

# Colorado's SB24-205

## The Colorado Artificial Intelligence Act

Passed in the 2024 Regular Session

Goes into effect February 2026

Primary Sponsors: Senator Robert Rodriguez and Representative Brianna Titone

Recognized as *the first comprehensive artificial intelligence (AI) legislation in the United States.*

The Act creates duties for **developers** and **deployers** to use reasonable care to protect **consumers** from any known or reasonably foreseeable risks of **algorithmic discrimination** arising from the intended and contracted uses of **high-risk AI systems**.

Recognized as “comprehensive” because:

Colorado’s approach places responsibility for assessing AI products for algorithmic discrimination and for disclosing risks of algorithmic discrimination, on those who develop or deploy the product--whether a private or government entity.

Definitions matter.

# “Artificial Intelligence System”

Means any machine-based system that infers from the inputs the system receives how to generate outputs, including content, decisions, predictions or recommendations, that can influence physical or virtual environments.

# “High Risk Artificial Intelligence System”

Means any artificial intelligence system that, when deployed, makes, or is a substantial factor in making, a consequential decision.

The definition contains some express exclusions, like:

- ▶ AI systems intended to perform narrow procedural tasks or to test decision-making patterns, and
- ▶ Certain technologies, like anti-malware, spreadsheets, and firewalls--unless the technology, when deployed, makes, or is a substantial factor in making, a consequential decision.

# “Consequential decision”

Means a decision that has a material legal or similarly significant effect on the provision or denial to any consumer of, or the cost or terms of:

- ▶ Education enrollment or an education opportunity;
- ▶ Employment or an employment opportunity;
- ▶ A financial or lending service;
- ▶ An essential government service;
- ▶ Health-care services;
- ▶ Housing;
- ▶ Insurance; or
- ▶ A legal service.



# “Algorithmic Discrimination “

MEANS ANY CONDITION IN WHICH THE USE OF AN ARTIFICIAL INTELLIGENCE SYSTEM RESULTS IN AN UNLAWFUL DIFFERENTIAL TREATMENT OR IMPACT THAT DISFAVORS AN INDIVIDUAL OR GROUP OF INDIVIDUALS ON THE BASIS OF:

- ▶ THEIR ACTUAL OR PERCEIVED AGE,
- ▶ COLOR,
- ▶ DISABILITY,
- ▶ ETHNICITY,
- ▶ GENETIC INFORMATION,
- ▶ LIMITED PROFICIENCY IN THE ENGLISH LANGUAGE,
- ▶ NATIONAL ORIGIN,
- ▶ RACE,
- ▶ RELIGION,
- ▶ REPRODUCTIVE HEALTH,
- ▶ SEX,
- ▶ VETERAN STATUS,
- ▶ OR OTHER CLASSIFICATION PROTECTED UNDER THE LAWS OF THIS STATE OR FEDERAL LAW.

“Developer” means a person doing business in the state that develops or intentionally and substantially modifies an artificial intelligence system.

“Deployer” means a person doing business in the state that deploys a high-risk artificial intelligence system.

“Deploy” means to use a high-risk artificial intelligence system.

# Duties of Developers include:

Must disclose any known or reasonably foreseeable risks of algorithmic discrimination arising from the intended uses of a high-risk AI system to the Colorado Attorney General and to all known deployers or other developers of the system within 90 days if:

- ▶ The developer discovers the system has been deployed and has caused or is reasonably likely to have caused algorithmic discrimination; or
- ▶ The developer receives a credible report from a deployer that the system has caused algorithmic discrimination.

## Duties of Deployers include:

- ▶ Must conduct annual impact assessments;
- ▶ Must notify the Colorado Attorney General that a high-risk AI system they deployed has caused algorithmic discrimination within 90 days after discovering that discrimination.

# Enforcement

The Colorado Attorney General has exclusive enforcement authority to address violations.

# Enforcement

Violations of the Act constitute unfair trade practices under Colorado's Unfair or Deceptive Trade Practices Act.

# Enforcement

Penalties include fines and injunctive relief.

# Enforcement

There is no private right of action.



# Enforcement

If a developer or deployer has complied with all of the Act's substantive obligations, there is a rebuttable presumption that they used reasonable care to avoid discriminatory decisions via a high-risk AI system.

# Critiques

- ▶ The legislation has loopholes that need to be closed, such as allowing companies to unilaterally withhold information or hide evidence of discrimination by claiming that the information is a trade secret.
- ▶ Enforcement provisions need to be strengthened.
- ▶ The law relies too heavily on self-assessment and self-reporting.

## Comments by *Consumer Reports* Policy Analyst:

“We applaud Governor Polis for signing this bill into law and the Colorado General Assembly for working to advance this key piece of legislation. Colorado is the first state in the country to extend baseline protections to its citizens when it comes to high-risk AI-decision technology.”

“Colorado stood firm against pushback from tech industry lobbyists. Consumers shouldn’t be guinea pigs for tech companies’ unbridled experimentation. This new law will establish a sorely needed floor of protections for Coloradans. Right now, consumers are totally in the dark about the AI software companies use to help decide which Coloradans get a rental apartment, insurance, a spot in a top school, or screened out of a job. We know that AI-decision technology makes mistakes and can be biased. If strengthened, this law should shed a bit of light on how AI helps make high-stakes decisions that shape our lives.”