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**SUBSTITUTE HOUSE BILL 1672**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Kloba, Stonier, Fosse, Doglio, Parshley, Berry, Reed, Cortes, Bronoske, Ryu, Ramel, Scott, Taylor, and Simmons)

1 AN ACT Relating to technology used by employers in the workplace;  
2 adding a new chapter to Title 49 RCW; prescribing penalties; and  
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

8 (1) "Algorithm" means a computerized procedure consisting of a  
9 set of steps used to accomplish a determined task.

10 (2) "Automated decision system" means an algorithm or  
11 computational process that is used to make or assist in making  
12 decisions, judgments, or conclusions. "Automated decision system"  
13 includes algorithms and computational processes that are derived from  
14 machine learning, statistics, data processing, or artificial  
15 intelligence.

16 (3) "Automated decision system output" means information, data,  
17 assumptions, predictions, scoring, recommendations, decisions, or  
18 conclusions generated by an automated decision system.

19 (4) "Biometric data" means data that is generated from the  
20 measurement or technological processing of an individual's  
21 physiological, biological, or behavioral characteristics and that

1 identifies a person, whether individually or in combination with  
2 other data. "Biometric data" includes, but is not limited to:

3 (a) Imagery of the iris, retina, fingerprint, face, hand, palm,  
4 vein patterns, and voice recordings, from which an identifier  
5 template can be extracted; or

6 (b) Keystroke patterns or rhythms and gait patterns or rhythms  
7 that contain identifying information.

8 (5) "Data" means information obtained by any means that, directly  
9 or indirectly, identifies, relates to, describes, may reasonably be  
10 associated with, or could reasonably be linked to an employee,  
11 including:

12 (a) Personal information; as defined in RCW 19.255.005;

13 (b) Biometric data;

14 (c) Health information;

15 (d) Information related to workplace activities;

16 (e) Human resources information and personnel files; and

17 (f) Information related to the employee's internet and digital  
18 activities, including electronic communications, private social media  
19 activity, and personal internet protocol address.

20 (6) "Department" means the department of labor and industries.

21 (7) "Electronic monitoring" means the collection of information  
22 concerning employee activities or communication by any means other  
23 than direct, in-person observation, including through the use of a  
24 digital device, computer, telephone, wire, radio, camera, or  
25 electromagnetic, photoelectronic, or photo-optical system.

26 (8) "Employee" means an employee who is employed in the business  
27 of the employee's employer whether by way of manual labor or  
28 otherwise.

29 (9) "Employer" means any person, firm, corporation, partnership,  
30 business trust, legal representative, or other business entity which  
31 engages in any business, industry, profession, or activity in this  
32 state and employs one or more employees.

33 (10) "Employment-related decision" means any decision by an  
34 employer that:

35 (a) Affects an employee's compensation, benefits, or terms and  
36 conditions of employment;

37 (b) Relates to the discipline, evaluation, promotion, or  
38 termination of an employee; or

39 (c) Relates to the hiring of an individual or employee for a  
40 position or job.

1 (11) "Essential job function" means a fundamental duty of a job  
2 or position that an employee with that job or position must be able  
3 to perform.

4 (12)(a) "Health information" means personal information that is  
5 linked or reasonably linkable to a person and that identifies the  
6 person's past, present, or future physical or mental health status.

7 (b) For the purposes of this definition, physical or mental  
8 health status includes, but is not limited to:

9 (i) Individual health conditions, treatment, diseases, or  
10 diagnosis;

11 (ii) Social, psychological, behavioral, and medical  
12 interventions;

13 (iii) Health-related surgeries or procedures;

14 (iv) Use or purchase of prescribed medication;

15 (v) Bodily functions, vital signs, symptoms, or measurements of  
16 such information;

17 (vi) Diagnoses or diagnostic testing, treatment, or medication;

18 (vii) Gender-affirming care information;

19 (viii) Reproductive or sexual health information;

20 (ix) Biometric data;

21 (x) Genetic data;

22 (xi) Precise location information that could reasonably indicate  
23 a person's attempt to acquire or receive health services or supplies;

24 (xii) Data that identifies a person seeking health care services;  
25 or

26 (xiii) Any information that an employer, or the employer's  
27 respective processor, processes to associate or identify a person  
28 with the data described in (b)(i) through (xii) of this subsection  
29 that is derived or extrapolated from nonhealth information, such as  
30 proxy, derivative, inferred, or emergent data by any means, including  
31 algorithms or machine learning.

32 NEW SECTION. **Sec. 2.** Subject to the prohibitions of section 4  
33 of this act, an employer may not engage in electronic monitoring of  
34 an employee unless all of the following requirements are met:

35 (1) The employer's purpose in utilizing the electronic monitoring  
36 is to:

37 (a) Assist or allow the employee to accomplish an essential job  
38 function;

39 (b) Monitor production processes or quality;

1 (c) Ensure compliance with applicable employment or labor laws;  
2 (d) Protect the health, safety, or security of the employee; or  
3 (e) Track time worked or production output for purposes of  
4 determining the employee's compensation;

5 (2) Electronic monitoring is necessary to accomplish the purpose  
6 identified pursuant to subsection (1) of this section;

7 (3) The specific form of electronic monitoring is the least  
8 invasive means, with respect to the employee, of accomplishing the  
9 purpose identified pursuant to subsection (1) of this section;

10 (4) The specific form of electronic monitoring is used with the  
11 smallest number of employees and collects the smallest amount of data  
12 necessary to accomplish the purpose identified pursuant to subsection  
13 (1) of this section; and

14 (5) The employer ensures that only authorized persons have access  
15 to any data produced through the electronic monitoring and that the  
16 data is only used for the purpose and duration that the employee has  
17 been notified of pursuant to section 3 of this act.

18 NEW SECTION. **Sec. 3.** (1) Except as provided for in subsection  
19 (5) of this section, at least 15 calendar days prior to commencing  
20 any form of electronic monitoring in compliance with section 2 of  
21 this act, an employer shall provide notice of the electronic  
22 monitoring to each employee who will be subject to it.

23 (2) The notice required under this section must, at a minimum,  
24 include the following information:

25 (a) The specific form of electronic monitoring;

26 (b) A description of the intended purpose of the electronic  
27 monitoring and why the electronic monitoring is necessary to  
28 accomplish that purpose;

29 (c) A description of how any data generated by the electronic  
30 monitoring will be used;

31 (d) A description of the technologies that will be used to  
32 conduct the electronic monitoring;

33 (e) Whether and, if so, how the data generated by the electronic  
34 monitoring will be used to inform employment-related decisions;

35 (f) The name of any person conducting electronic monitoring on  
36 the employer's behalf and any associated contract language related to  
37 the monitoring;

1 (g) The name of any person, apart from the employer, who will  
2 have access to any data generated by the electronic monitoring and  
3 the reason why the person will have access to the data;

4 (h) The positions within the employer that will have access to  
5 any data generated by the electronic monitoring;

6 (i) When, where, and how frequently monitoring will occur;

7 (j) The period of time for which any data generated by the  
8 electronic monitoring will be retained by the employer or another  
9 person and when that data will be destroyed;

10 (k) Notice of how the employee may access the data generated by  
11 the electronic monitoring and the process to correct any errors in  
12 the data; and

13 (1) Notice of the employee's rights pursuant to this section.

14 (3) Notice of electronic monitoring provided pursuant to this  
15 section must be written in plain, clear, and concise language and  
16 provided to each employee in the employee's primary language.

17 (4) An employer shall provide a new, updated notice to employees  
18 if it makes any significant changes to the manner of electronic  
19 monitoring or to the way that the employer utilizes the electronic  
20 monitoring or any data generated by it.

21 (5) Prior notice of electronic monitoring is not required if:

22 (a) The employer has reasonable grounds to believe that the  
23 employee is engaged in conduct that:

24 (i) Is illegal;

25 (ii) Violates the legal rights of the employer or another  
26 employee; or

27 (iii) Creates a hostile work environment; and

28 (b) The electronic monitoring is reasonably likely to produce  
29 evidence of the conduct.

30 (6) (a) An employer that utilizes electronic monitoring shall  
31 annually provide each of its employees with a list of all electronic  
32 monitoring systems currently in use by the employer in relation to  
33 that employee. The list must be provided in the primary language of  
34 the employee.

35 (b) As used in this subsection, "currently in use" means that the  
36 employer: (i) Is currently using the system in relation to the  
37 employee; (ii) used the electronic monitoring system in relation to  
38 the employee within the past 90 days; or (iii) intends to use the  
39 electronic monitoring system in relation to the employee within the  
40 next 30 days.

1        NEW SECTION.        **Sec. 4.**        (1) Notwithstanding the purposes for  
2 electronic monitoring set forth in section 2 of this act, electronic  
3 monitoring may not be used:

4        (a) In any manner that violates state or federal labor or  
5 employment laws;

6        (b) In relation to workers who are off duty and not performing  
7 work-related tasks;

8        (c) To identify employees exercising legal rights;

9        (d) For audio-visual monitoring of bathrooms, locker rooms,  
10 changing areas, breakrooms, smoking areas, employee cafeterias,  
11 lounges, lactation rooms, or other similarly private areas;

12        (e) To determine the frequency with which employees visit or use  
13 bathrooms, locker rooms, changing areas, breakrooms, smoking areas,  
14 employee cafeterias, lounges, lactation rooms, or other similarly  
15 private areas; or

16        (f) For audio-visual monitoring of any space within an employee's  
17 residence or personal vehicle, or a property owned or rented by the  
18 employee, unless the monitoring is necessary to ensure the employee's  
19 health and safety or to verify the security of employer or client  
20 data. Monitoring of employee personal vehicles must comply with RCW  
21 49.44.230.

22        (2) Electronic monitoring may not incorporate any form of facial,  
23 gait, or emotion recognition technology.

24        (3) Electronic monitoring of employee social networking accounts  
25 must comply with RCW 49.44.200.

26        NEW SECTION.        **Sec. 5.**        (1) An employer may not require an  
27 employee to install an application on a personal device for purposes  
28 of electronic monitoring or to wear a device or attach, embed, or  
29 physically implant a device on the employee's clothing that can be  
30 used for electronic monitoring, unless the electronic monitoring is:

31        (a) Necessary to accomplish the employee's essential job  
32 functions; and

33        (b) Limited to only the times and activities necessary to  
34 accomplish the essential job functions.

35        (2) Any location tracking function of an application or device  
36 must be disabled outside of the times when the employee is engaged in  
37 activities necessary to accomplish essential job functions.

38        (3) An employer may not require an employee to physically implant  
39 a device on the employee's body for purposes of employee monitoring.

1        NEW SECTION.    **Sec. 6.**    (1) An employer may not use an automated  
2 decision system in a manner that:

3        (a) Violates state or federal law;

4        (b) Makes predictions about an employee's behavior that are  
5 unrelated to the employee's essential job functions;

6        (c) Identifies, profiles, or predicts the likelihood that an  
7 employee will exercise the employee's legal rights;

8        (d) Makes predictions about an employee's emotions, personality,  
9 or other sentiments; or

10       (e) Uses customer or client data, including customer or client  
11 reviews and feedback, as an input of the automated decision system.

12       (2)(a) An employer may not solely rely on outputs from an  
13 automated decision system when making employment-related decisions.

14       (b) An employer may utilize an automated decision system in  
15 making employment-related decisions if:

16       (i) The automated decision system outputs considered in making  
17 the employment-related decision are corroborated by human oversight  
18 of the employee, including supervisory or managerial observations and  
19 documentation of the employee's work, personnel records, and  
20 consultations with the employee's coworkers;

21       (ii) The employer has conducted an impact assessment of the  
22 automated decision system pursuant to section 7 of this act; and

23       (iii) The employer is in compliance with the notice requirements  
24 of section 3 of this act.

25       (3) An employer may not use any automated decision system outputs  
26 regarding an employee's physical or mental health in relation to an  
27 employment-related decision.

28       (4) Automated decision systems used by an employer may not  
29 incorporate any form of facial, gait, or emotion recognition  
30 technology.

31       NEW SECTION.    **Sec. 7.**    (1) Prior to utilizing an automated  
32 decision system, an employer shall create a written impact assessment  
33 of the system that includes, at a minimum:

34       (a) A detailed description of the automated decision system and  
35 its purpose;

36       (b) A description of the data utilized by the system;

37       (c) A description of the outputs produced by the system and the  
38 types of employment-related decisions in which those outputs may be  
39 utilized;

1 (d) The rationale for the use of the system, including reasons  
2 for utilizing the system to supplement nonautomated means of decision  
3 making;

4 (e) A detailed assessment of the potential risks of utilizing the  
5 system, including the risk of:

6 (i) Errors;

7 (ii) Discrimination against employees on the basis of age, sex,  
8 marital status, sexual orientation, race, creed, color, national  
9 origin, citizenship or immigration status, honorably discharged  
10 veteran or military status, or the presence of any sensory, mental,  
11 or physical disability or the use of a trained dog guide or service  
12 animal by a person with a disability;

13 (iii) Violating employees' legal rights or chilling employees'  
14 exercise of legal rights;

15 (iv) Directly or indirectly harming employees' physical health,  
16 mental health, safety, sense of well-being, dignity, or autonomy;

17 (v) Harm to employee privacy, including through potential  
18 security breaches or inadvertent disclosure of information; and

19 (vi) Negative economic and material impacts to employees,  
20 including potential effects on compensation, benefits, work  
21 conditions, evaluations, advancement, and work opportunities;

22 (f) A detailed summary of measures taken by the employer to  
23 address or mitigate the risks identified pursuant to (e) of this  
24 subsection; and

25 (g) A description of any methodology used in preparing the  
26 assessment.

27 (2) An employer shall provide a copy of the assessment prepared  
28 pursuant to this section to an employee upon request.

29 (3) An employer shall update the assessment required pursuant to  
30 this section any time a significant change or update is made to the  
31 automated decision system.

32 NEW SECTION. **Sec. 8.** (1) An employer, any person that develops,  
33 operates, or maintains electronic monitoring or an automated decision  
34 system on behalf of an employer, and any person who collects, stores,  
35 analyzes, interprets, disseminates, or otherwise uses data produced  
36 or utilized by electronic monitoring or an automated decision system  
37 shall implement reasonable security procedures and practices  
38 appropriate to the nature of the data to protect employees' personal



1 information from unauthorized or illegal access, destruction, use,  
2 modification, or disclosure.

3 (2) Any person that develops, operates, or maintains electronic  
4 monitoring or an automated decision system on behalf of an employer  
5 and any person who collects, stores, analyzes, interprets,  
6 disseminates, or otherwise uses data produced or utilized by  
7 electronic monitoring or an automated decision system on behalf of an  
8 employer shall, upon termination of the contract with the employer:

9 (a) Return all data and automated decision system outputs to the  
10 employer; and

11 (b) Destroy all data and automated decision system outputs in the  
12 person's possession.

13 (3) An employer shall, upon request, provide an employee with any  
14 data that relates to the employee that was produced or utilized by  
15 electronic monitoring or an automated decision system used by the  
16 employer.

17 NEW SECTION. **Sec. 9.** An employer may not discharge or in any  
18 other manner retaliate against an employee who exercises or attempts  
19 to exercise the employee's rights under this chapter.

20 NEW SECTION. **Sec. 10.** (1)(a) An employee may file a complaint  
21 with the department alleging a violation under this chapter or  
22 applicable rules. The department shall investigate the complaint.

23 (b) The department may not investigate any such alleged violation  
24 of rights that occurred more than three years before the date that  
25 the employee filed the complaint.

26 (c) If an employee files a timely complaint with the department,  
27 the department shall issue either a citation and notice of assessment  
28 or a determination of compliance within 90 days after the date on  
29 which the department received the complaint, unless the complaint is  
30 otherwise resolved. The department may extend the period by providing  
31 advance written notice to the employee and the employer setting forth  
32 good cause for an extension of the period and specifying the duration  
33 of the extension.

34 (d) The department shall send the citation and notice of  
35 assessment or the determination of compliance to both the employer  
36 and the employee by service of process or using a method by which the  
37 mailing can be tracked or the delivery can be confirmed to their last  
38 known addresses.

1 (2) If the department's investigation finds that the employee's  
2 allegation cannot be substantiated, the department shall issue a  
3 determination of compliance to the employee and the employer  
4 detailing such finding.

5 (3) The director may initiate an investigation without an  
6 employee's complaint to ensure compliance with this chapter.

7 (4) Upon the department's request, an employer shall notify  
8 affected employees in writing that the department is conducting an  
9 investigation. The department may require the employer to include a  
10 general description of each investigation as part of the  
11 notification, including the allegations and whether the notified  
12 employee may be affected. The employer may consult with the  
13 department to provide the information for the description of the  
14 notification or investigation.

15 (5) If the department determines that the employer has violated a  
16 requirement of this chapter or any rule adopted under this chapter,  
17 the department may also order the employer to pay the department a  
18 civil penalty of not less than \$1,000. The first violation may not  
19 exceed \$1,000. The department may, at any time, waive or reduce any  
20 civil penalty assessed against an employer under this section if the  
21 department determines that the employer has taken corrective action  
22 to remedy a violation. The department shall adopt rules creating a  
23 schedule to enhance penalties, not to exceed \$10,000 per violation,  
24 based on repeat violations by the employer. The department shall  
25 collect civil penalties and deposit them into the supplemental  
26 pension fund established under RCW 51.44.033.

27 (6) Upon receiving a complaint, the department may request or  
28 subpoena the records of the employer.

29 (7) For enforcement actions under this section, if any person  
30 fails to pay an assessment under this chapter, or under any rule  
31 under this chapter, after it has become a final and unappealable  
32 order, or after the court has entered final judgment in favor of the  
33 department, the director may initiate collection procedures in  
34 accordance with the collection procedures under RCW 49.48.086.

35 (8) In addition to any enforcement authority provided in this  
36 chapter or applicable rules, the department may enforce any violation  
37 under this chapter or applicable rules by filing an action in the  
38 superior court for the county in which the violation is alleged to  
39 have occurred. If the department prevails, it is entitled to

1 reasonable attorneys' fees and costs, in the amount to be determined  
2 by the court.

3 NEW SECTION. **Sec. 11.** The department may adopt and implement  
4 rules to carry out and enforce the provisions of this chapter.

5 NEW SECTION. **Sec. 12.** Sections 1 through 11 and 13 of this act  
6 constitute a new chapter in Title 49 RCW.

7 NEW SECTION. **Sec. 13.** Sections 1 through 10 of this act take  
8 effect July 1, 2026.

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