
Innovation, Technology & Economic Development Committee

HB 2644

Brief Description: Concerning artificial intelligence-enabled profiling.

Sponsors: Representatives Smith, Eslick, Santos, Pollet and Kloba.

Brief Summary of Bill

- Prohibits operation or installation of equipment that incorporates artificial intelligence-enabled profiling in any place of public accommodation.
- Prohibits the use of artificial intelligence-enabled profiling to make decisions that produce legal effects or similarly significant effects.

Hearing Date: 1/28/20

Staff: Yelena Baker (786-7301).

Background:

Washington's Law Against Discrimination (WLAD) prohibits discrimination in places of public accommodation based on race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal. Under the WLAD, public accommodations are any place of public resort, accommodation, assemblage, or amusement. Public accommodations generally include restaurants, hotels, stores, shopping malls, movie theaters, concert halls, arenas, parks, fairs, arcades, libraries, schools, government offices, and hospitals.

Under the state's Consumer Protection Act (CPA), a variety of business practices are declared unlawful. These practices include engaging in unfair methods of competition and unfair or deceptive acts or practices in the conduct of commerce and monopolizing trade or commerce. A person injured by a violation of the CPA may bring a private cause of action for injunctive relief and the recovery of actual damages and reasonable attorneys' fees. In some circumstances,

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recovery may also include triple damages. In addition, the CPA allows the Attorney General to bring a CPA action in the name of the state or on behalf of persons residing in the state. An action by the Attorney General may seek to prevent or restrain violations of the act and may seek restoration for persons injured by violation of the CPA.

Summary of Bill:

Equipment that incorporates artificial intelligence-enabled profiling may not be operated or installed in any place of public resort, accommodation, assemblage, or amusement, as defined in Washington's Law Against Discrimination.

Artificial intelligence-enabled profiling may not be used to make decisions that produce legal effects or similarly significant effects on consumers.

Violations are enforceable under the Consumer Protection Act and subject statutory damages of \$1,000 for each negligent violation or \$5,000 for each intentional or reckless violation, as well as injunctive relief and reasonable attorneys' fees and costs.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.