

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business Affairs & Labor.

HB26-1210 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 6-1-105, **add**
4 (1)(qqqq) as follows:

5 **6-1-105. Unfair or deceptive trade practices - definitions.**

6 (1) A person engages in a deceptive trade practice when, in the
7 course of the person's business, vocation, or occupation, the person:

8 (qqqq) VIOLATES PART 19 OF THIS ARTICLE 1.

9 **SECTION 2.** In Colorado Revised Statutes, **add** part 19 to article
10 1 of title 6 as follows:

11 PART 19

12 PROHIBITING INDIVIDUALIZED PRICE
13 AND WAGE SETTING USING SURVEILLANCE DATA

14 **6-1-1901. Definitions.**

15 AS USED IN THIS PART 19, UNLESS THE CONTEXT OTHERWISE
16 REQUIRES:

17 (1) "BIOMETRICS" HAS THE SAME MEANING AS "BIOMETRIC
18 IDENTIFIER", AS DEFINED IN SECTION 6-1-1303, AND INCLUDES BIOMETRIC
19 IDENTIFIERS ASSOCIATED WITH A WORKER.

20 (2) "CONSUMER" HAS THE MEANING SET FORTH IN SECTION
21 6-1-732 (1)(d).

22 (3) "INDIVIDUALIZED" MEANS SPECIFIC TO OR INFERRED ABOUT AN
23 INDIVIDUAL OR GROUP, BAND, CLASS, OR TIER OF INDIVIDUALS WITH
24 PARTICULAR PERSONAL CHARACTERISTICS, ONLINE BEHAVIORS, OR
25 BIOMETRICS.

26 (4) (a) "INDIVIDUALIZED PRICE SETTING" MEANS USING A PWSA
27 OR THE OUTPUT OF A PWSA IN DETERMINING A PRICE OFFERED TO A
28 CONSUMER.

29 (b) "INDIVIDUALIZED PRICE SETTING" DOES NOT INCLUDE THE USE
30 OF LOCATION DATA OR AN INTERNET PROTOCOL ADDRESS SOLELY FOR THE
31 PURPOSE OF DETERMINING THE JURISDICTION WHERE AN INDIVIDUAL IS
32 LOCATED IF THE LOCATION DATA OR INTERNET PROTOCOL ADDRESS IS
33 USED SOLELY FOR THE PURPOSE OF:

34 (I) LIMITING OFFERED PRODUCTS OR SERVICES TO THOSE
35 AVAILABLE IN THAT JURISDICTION;

36 (II) DISPLAYING PRICES IN THE APPROPRIATE CURRENCY;

37 (III) CALCULATING JURISDICTION-SPECIFIC TAXES; OR

38 (IV) COMPLYING WITH JURISDICTION-SPECIFIC DISCLOSURE OR
39 OTHER REGULATORY REQUIREMENTS.

40 (5) (a) "INDIVIDUALIZED WAGE SETTING" MEANS USING A PWSA

1 OR THE OUTPUT OF A PWSA IN DETERMINING A WAGE OFFERED TO A
2 WORKER.

3 (b) "INDIVIDUALIZED WAGE SETTING" DOES NOT INCLUDE:

4 (I) A PERSON'S DECISION NOT TO HIRE AN INDIVIDUAL WHO HAS
5 NOT PREVIOUSLY WORKED FOR OR THROUGH THE PERSON OR THE PERSON'S
6 AFFILIATES OR SUBSIDIARIES; OR

7 (II) PAY EQUITY STUDIES, COMPENSATION REVIEWS, OR OTHER
8 ACTIVITIES NECESSARY TO COMPLY WITH FEDERAL AND STATE
9 ANTIDISCRIMINATION AND PAY EQUITY LAWS.

10 (6) "INSURER" HAS THE MEANING SET FORTH IN SECTION 10-1-102.

11 (7) "ONLINE BEHAVIORS" MEANS:

12 (a) AN INDIVIDUAL'S ACTIONS, HABITS, PREFERENCES,
13 AFFILIATIONS, FINANCIAL CIRCUMSTANCES, OR INTERESTS THAT ARE
14 OBSERVABLE, MEASURABLE, OR INFERRED THROUGH ELECTRONIC
15 SURVEILLANCE, DATA SCRAPING, DATA PURCHASE, WEB BROWSING
16 HISTORY, GEOLOCATION, OR PURCHASE HISTORY; OR

17 (b) INFERENCES ASSOCIATED WITH A GROUP, BAND, CLASS, OR TIER
18 OF INDIVIDUALS WITH SIMILAR OBSERVABLE AND MEASURABLE ACTIONS,
19 HABITS, PREFERENCES, AFFILIATIONS, FINANCIAL CIRCUMSTANCES, OR
20 INTERESTS.

21 (8) "PERSONAL CHARACTERISTICS" INCLUDES PERSONAL DATA, AS
22 DEFINED IN SECTION 6-1-1303 (17)(a), INCLUDING PUBLICLY AVAILABLE
23 INFORMATION; SENSITIVE DATA, AS DEFINED IN SECTION 6-1-1303 (24);
24 GENETIC INFORMATION, AS DEFINED IN SECTION 10-3-1104.6 (2)(c); AND
25 BOTH MUTABLE AND IMMUTABLE QUALITIES, FEATURES, ATTRIBUTES, OR
26 TRAITS OF AN INDIVIDUAL.

27 (9) "PRICE" MEANS THE AMOUNT CHARGED TO A CONSUMER IN
28 RELATION TO A TRANSACTION, INCLUDING ALL RELATED COSTS AND FEES
29 AND OTHER MATERIAL TERMS OF THE TRANSACTION THAT HAVE A DIRECT
30 BEARING ON THE AMOUNT PAID BY THE CONSUMER.

31 (10) "PRICE OR WAGE SETTING ALGORITHM" OR "PWSA" MEANS
32 ANY TECHNOLOGY, SOFTWARE, PROGRAM, MACHINE-BASED SYSTEM, OR
33 COMPUTATIONAL PROCESS THAT:

34 (a) USES STATISTICAL MODELING, DATA ANALYTICS, ARTIFICIAL
35 INTELLIGENCE, OR OTHER DATA PROCESSING TECHNIQUES TO ANALYZE
36 SURVEILLANCE DATA; AND

37 (b) IS A SUBSTANTIAL FACTOR IN SETTING, OFFERING, OR
38 DETERMINING A PRICE OR A WAGE OFFERED TO AN INDIVIDUAL.

39 (11) "SUBSTANTIAL FACTOR" MEANS MORE THAN A DE MINIMIS OR
40 INCIDENTAL FACTOR THAT INFORMS THE PRICE OR WAGE OFFERED TO AN
41 INDIVIDUAL.

42 (12)(a) "SURVEILLANCE DATA" MEANS DATA OBTAINED THROUGH
43 OBSERVATION, INFERENCE, OR SURVEILLANCE OF A CONSUMER OR

1 WORKER THAT IS RELATED TO PERSONAL CHARACTERISTICS, ONLINE
2 BEHAVIORS, OR BIOMETRICS OF THE INDIVIDUAL OR A GROUP, BAND,
3 CLASS, OR TIER TO WHICH THE INDIVIDUAL BELONGS.

4 (b) "SURVEILLANCE DATA" INCLUDES INFORMATION GATHERED,
5 PURCHASED, OR OTHERWISE ACQUIRED.

6 (13) "WAGE" MEANS THE MATERIAL TERMS OFFERED TO A WORKER
7 IN EXCHANGE FOR LABOR, INCLUDING THE AMOUNT TO BE PAID FOR THE
8 LABOR, WHETHER PAID BY TIME RATE, PIECE RATE, SALARY, BONUSES,
9 COMMISSIONS, AND OTHER INCENTIVES AND TASK ASSIGNMENTS THAT
10 HAVE A DIRECT IMPACT ON EARNINGS.

11 (14)(a) "WORKER" MEANS AN INDIVIDUAL PERFORMING WORK FOR
12 WAGES OR OTHER COMPENSATION AND INCLUDES AN EMPLOYEE, AS
13 DEFINED IN SECTION 8-4-101, AND ANY OTHER INDIVIDUAL PERFORMING
14 WORK ON BEHALF OF OR FOR THE BENEFIT OF AN EMPLOYER OR OTHER
15 PERSON.

16 (b) "WORKER" DOES NOT INCLUDE A WORKER ENGAGED BY:

17 (I) THE FEDERAL GOVERNMENT;

18 (II) A PUBLIC ENTITY, AS DEFINED IN SECTION 24-10-103 (5); OR

19 (III) THE STATE, AS DEFINED IN SECTION 24-10-103 (7).

20 **6-1-1902. Prohibition against individualized price or wage**
21 **setting - publication of procedures.**

22 (1) **Individualized price setting.**

23 (a) A PERSON SHALL NOT ENGAGE IN INDIVIDUALIZED PRICE
24 SETTING.

25 (b) A PERSON HAS NOT ENGAGED IN INDIVIDUALIZED PRICE
26 SETTING IF THE PERSON CAN DEMONSTRATE THAT:

27 (I) DIFFERENTIAL PRICES ARE JUSTIFIED BASED ON DIFFERENCES IN
28 COST IN PROVIDING A GOOD OR SERVICE TO DIFFERENT CONSUMERS,
29 INCLUDING BASED ON CONSUMER SELECTIONS, DELIVERY DISTANCE, OR
30 DELIVERY TIME;

31 (II) DIFFERENTIAL PRICES ARE JUSTIFIED BY TEMPORAL
32 DIFFERENCES, INCLUDING PRICE FLUCTUATIONS BASED ON SUPPLY AND
33 DEMAND;

34 (III) A PUBLIC DISCOUNTED PRICE IS OFFERED ON EQUAL TERMS
35 PURSUANT TO PUBLICLY DISCLOSED ELIGIBILITY CRITERIA TO:

36 (A) ALL CONSUMERS WHO MEET THE PUBLICLY DISCLOSED
37 ELIGIBILITY CRITERIA, INCLUDING CRITERIA RELATED TO VOLUME
38 PURCHASES, SIGNING UP FOR A MAILING LIST, REGISTERING FOR
39 PROMOTIONAL COMMUNICATIONS, OR PARTICIPATING IN A PROMOTIONAL
40 EVENT; OR

41 (B) ALL MEMBERS OF A BROADLY DEFINED AND PUBLICLY
42 RECOGNIZED GROUP OF CONSUMERS, INCLUDING TEACHERS, ACTIVE OR
43 RETIRED MILITARY PERSONNEL, SENIOR CITIZENS, STUDENTS, OR

1 RESIDENTS OF A CERTAIN AREA BASED ON PUBLICLY DISCLOSED
2 ELIGIBILITY CRITERIA;

3 (IV) A DISCOUNTED PRICE IS OFFERED ON EQUAL TERMS PURSUANT
4 TO PUBLICLY DISCLOSED TERMS AND CONDITIONS TO ALL MEMBERS,
5 ENROLLEES, OR PARTICIPANTS IN A LOYALTY, MEMBERSHIP, OR REWARDS
6 PROGRAM. FOR PURPOSES OF THIS SECTION:

7 (A) A "LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM" IS A
8 LOYALTY, REWARDS, OR CLUB CARD PROGRAM ESTABLISHED FOR THE
9 GENUINE PURPOSE OF PROVIDING BENEFITS TO CONSUMERS THAT
10 VOLUNTARILY PARTICIPATE IN THAT PROGRAM REGARDLESS OF WHETHER
11 THOSE BENEFITS ARE PROVIDED DIRECTLY BY A BUSINESS OR THROUGH A
12 LOYALTY PROGRAM PARTNER; AND

13 (B) A "LOYALTY PROGRAM PARTNER" IS A THIRD PARTY THAT
14 PROVIDES LOYALTY, MEMBERSHIP, OR REWARDS PROGRAM BENEFITS TO
15 CONSUMERS WHO CONSENT TO PARTICIPATE IN A LOYALTY, MEMBERSHIP,
16 OR REWARDS PROGRAM OFFERED BY A DIFFERENT SELLER;

17 (V) THE PERSON OPERATES AS AN INSURER COMPLYING WITH
18 SECTION 10-3-1104.9 AND ASSOCIATED RULES AND ONLY INPUTS
19 RISK-RELEVANT DATA INTO A PRICE OR WAGE SETTING ALGORITHM THAT
20 INFORMS DECISIONS RELATED TO THE AMOUNT A CONSUMER MUST PAY
21 FOR AN INSURANCE POLICY OR CONTRACT;

22 (VI) DIFFERENTIAL PRICES ARE OFFERED OR PROVIDED TO A
23 CONSUMER AS A GOOD FAITH CREDIT, REFUND, REBATE, OR DISCOUNT
24 ISSUED IN RESPONSE TO:

25 (A) A CONSUMER'S COMPLAINT, INQUIRY, OR EXPRESSION OF
26 DISSATISFACTION REGARDING A GOOD OR SERVICE;

27 (B) A SERVICE DISRUPTION, ERROR, OR OTHER FAILURE TO DELIVER
28 A GOOD OR SERVICE AS PROMISED OR EXPECTED;

29 (C) A BILLING DISPUTE OR DISCREPANCY;

30 (D) A REQUEST FOR ACCOUNT RETENTION OR CANCELLATION; OR

31 (E) OTHER CUSTOMER SERVICE INTERACTION IN WHICH THE
32 PERSON PROVIDES A CREDIT, REFUND, REBATE, OR DISCOUNT TO ADDRESS
33 A CONSUMER'S CONCERNS OR TO MAINTAIN THE CONSUMER RELATIONSHIP;

34 (VII) DIFFERENTIAL PRICES ARE OFFERED PURSUANT TO THE
35 FOLLOWING ESTABLISHED NEED-BASED DISCOUNT PROGRAMS THAT ARE
36 PUBLICLY DISCLOSED AND STRUCTURED TO PROVIDE REDUCED PRICING OR
37 FINANCIAL ASSISTANCE BASED ON OBJECTIVE ELIGIBILITY CRITERIA
38 RELATED TO INCOME OR FINANCIAL NEED:

39 (A) HOSPITAL DISCOUNTED CARE;

40 (B) SLIDING SCALE FEES; OR

41 (C) CHARITY CARE OR MEDICAL FINANCIAL ASSISTANCE POLICIES;

42 OR

43 (VIII) A REFUSAL TO EXTEND CREDIT ON SPECIFIC TERMS OR THE

1 REFUSAL TO ENTER INTO A FINANCIAL TRANSACTION WITH A SPECIFIC
2 CONSUMER IS BASED ON DATA PROVIDED IN A CONSUMER REPORT
3 COVERED BY THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C.
4 SEC. 1681 ET SEQ.

5 (2) **Individualized wage setting.**

6 (a) A PERSON SHALL NOT ENGAGE IN INDIVIDUALIZED WAGE
7 SETTING.

8 (b) A PERSON HAS NOT ENGAGED IN INDIVIDUALIZED WAGE
9 SETTING IF THE PERSON CAN DEMONSTRATE THAT:

10 (I) THE PERSON OFFERS INDIVIDUALIZED WAGES BASED SOLELY ON
11 DATA SPECIFIC TO THE INDIVIDUAL WORKER THAT IS DIRECTLY RELATED
12 TO THE TASKS THE WORKER WAS HIRED TO PERFORM, INCLUDING DATA
13 ASSOCIATED WITH A WORKER'S PERFORMANCE OR GENERATION OF NEW
14 BUSINESS; AND

15 (II) THE PERSON DISCLOSES IN PLAIN LANGUAGE BEFORE HIRING A
16 WORKER TO PERFORM WORK, AND TO ALL WORKERS WHOSE WAGES ARE
17 SET IN WHOLE OR IN PART THROUGH A PRICE OR WAGE SETTING
18 ALGORITHM, WHAT DATA IS CONSIDERED AND HOW THE PRICE OR WAGE
19 SETTING ALGORITHM CONSIDERS THE DATA. TO THE EXTENT THESE
20 DISCLOSURES DUPLICATE DISCLOSURES REQUIRED UNDER EQUAL PAY,
21 WAGE AND HOUR, OR OTHER EXISTING LAWS, A PERSON'S OBLIGATIONS
22 UNDER THIS SUBSECTION (2)(b)(II) MAY BE FULFILLED BY COMPLYING
23 WITH APPLICABLE LAW.

24 (3) **Publication of procedures.** A PERSON THAT USES A PRICE OR
25 WAGE SETTING ALGORITHM SHALL DEVELOP AND PUBLISH REASONABLE
26 PROCEDURES:

27 (a) TO ENSURE THE ACCURACY OF ALL DATA CONSIDERED BY THE
28 PRICE OR WAGE SETTING ALGORITHM;

29 (b) FOR WORKERS TO REQUEST AND RECEIVE INFORMATION
30 REGARDING WHAT DATA IS CONSIDERED BY THE PRICE OR WAGE SETTING
31 ALGORITHM AND HOW THE PRICE OR WAGE SETTING ALGORITHM
32 CONSIDERS THE DATA WHEN SETTING PARTICULAR WAGES; AND

33 (c) TO ALLOW A WORKER TO CORRECT OR CHALLENGE THE
34 ACCURACY OF DATA CONSIDERED BY THE PRICE OR WAGE SETTING
35 ALGORITHM.

36 **6-1-1903. Rule-making authority.**

37 THE ATTORNEY GENERAL MAY ADOPT RULES AS NECESSARY FOR
38 THE PURPOSE OF IMPLEMENTING AND ENFORCING THIS PART 19.

39 **SECTION 2. Act subject to petition - effective date -**
40 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
41 the expiration of the ninety-day period after final adjournment of the
42 general assembly (August 12, 2026, if adjournment sine die is on May 13,
43 2026); except that, if a referendum petition is filed pursuant to section 1

1 (3) of article V of the state constitution against this act or an item, section,
2 or part of this act within such period, then the act, item, section, or part
3 will not take effect unless approved by the people at the general election
4 to be held in November 2026 and, in such case, will take effect on the
5 date of the official declaration of the vote thereon by the governor.
6 (2) This act applies to conduct occurring on or after the applicable
7 effective date of this act.".

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