

The Colorado Artificial Intelligence Act, SB24-205¹

General Information:

- 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**.
- Approach is to **place responsibility** for assessing AI products for algorithmic discrimination, in both **private and public sectors**, and for disclosing risks of algorithmic discrimination, **on those who develop or deploy the product.**

Definitions:

- “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.
- “Consumer” means a resident of the state.
- “High-risk artificial intelligence system” means any artificial intelligence system that, 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:

¹Compiled by Alisa Lauer, Chief of Staff to House Majority Leader Gail Chasey.

- ◆ 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.

Duties:

- Both developers and deployers must comply with consumer transparency requirements.
- Developers 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.
- Deployers 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.
- Deployers must conduct annual impact assessments.
- See attached for more detailed lists of statutory obligations of developers and deployers.

Enforcement:

- The Colorado Attorney General has exclusive enforcement authority to address violations.
- Violations of the Act constitute unfair trade practices under Colorado's Unfair or Deceptive Trade Practices Act.
- Penalties include fines and injunctive relief.
- There is no private right of action.
- 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.
- It relies too heavily on self-assessment and reporting.

Accolades:

"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," said Grace Gedye, policy analyst for Consumer Reports.

"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," said Gedye.

More Detailed Lists of Responsibilities

Developers must:

- "Make available" a packet of disclosures and documentation to deployers to avoid liability for reasonably foreseeable discriminatory impacts of high-risk AI systems. The packet must include:
 - ◆ A general statement describing the "reasonably foreseeable uses and known harmful or inappropriate uses" of the system;
 - ◆ Documentation disclosing:
 - ✓ High-level summaries of the type of data used to train the system;
 - ✓ Any known or foreseeable limitations of the system, including risks of algorithmic discrimination from intended uses;
 - ✓ The purpose and intended benefits and uses of the system;
 - ✓ Any other information necessary for the developer to meet its obligations under the Act;
 - ◆ Documentation describing:
 - ✓ How the system was evaluated for performance and mitigation of algorithmic discrimination;
 - ✓ Data governance measures used to cover the training datasets and to examine the suitability of data sources, biases and mitigation;
 - ✓ The intended outputs of the system;
 - ✓ How the system should be used, not be used, and monitored by an individual when used to make (or as a substantial factor in making) a consequential decision;
 - ✓ Any additional information necessary to assist a deployer in understanding the system and risks for algorithmic discrimination;
- Make documentation and information available to deployers through artifacts such as model cards, dataset cards, or other impact assessments necessary for deployers to complete an impact assessment pursuant to the Act; and

- Include a clear, regularly updated and "readily available" statement on their website summarizing:
 - ◆ The types of high-risk AI systems the developer has developed or intentionally and substantially modified and currently makes available; and
 - ◆ How the developer manages known or reasonably foreseeable risks of algorithmic discrimination arising from the systems.

Deployers must:

- Implement a risk management policy and program that:
 - ◆ Specifies and incorporates the principles, processes and personnel used to identify, document and mitigate foreseeable risks of algorithmic discrimination;
 - ◆ Is aligned with existing standards including the National Institute of Standards and Technology's AI Risk Management Framework and the International Organization for Standardization's ISO 42001; and
 - ◆ Is regularly reviewed and updated.
- Complete annual impact assessments for such systems that must include the following information:
 - ◆ A statement disclosing the purpose(s), intended use cases, deployment context and benefits of the high-risk AI system;
 - ◆ An analysis of whether deployment of such system poses any known or reasonably foreseeable risks of algorithmic discrimination, and if so, details on such discrimination and any mitigations that have been implemented;
 - ◆ A description of the data categories processed as inputs and the outputs produced
 - ◆ If the deployer used data to customize the high-risk AI system, an "overview" of the categories of data used for customization;
 - ◆ Any metrics used to evaluate the performance and known limitations of the high-risk AI system;
 - ◆ A description of any transparency measures taken with respect to the high-risk AI system, including any measures taken to notify Colorado consumers when the

system is being used; and

- ◆ A description of the post-deployment monitoring and user safeguards, including oversight, use and learning processes established by the deployer to address any issues.