

SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 3098

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DATE	D-PG	OFFICIAL STATUS
03/27/2025	1111	Introduction and first reading Referred to Commerce and Consumer Protection
04/24/2025	3928	Author added Boldon
02/26/2026	6421	Withdrawn and re-referred to Judiciary and Public Safety
03/12/2026	6674	Author added Fateh
03/18/2026	6772a	Comm report: Amended, No recommendation, re-referred to Commerce and Consumer Protection

1.1 A bill for an act

1.2 relating to consumer protection; prohibiting a person from using artificial

1.3 intelligence to dynamically set product prices; prohibiting surveillance-based price

1.4 and wage discrimination; proposing coding for new law in Minnesota Statutes,

1.5 chapter 325D.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [325D.141] PROHIBITION ON SURVEILLANCE-BASED PRICE AND

1.8 WAGE DISCRIMINATION.

1.9 Subdivision 1. Definitions. (a) For purposes of this section, the following terms have

1.10 the meanings given.

1.11 (b) "Automated decision system" means a system, software, or process that uses

1.12 computation, the result of which is used to assist or replace human decision-making.

1.13 Automated decision system includes a system, software, or process derived from machine

1.14 learning, statistics, or other data-processing or artificial-intelligence techniques. Automated

1.15 decision system does not include passive computing infrastructure.

1.16 (c) "Behaviors" means an individual's observable, measurable, or inferred actions, habits,

1.17 preferences, interests, or vulnerabilities, including the individual's political, personal, or

1.18 professional affiliations, web-browsing history, IP addresses used, locations frequented,

1.19 purchase history, financial circumstances, consumer behaviors, or inferences associated

1.20 with a group, band, class, or tier of individuals in which the individual belongs.

1.21 (d) "Biometrics" means data or information that is generated by technologically

1.22 processing, measuring, or analyzing a consumer's or worker's biological, physical, or

2.1 behavioral characteristics from which data or information can be processed for the purpose
2.2 of uniquely identifying an individual. Biometrics includes:

2.3 (1) a fingerprint;

2.4 (2) a voiceprint;

2.5 (3) a scan or record of an eye retina or iris;

2.6 (4) a facial map, facial geometry, or facial template;

2.7 (5) genetic information; or

2.8 (6) other unique biological, physical, or behavioral patterns or characteristics.

2.9 (e) "Consumer" means an individual who buys goods for personal, family, or household
2.10 purposes.

2.11 (f) "Genetic information" has the meaning given in section 13.386, subdivision 1,
2.12 paragraph (a).

2.13 (g) "Individualized" means specific to or inferred about an individual or group, band,
2.14 class, or tier of individuals that possess particular personal characteristics, behaviors, or
2.15 biometrics.

2.16 (h) "Insurer" means an insurance company as defined under section 60A.02, subdivision
2.17 4.

2.18 (i) "Personal characteristics" means individual qualities, features, attributes, or traits,
2.19 including characteristics, mutable or immutable, including but not limited to race, color,
2.20 creed, religion, national origin, sex, gender identity, marital status, status with regard to
2.21 public assistance, familial status, disability, sexual orientation, age, eye color, weight,
2.22 citizenship, parenthood status, or address; and any other personal identifying information
2.23 that could be used to uncover an individual's identity, including a Social Security number,
2.24 full name, or phone number.

2.25 (j) "Price" means the amount charged to a consumer in relation to a transaction, including
2.26 all related costs, fees, and other material terms of the transaction that have a direct bearing
2.27 on the amount paid by the consumer or the value of the good or service offered or provided
2.28 to the consumer.

2.29 (k) "Surveillance-based price discrimination" means using an automated decision system
2.30 to inform individualized prices based on surveillance data regarding a consumer.

3.1 (l) "Surveillance-based wage discrimination" means using an automated decision system
3.2 to inform individualized wages based on surveillance data regarding a worker.

3.3 (m) "Surveillance data" means data obtained through observation, inference, or
3.4 surveillance of a consumer or worker that is related to personal characteristics, behaviors,
3.5 or biometrics of the individual or a group, band, class, or tier in which the individual belongs.
3.6 Surveillance data includes information gathered, purchased, or otherwise acquired.

3.7 (n) "Wage" means the material terms offered to a worker in exchange for labor, including
3.8 the amount to be paid for the labor, whether expressed in hourly rate, piece rate, salary,
3.9 bonuses, commissions and incentives, scheduling, task assignment, or other similar material
3.10 terms that have a direct impact on earnings.

3.11 (o) "Worker" means an individual who performs work on behalf of or for the benefit of
3.12 an employer as an employee as defined by section 268.035, subdivision 13, an independent
3.13 contractor, or through another legal relationship.

3.14 Subd. 2. **Price discrimination.** (a) A person is prohibited from engaging in
3.15 surveillance-based price discrimination.

3.16 (b) A person does not engage in surveillance-based price discrimination if the person
3.17 demonstrates:

3.18 (1) differential prices are justified based on differences in the cost to provide a good or
3.19 service to different consumers, including based on consumer selections, delivery distance,
3.20 or delivery time;

3.21 (2) differential prices are offered or provided to a commonly understood social grouping,
3.22 such as teachers, veterans, senior citizens, or students, if:

3.23 (i) the terms and criteria for receiving the difference in price are publicly available, are
3.24 clearly and conspicuously conveyed, and are disclosed in clear and prominent terms in such
3.25 a manner that an ordinary consumer would notice and understand them; and

3.26 (ii) any consumer can obtain the discount if they can demonstrate that they are part of
3.27 the group; or

3.28 (3) the person operates as an insurer and only inputs risk-relevant data into an automated
3.29 decision system that informs decisions related to the amount a consumer must pay for an
3.30 insurance policy or contract.

3.31 (c) A person has not engaged in surveillance-based price discrimination if the person
3.32 demonstrates that a refusal to extend credit at specific terms or the refusal to enter into a

4.1 transaction with a specific consumer is based on data provided in a consumer report covered
4.2 by the federal Fair Credit Reporting Act, United States Code, title 15, section 1681 et seq.

4.3 Subd. 3. **Wage discrimination.** (a) A person is prohibited from engaging in
4.4 surveillance-based wage discrimination.

4.5 (b) A person does not engage in surveillance-based wage discrimination if the person
4.6 demonstrates:

4.7 (1) the person offers individualized wages based solely on:

4.8 (i) data specific to the individual worker that is directly related to the tasks the worker
4.9 was hired to perform; or

4.10 (ii) differences in the cost to the worker to provide labor to the person; and

4.11 (2) before hiring a worker to perform work, the person discloses in plain language to all
4.12 workers whose wages are set in whole or in part through an automated decision system
4.13 what data is considered and how the automated decision system considers the data.

4.14 (c) Surveillance-based wage discrimination does not include a person's decision to not
4.15 hire an individual who has not previously worked for or through the person or the person's
4.16 affiliates or subsidiaries.

4.17 Subd. 4. **Publication of procedures.** A person that uses an automated decision system
4.18 to assist or replace human decision-making related to wages or prices must develop and
4.19 publish reasonable procedures:

4.20 (1) to ensure the accuracy of all data considered by the automated decision system;

4.21 (2) to allow a consumer or worker to correct or challenge the accuracy of data considered
4.22 by the automated decision system; and

4.23 (3) for consumers or workers to request and receive information regarding what data is
4.24 considered and how automated decision-making considers the data when setting particular
4.25 prices or wages.

4.26 Subd. 5. **Presumptive violations.** (a) In a proceeding commenced under this section,
4.27 the defendant shall be presumed to be in violation of subdivision 2 if the plaintiff can
4.28 demonstrate that:

4.29 (1) two or more individuals were offered different prices by the defendant for the same
4.30 or a substantially similar product or service during the same or a substantially similar period
4.31 of time; or

5.1 (2) one individual was offered different prices by the defendant for the same or a
5.2 substantially similar product or service during the same or a substantially similar period of
5.3 time while using different means of viewing the price.

5.4 (b) In a proceeding commenced under this section, the defendant shall be presumed to
5.5 be in violation of subdivision 3 if the plaintiff can demonstrate that two or more individuals
5.6 were paid different wages for completing the same or substantially similar tasks during the
5.7 same or a substantially similar period of time or location.

5.8 (c) The defendant may rebut the presumptions described in paragraph (a) or (b) by:

5.9 (1) demonstrating that the alleged difference in price or wage was not informed, in whole
5.10 or in part, by surveillance data; or

5.11 (2) satisfying the requirements in subdivision 2, paragraph (b), or subdivision 3, paragraph
5.12 (b).