



Legislation Text

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Int. No. 1894

By Council Members Cumbo, Ampry-Samuel, Rosenthal, Cornegy, Kallos, Adams, Louis, Chin, Cabrera, Rose, Gibson, Brannan, Rivera, Levine, Ayala, Miller and Levin

A Local Law to amend the administrative code of the city of New York, in relation to the sale of automated employment decision tools

Be it enacted by the Council as follows:

Section 1. Chapter 5 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 21 to read as follows:

Subchapter 21

Sale of Automated Employment Decision Tools

§ 20-840 Definitions. For the purposes of this subchapter, the following terms have the following meanings:

Automated employment decision tool. The term “automated employment decision tool” means any system whose function is governed by statistical theory, or systems whose parameters are defined by such systems, including inferential methodologies, linear regression, neural networks, decision trees, random forests, and other learning algorithms, which automatically filters candidates or prospective candidates for hire or for any term, condition or privilege of employment in a way that establishes a preferred candidate or candidates.

Bias audit. The term “bias audit” means an impartial evaluation, including but not limited to testing, of an automated employment decision tool to assess its predicted compliance with the provisions of section 8-107 and any other applicable law relating to discrimination in employment.

Employment decision. The term “employment decision” means to screen candidates for employment or

otherwise to help to decide compensation or any other terms, conditions or privileges of employment in the city.

§ 20-841 Requirements for automated employment decision tools. a. It shall be unlawful to sell or offer for sale in the city an automated employment decision tool that does not comply with the provisions of this subdivision.

1. Such tool shall be the subject of a bias audit conducted in the past year prior to selling or offering for sale such tool.

2. Every sale of such tool shall include, at no additional cost, an annual bias audit service that provides the results of such audit to the purchaser.

3. Such tool shall be sold or offered for sale with a notice stating that such tool is subject to the provisions of the local law that added this subchapter.

b. Candidate notice required. Any person who uses an automated employment decision tool to screen a candidate for an employment decision shall notify each such candidate of the following within 30 days of such use:

1. That an automated employment decision tool required by this local law to be audited for bias was used in connection with the candidate's candidacy; and

2. The job qualifications or characteristics that such tool was used to assess in the candidate.

§ 20-842 Penalties. a. Any person that violates any provision of this subchapter or any rule promulgated pursuant to this subchapter is liable for a civil penalty of not more than \$500 for that person's first violation and each additional violation occurring on the same day as the first violation, and not less than \$500 nor more than \$1,500 for each subsequent violation.

b. Violations shall accrue on a daily basis for each automated employment decision tool that is sold or offered for sale in violation of subdivision a of section 20-841.

c. Each instance in which notice is not provided to a candidate within 30 days in violation of

subdivision b of section 20-841 constitutes a single violation, and each 30-day period thereafter in which such notice is not provided to such candidate constitutes a separate violation.

d. A proceeding to recover any civil penalty authorized by this subchapter is returnable to any tribunal established within the office of administrative trials and hearings or within any agency of the city designated to conduct such proceedings.

§ 20-843 Enforcement. The commissioner may initiate in any court of competent jurisdiction any action or proceeding that may be appropriate or necessary for correction of any violation issued pursuant this subchapter, including mandating compliance with the provisions of this chapter or such other relief as may be appropriate.

§ 20-844 Rules. The department, the commission on human rights and any other agency designated by the mayor may promulgate such rules as it deems necessary to implement and enforce the provisions of this subchapter.

§ 20-845 Construction. The provisions of this subchapter shall not be construed to limit any right of any candidate for an employment decision to bring a civil action in any court of competent jurisdiction, or to limit the authority of the city commission on human rights to enforce the provisions of title 8, in accordance with law.

§ 2. This local law takes effect on January 1, 2022.

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