

2026 Regular Session

SENATE BILL NO. 362

BY SENATOR DUPLESSIS

CONSUMERS/PROTECTION. Provides that surveillance-based price discrimination is an unfair or deceptive trade practice or act. (8/1/26)

1 AN ACT

2 To enact R.S. 51:1430, relative to unfair and deceptive trade practices; to prohibit
3 surveillance-based price discrimination; to provide for exceptions; to provide for
4 private actions; to provide for definitions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 51:1430 is hereby enacted to read as follows:

7 **§1430. Unfair or deceptive trade practice or act; surveillance-based price**
8 **discrimination prohibited**

9 **A. For the purpose of this Section, the following terms shall have the**
10 **following meanings:**

11 **(1) "Automated decision system" means a system, software, or process**
12 **that uses computation, the result of which is used to assist or replace human**
13 **decision-making, including a system, software, or process derived from machine**
14 **learning, statistics, or other data processing or artificial intelligence techniques**
15 **and excludes passive computing infrastructure.**

16 **(2) "Behaviors" means an individual's observable, measurable, or**
17 **inferred actions, habits, preferences, interests, or vulnerabilities, including the**

1 individual's political, personal, or professional affiliations, web browsing
2 history, IP addresses used, locations frequented, purchase history, financial
3 circumstances, consumer behaviors, or inferences associated with a group,
4 band, class, or tier of individuals in which the individual belongs.

5 (3) "Biometrics" means data or information generated by the
6 technological processing, measurement, or analysis of a consumer's biological,
7 physical, or behavioral characteristics, which data or information can be
8 processed for the purpose of uniquely identifying an individual, including
9 fingerprints, voiceprints, scans, or records of an eye retina or iris, facial maps,
10 facial geometry, facial templates, genetic information, or other unique
11 biological, physical, or behavioral patterns or characteristics.

12 (4) "Consumer" means an individual who uses, purchases, or leases
13 goods or services.

14 (5) "Individualized" means specific to or inferred about an individual or
15 group, band, class, or tier of individuals with particular personal
16 characteristics, behaviors, or biometrics.

17 (6) "Insurer" means an insurer with a certificate of authority or license
18 issued under provisions pursuant to R.S. 22:481 et seq.

19 (7) "Personal characteristics" means individual qualities, features,
20 attributes or traits, including immutable characteristics such as race and eye
21 color, mutable characteristics such as address, weight, citizenship, or
22 parenthood status and any other personal identifying information that could be
23 used to uncover an individual's identity, including a social security number, full
24 name, or phone number.

25 (8) "Price" means the amount charged to a consumer in relation to a
26 transaction, including all related costs and fees and other material terms of the
27 transaction that have a direct bearing on the amount paid by the consumer or
28 the value of the good or service offered or provided to the consumer.

29 (9) "Surveillance data" means data obtained through observation,

1 inference, or surveillance of a consumer or worker that is related to personal
2 characteristics, behaviors, or biometrics of the individual or a group, band,
3 class, or tier in which the individual belongs, including information gathered,
4 purchased, or otherwise acquired.

5 B.(1) No person shall engage in surveillance-based price discrimination.

6 (2) A corporation or person shall not be deemed to have engaged in
7 surveillance-based price discrimination if the person demonstrates any of the
8 following:

9 (a) Differential prices are justified based on differences in cost in
10 providing a good or service to different consumers.

11 (b) Differential prices reflect discounts offered to all consumers on equal
12 terms in a manner consistent with applicable anti-discrimination laws, where
13 any of the following apply:

14 (i) The terms of the discount are available and accessible to consumers
15 and the public.

16 (ii) Discount reward membership uniformly applied to any consumer
17 who is a member in a particular group, including but not limited to active
18 members of the military, veterans, teachers, students, or senior citizens.

19 (iii) Any surveillance data used solely to offer or administer a discount
20 is not used for any other purpose, including profiling, targeted advertising, or
21 individualized price setting.

22 (iv) Eligibility for the discount is based on information affirmatively and
23 voluntarily provided by the consumer to the person offering the discount.

24 (v) Any loyalty program that allows a user to accrue and exchange
25 points, credits, or any similar nonmonetary system of value for a product or
26 service does not charge a different price for those points, credits, or similar
27 nonmonetary system of value to different consumers for the same or
28 substantially similar product or service.

29 (vi) The person operates as an insurer pursuant to R.S. 22:481 et seq.,

1 **and applicable rules and only inputs risk-relevant data into an automated**
 2 **decision system that informs decisions related to the amount a consumer shall**
 3 **pay for an insurance policy or contract.**

4 **(3) An entity or person has not engaged in surveillance-based price**
 5 **discrimination if the person can demonstrate that a refusal to extend credit at**
 6 **specific terms or the refusal to enter into a transaction with a specific consumer**
 7 **is based on data provided in a consumer report pursuant to the Fair Credit**
 8 **Reporting Act, 15 U.S.C. 1681 et seq.**

9 **C. A violation of this Section shall be a deceptive and unfair trade**
 10 **practice and subject the violator to any action and penalty provided for in this**
 11 **Chapter, including a private right of action as provided in R.S. 51:1409.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

DIGEST

SB 362 Original

2026 Regular Session

Duplessis

Present law provided for unfair trade practices, actions, penalties, and relief.

Proposed law retains present law and defines the following terms: "automated decision system", "behaviors", "biometrics", "consumer", "individualized", "insurer", "personal characteristics", "price", and "surveillance data".

Proposed law prohibits any person from engaging in surveillance-based price discrimination and provides that such conduct constitutes an unfair or deceptive trade practice or act.

Proposed law provides that a person shall not be considered to have engaged in surveillance-based price discrimination if any of the following occur:

- (1) Differential prices are justified by differences in the cost of providing a good or service to different consumers.
- (2) Differential prices reflect discounts offered to all consumers on equal terms in a manner consistent with applicable anti-discrimination laws where all of the following occur:
 - (a) The discount terms are publicly available and accessible.
 - (b) Discount reward membership uniformly applied to any consumer who is a member in a particular group.
 - (c) Surveillance data used solely to offer or administer a discount is not used for profiling, targeted advertising, or individualized price setting.

- (d) Eligibility for discount is based on information affirmatively and voluntarily provided by the consumer.
 - (e) Loyalty programs do not charge different prices for the same or substantially similar points, credits, or similar nonmonetary system of value.
 - (f) The person operates as an insurer and only inputs risk-relevant data into an automated decision system to determine the amount to be paid for an insurance policy or contract.
- (3) A refusal to extend credit at specific terms or to enter into a transaction is based on data contained in a consumer report governed by the Fair Credit Report Act.

Proposed law provides that a violation of proposed law shall be deceptive and unfair trade practice and subject the violator to any action and penalty provided in present law, including a private right of action.

Effective August 1, 2026.

(Adds R.S. 51:1430)