasonable procedures to ensure the accuracy of all data
25 considered by an automated decision-making system in

1 setting wage rates, as determined by rule.

2 (b) This Section shall not apply to a person who makes a
3 decision not to hire an employee that the person has not
4 previously employed.

5 Section 20. Enforcement. The Attorney General shall
6 enforce this Act. A person who violates this Act shall be
7 subject to a civil penalty not to exceed \$10,000 for each
8 violation and reasonable attorney's fees. A violation of any
9 provision of this Act shall constitute a separate violation
10 with respect to each consumer, employee, or transaction.

11 Section 25. Private right of action.

12 (a) A person aggrieved by a violation of this Act may bring
13 a civil action on behalf of themselves or a group of similarly
14 situated persons to restrain further violations and to recover
15 damages, costs, and reasonable attorney's fees, including the
16 greater of:

17 (1) the amount of actual damages sustained;

18 (2) \$3,000 for each violation; or

19 (3) 3 times the amount of actual damages sustained, if
20 it is established by clear and convincing evidence that
21 the person who violated this Act engaged in bad faith
22 conduct or intentionally violated this Act.

23 (b) A violation of any provision of this Act shall
24 constitute a separate violation with respect to each consumer,

1 employee, or transaction.

2 Section 30. Relationship with other laws. Nothing in this
3 Act, including the enforcement authority granted to the
4 Attorney General, preempts or otherwise affects any other
5 right, claim, remedy, presumption, or defense available at law
6 or in equity.

7 Section 35. Rulemaking. The Attorney General may adopt
8 rules necessary to implement and enforce this Act.