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HOUSE BILL 60

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

Christine Chandler

AN ACT

RELATING TO ARTIFICIAL INTELLIGENCE; ENACTING THE ARTIFICIAL INTELLIGENCE ACT; REQUIRING NOTICE OF USE, DOCUMENTATION OF SYSTEMS, DISCLOSURE OF ALGORITHMIC DISCRIMINATION RISK AND RISK INCIDENTS; REQUIRING RISK MANAGEMENT POLICIES AND IMPACT ASSESSMENTS; PROVIDING FOR ENFORCEMENT BY THE STATE DEPARTMENT OF JUSTICE AND FOR CIVIL ACTIONS BY CONSUMERS FOR INJUNCTIVE OR DECLARATORY RELIEF.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Artificial Intelligence Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Artificial Intelligence Act:

A. "algorithmic discrimination" means any condition in which the use of an artificial intelligence system results

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1 in an unlawful differential treatment or impact that disfavors  
2 a person on the basis of the person's actual or perceived age,  
3 color, disability, ethnicity, gender, genetic information,  
4 proficiency in the English language, national origin, race,  
5 religion, reproductive health, veteran status or other status  
6 protected by state or federal law, but does not include:

7 (1) the offer, license or use of a high-risk  
8 artificial intelligence system by a developer or deployer for  
9 the sole purpose of:

10 (a) the developer's or deployer's self-  
11 testing to identify, mitigate or ensure compliance with state  
12 and federal law; or

13 (b) expanding an applicant, customer or  
14 participant pool to increase diversity or redress historical  
15 discrimination; or

16 (2) an act or omission by or on behalf of a  
17 private club or other entity that is not open to the public  
18 pursuant to federal law;

19 B. "artificial intelligence system" means any  
20 machine-based system that for an explicit or implicit objective  
21 infers from the inputs the system receives how to generate  
22 outputs, including content, decisions, predictions or  
23 recommendations, that can influence physical or virtual  
24 environments;

25 C. "consequential decision" means a decision that

1 has a material legal or similarly significant effect on the  
2 provision or denial to a consumer of or the cost or terms of:

3 (1) education enrollment or an educational  
4 opportunity;

5 (2) employment or an employment opportunity;

6 (3) a financial or lending service;

7 (4) health care service;

8 (5) housing;

9 (6) insurance; or

10 (7) legal service;

11 D. "consumer" means a resident of New Mexico;

12 E. "deploy" means to use an artificial intelligence  
13 system;

14 F. "deployer" means a person who deploys an  
15 artificial intelligence system;

16 G. "developer" means a person who develops or  
17 intentionally and substantially modifies an artificial  
18 intelligence system;

19 H. "health care services" means treatment, services  
20 or research designed to promote the improved health of a  
21 person, including primary care, prenatal care, dental care,  
22 behavioral health care, alcohol or drug detoxification and  
23 rehabilitation, hospital care, the provision of prescription  
24 drugs, preventive care or health outreach;

25 I. "high-level summary" means information about the

1 data and data sets used to train the high-risk artificial  
2 intelligence system, including:

3 (1) the sources or owners of the data sets and  
4 whether the data sets were purchased or licensed by the  
5 developer;

6 (2) the factors in the data, including  
7 attributes or other information about a consumer, that the  
8 system uses to produce its outputs, scores or recommendations;

9 (3) the demographic groups represented in the  
10 data sets and the proportion of each age, ethnic, gender or  
11 racial group in each dataset;

12 (4) a description of the types of data points  
13 within the data sets, including, for data sets that include  
14 labels, a description of the types of labels used;

15 (5) whether the data sets include any data  
16 protected by copyright, trademark or patent or whether the data  
17 sets are entirely in the public domain;

18 (6) whether there was any cleaning, processing  
19 or other modification to the data sets by the developer,  
20 including the intended purpose of those efforts in relation to  
21 the high-risk artificial intelligence system;

22 (7) the time period during which the data in  
23 the data sets were collected, including a notice when data  
24 collection is ongoing;

25 (8) the geographical regions or jurisdictions

1 in which the data sets were collected, including whether the  
2 data sets were collected solely in New Mexico, solely in other  
3 states or in New Mexico in combination with other states; and

4 (9) other information as required by the state  
5 department of justice by rule;

6 J. "high-risk artificial intelligence system" means  
7 any artificial intelligence system that when deployed makes or  
8 is a substantial factor in making a consequential decision, but  
9 does not include:

10 (1) an artificial intelligence system intended  
11 to:

12 (a) perform a narrow procedural task; or

13 (b) detect decision-making patterns or  
14 deviations from prior decision-making patterns and is not  
15 intended to replace or influence a previously completed human  
16 assessment without sufficient human review; or

17 (2) the following technologies, unless the  
18 technologies make or are a substantial factor in making a  
19 consequential decision when the technologies are deployed:

20 (a) anti-fraud technology that does not  
21 use facial recognition technology;

22 (b) anti-malware;

23 (c) antivirus;

24 (d) artificial-intelligence-enabled

25 video games;

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- 1 (e) calculators;
- 2 (f) cybersecurity;
- 3 (g) databases;
- 4 (h) data storage;
- 5 (i) firewalls;
- 6 (j) internet domain registration;
- 7 (k) internet website loading;
- 8 (l) networking;
- 9 (m) spam and robocall filtering;
- 10 (n) spell checking;
- 11 (o) spreadsheets;
- 12 (p) web caching;
- 13 (q) web hosting or similar technology;

14 or

15 (r) technology that communicates with  
16 consumers in natural language for the purpose of providing  
17 users with information, making referrals or recommendations and  
18 answering questions and is subject to an accepted use policy  
19 that prohibits generating content that is discriminatory or  
20 harmful;

21 K. "intentional and substantial modification" and  
22 "intentionally and substantially modifies" means a deliberate  
23 change made to an artificial intelligence system that results  
24 in a new reasonably foreseeable risk of algorithmic  
25 discrimination, but does not include a change made to a high-

1 risk artificial intelligence system or the performance of a  
2 high-risk artificial intelligence system when:

3 (1) the high-risk artificial intelligence  
4 system continues to learn after the system is:

5 (a) offered, sold, leased, licensed,  
6 given or otherwise made available to a deployer; or

7 (b) deployed;

8 (2) the change is made as a result of system  
9 learning after being made available to a deployer or being  
10 deployed;

11 (3) the change was predetermined by the  
12 deployer or a third party contracted by the deployer when the  
13 deployer or third party completed an impact assessment of the  
14 high-risk artificial intelligence system pursuant to Section 6  
15 of the Artificial Intelligence Act; or

16 (4) the change is included in technical  
17 documentation for the high-risk artificial intelligence system;

18 L. "offered or made available" includes a gift,  
19 lease, sale or other conveyance of an artificial intelligence  
20 system to a recipient deployer or a developer other than the  
21 original system developer;

22 M. "recipient" means a deployer who has received an  
23 artificial intelligence system from a developer or a developer  
24 who has received an artificial intelligence system from another  
25 developer;

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1           N. "risk incident" means an incident when a  
2 developer discovers or receives a credible report from a  
3 deployer that a high-risk artificial intelligence system  
4 offered or made available by the developer has caused or is  
5 reasonably likely to have caused algorithmic discrimination;

6           O. "substantial factor" means:

7                 (1) a factor that:

8                         (a) assists in making a consequential  
9 decision;

10                        (b) is capable of altering, advising or  
11 influencing the outcome of a consequential decision; and

12                        (c) is generated by an artificial  
13 intelligence system; or

14                 (2) content, decisions, labels, predictions,  
15 recommendations or scores generated by an artificial  
16 intelligence system concerning a consumer that are used as a  
17 basis, partial basis or recommendation to make a consequential  
18 decision concerning the consumer; and

19           P. "trade secret" means information, including a  
20 formula, pattern, compilation, program, device, method,  
21 technique or process, that:

22                 (1) derives independent economic value, actual  
23 or potential, from not being generally known to and not being  
24 readily ascertainable by proper means by other persons who  
25 could obtain economic value from the information's disclosure

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1 or use; and

2 (2) is the subject of efforts that are  
3 reasonable under the circumstances to maintain its secrecy.

4 **SECTION 3. [NEW MATERIAL] DUTY OF CARE--DISCLOSURE OF**  
5 **RISK POTENTIAL--PROVISION OF DOCUMENTATION.--A developer shall:**

6 A. use reasonable care to protect consumers from  
7 known or foreseeable risks of algorithmic discrimination  
8 arising from intended and contracted uses of a high-risk  
9 artificial intelligence system;

10 B. except for information excluded pursuant to  
11 Subsection C of Section 4 of the Artificial Intelligence Act,  
12 make the following available to a recipient of the developer's  
13 high-risk artificial intelligence system:

14 (1) a general summary describing the  
15 reasonably foreseeable uses and known harmful or inappropriate  
16 uses of the system; and

17 (2) documentation disclosing:

18 (a) the purpose, intended uses and  
19 benefits of the system;

20 (b) a high-level summary of the type of  
21 data used to train the system;

22 (c) known or reasonable foreseeable  
23 limitations of the system, including the risk of algorithmic  
24 discrimination arising from the intended use of the system;

25 (d) how the system was evaluated for

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1 performance and mitigation of algorithmic discrimination prior  
2 to being offered or made available to the deployer, including:  
3 1) the metrics of performance and bias that were used; 2) how  
4 the metrics were measured; 3) any independent studies carried  
5 out to evaluate the system for performance and risk of  
6 discrimination; and 4) whether the studies are publicly  
7 available or peer-reviewed;

8 (e) the measures governing the data sets  
9 used to train the system, the suitability of data sources,  
10 possible biases and bias mitigation;

11 (f) the intended outputs of the system;

12 (g) the measures the developer has taken  
13 to mitigate known or reasonably foreseeable risks of  
14 algorithmic discrimination that are reasonably foreseeable from  
15 the use of the system;

16 (h) how the system should be used and  
17 monitored by the deployer;

18 (i) any additional information that is  
19 reasonably necessary to assist the deployer in understanding  
20 the outputs and monitoring the performance of the system for  
21 risks of algorithmic discrimination; and

22 (j) any other information necessary to  
23 allow the deployer to comply with the requirements of this  
24 section;

25 C. except for information excluded pursuant to

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1 Subsection C of Section 4 of the Artificial Intelligence Act,  
2 to the extent feasible make available to the recipient the  
3 necessary information to conduct an impact assessment as  
4 required pursuant to Section 6 of the Artificial Intelligence  
5 Act. Such information shall include model cards, dataset cards  
6 or previous impact assessments relevant to the system, its  
7 development or use;

8 D. post on the developer's website in a clear and  
9 readily available manner a statement or public-use case  
10 inventory that summarizes:

11 (1) the types of high-risk artificial  
12 intelligence systems that the developer has developed or  
13 intentionally and substantially modified and currently offers  
14 or makes available to recipients; and

15 (2) how the developer manages known or  
16 reasonably foreseeable risks of algorithmic discrimination that  
17 may arise from the use or intentional and substantial  
18 modification of the systems listed on the developer's website  
19 pursuant to this subsection; and

20 E. ensure that the statement or public-use case  
21 inventory posted pursuant to this section remains accurate and  
22 is updated within ninety days of an intentional and substantial  
23 modification of a high-risk artificial intelligence system  
24 offered or made available by the developer to recipients.

25 SECTION 4. [NEW MATERIAL] RISK INCIDENTS--REQUIRED

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1 DISCLOSURE AND SUBMISSION--EXCEPTIONS.--

2 A. Within ninety days of a risk incident and in a  
3 form and manner prescribed by the state department of justice,  
4 a developer shall disclose to the department and all known  
5 recipients of the high-risk artificial intelligence system that  
6 is the basis of the risk incident the known and foreseeable  
7 risks of algorithmic discrimination that may arise from the  
8 intended uses of the system.

9 B. Within ninety days of a request by the state  
10 department of justice, a developer shall submit to the  
11 department a copy of the summary and documentation the  
12 developer has made available to recipients pursuant to Section  
13 3 of the Artificial Intelligence Act. A developer may  
14 designate the summary or documentation as including proprietary  
15 information or a trade secret. To the extent that information  
16 contained in the summary or documentation includes information  
17 subject to attorney-client privilege or work-product  
18 protection, compliance with this section does not constitute a  
19 waiver of the privilege or protection.

20 C. As part of a disclosure, notice or submission  
21 pursuant to the Artificial Intelligence Act, a developer shall  
22 not be required to disclose a trade secret, information  
23 protected from disclosure by state or federal law or  
24 information that would create a security risk to the developer.  
25 Such disclosure, notice or submission shall be exempt from

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1 disclosure pursuant to the Inspection of Public Records Act.

2 SECTION 5. [NEW MATERIAL] DEPLOYER RISK-MANAGEMENT POLICY  
3 REQUIRED.--

4 A. A deployer shall use reasonable care to protect  
5 consumers from known or reasonably foreseeable risks of  
6 algorithmic discrimination.

7 B. A deployer shall implement a risk management  
8 policy and program to govern the deployer's deployment of a  
9 high-risk artificial intelligence system. The risk management  
10 policy and program shall:

11 (1) specify and incorporate the principles,  
12 processes and personnel that the deployer uses to identify,  
13 document and mitigate known or reasonably foreseeable risks of  
14 algorithmic discrimination; and

15 (2) be an iterative process planned,  
16 implemented and regularly and systematically updated over the  
17 life cycle of a high-risk artificial intelligence system and  
18 include regular systematic review and updates.

19 C. A risk management policy shall meet standards  
20 established by the state department of justice by rule.

21 SECTION 6. [NEW MATERIAL] DEPLOYER IMPACT ASSESSMENTS.--

22 A. Except as provided in Subsections D, E and H of  
23 this section, a deployer shall conduct an impact assessment for  
24 any high-risk artificial intelligence system deployed by the  
25 deployer:

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- 1 (1) annually; and  
2 (2) within ninety days of an intentional and  
3 substantial modification to the system.

4 B. An impact assessment of a high-risk artificial  
5 intelligence system completed pursuant to this section shall  
6 include, to the extent reasonably known by or available to the  
7 deployer:

8 (1) a statement of the intended uses,  
9 deployment contexts and benefits of the system;

10 (2) an analysis of any known or reasonably  
11 foreseeable risks of algorithmic discrimination posed by the  
12 system, and when a risk exists, the nature of the algorithmic  
13 discrimination and the steps that have been taken to mitigate  
14 the risk;

15 (3) a description of the categories of data  
16 the system processes as inputs and the outputs the system  
17 produces;

18 (4) a summary of categories of any data used  
19 to customize the system;

20 (5) the metrics used to evaluate the  
21 performance and known limitations of the system, including:

22 (a) whether the evaluation was carried  
23 out using test data;

24 (b) whether the test data sets were  
25 collected solely in New Mexico, solely in other states or in

1 New Mexico in combination with other states;

2 (c) the demographic groups represented  
3 in the test data sets and the proportion of each age, ethnic,  
4 gender or racial group in each data set; and

5 (d) any independent studies carried out  
6 to evaluate the system for performance and risk of  
7 discrimination and whether the studies are publicly available  
8 or peer-reviewed;

9 (6) a description of any transparency measures  
10 taken concerning the system, including measures taken to  
11 disclose to a consumer when the system is in use; and

12 (7) a description of the post-deployment  
13 monitoring and user safeguards provided for the system,  
14 including oversight, use and learning processes used by the  
15 deployer to address issues arising from deployment of the  
16 system.

17 C. An impact assessment conducted due to an  
18 intentional and substantial modification of a high-risk  
19 artificial intelligence system shall include a disclosure of  
20 the extent to which the system was used in a manner consistent  
21 with, or that varied from, the developer's intended uses of the  
22 system.

23 D. A deployer may use a single impact assessment to  
24 address a set of comparable high-risk artificial intelligence  
25 systems.

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1           E. An impact assessment conducted for the purpose  
2 of complying with another applicable law or rule shall satisfy  
3 the requirement of this section when the assessment:

4                   (1) meets the requirements of this section;  
5 and

6                   (2) is reasonably similar in scope and effect  
7 to an assessment that would otherwise be conducted pursuant to  
8 this section.

9           F. For at least three years following the final  
10 deployment of a high-risk artificial intelligence system, a  
11 deployer shall maintain records of the most recently conducted  
12 impact assessment for the system, including all records  
13 concerning the assessment and all prior assessments for the  
14 system.

15           G. On or before March 1, 2027, a deployer shall  
16 review each high-risk artificial intelligence system that the  
17 deployer has deployed to ensure that the system is not causing  
18 algorithmic discrimination.

19           H. This section is not applicable when:

20                   (1) a deployer using a high-risk artificial  
21 intelligence system:

22                           (a) employs fewer than fifty full-time  
23 employees;

24                           (b) does not use the deployer's own data  
25 to train the system;

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1 (c) uses the system solely for the  
2 system's intended uses as disclosed by a developer pursuant to  
3 the Artificial Intelligence Act; and

4 (d) makes any impact assessment of the  
5 system that has been provided by the developer pursuant to the  
6 Artificial Intelligence Act available to consumers; and

7 (2) the system continues learning based on  
8 data derived from sources other than the deployer's own data.

9 SECTION 7. [NEW MATERIAL] DEPLOYER GENERAL NOTICE TO  
10 CONSUMERS.--

11 A. A deployer shall make readily available to its  
12 consumers and on its website:

13 (1) a summary of the types of high-risk  
14 artificial intelligence systems that the deployer currently  
15 deploys and how known or reasonably foreseeable risks of  
16 algorithmic discrimination from the deployment of each system  
17 are managed; and

18 (2) a detailed explanation of the nature,  
19 source and extent of the information collected and used by the  
20 deployer.

21 B. At a minimum, a deployer shall update the  
22 information posted on its website pursuant to this section  
23 annually and when the deployer deploys a new high-risk  
24 artificial intelligence system.

25 SECTION 8. [NEW MATERIAL] USE OF ARTIFICIAL INTELLIGENCE

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1 SYSTEMS WHEN MAKING CONSEQUENTIAL DECISIONS--DIRECT NOTICE TO  
2 AFFECTED CONSUMERS--ADVERSE DECISIONS--OPPORTUNITY FOR  
3 APPEAL.--

4 A. Except as provided in Subsection E of this  
5 section, before a high-risk artificial intelligence system is  
6 used to make or is a substantial factor in making a  
7 consequential decision concerning a consumer, a deployer shall  
8 provide directly to the consumer:

9 (1) notice that the system will be used to  
10 make or be a substantial factor in making the decision; and

11 (2) information describing:

12 (a) the system and how to access the  
13 deployer's notice required pursuant to Section 7 of the  
14 Artificial Intelligence Act;

15 (b) the purpose of the system and the  
16 nature of the consequential decision being made; and

17 (c) the deployer's contact information.

18 B. Except as provided in Subsection E of this  
19 section, when a high-risk artificial intelligence system has  
20 been used to make or has been a substantial factor in making a  
21 consequential decision concerning a consumer that is adverse to  
22 the consumer, the deployer shall provide directly to the  
23 consumer:

24 (1) a statement explaining:

25 (a) the principal reason or reasons for

1 the decision;

2 (b) the degree and manner in which the  
3 system contributed to the decision; and

4 (c) the source and type of data that was  
5 processed by the system to make or that was a substantial  
6 factor in making the decision;

7 (2) an opportunity to correct any incorrect  
8 personal data that the system processed to make or that was a  
9 substantial factor in making the decision; and

10 (3) an opportunity to appeal the adverse  
11 decision except in instances where an appeal is not in the best  
12 interest of the consumer, such as creating a delay that may  
13 pose a risk of life or safety to the consumer.

14 C. If technically feasible, an appeal of an adverse  
15 decision pursuant to this section shall allow for human review.

16 D. All information, notices and statements to a  
17 consumer as required by this section shall be provided:

18 (1) in plain language and in all languages in  
19 which the deployer in the ordinary course of business provides  
20 contracts, disclaimers, sale announcements and other  
21 information to consumers; and

22 (2) in a format that is accessible to  
23 consumers with disabilities.

24 E. When a deployer is unable to provide  
25 information, notice or a statement required pursuant to this

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1 section directly to a consumer, the deployer shall make such  
2 information, notices or statements available in a manner that  
3 is reasonably calculated to ensure that the consumer receives  
4 the information, notice or statement.

5 SECTION 9. [NEW MATERIAL] USE OF HIGH-RISK ARTIFICIAL  
6 INTELLIGENCE SYSTEM--NOTICE AND DISCLOSURE TO THE STATE  
7 DEPARTMENT OF JUSTICE--INSPECTION OF PUBLIC RECORDS ACT  
8 EXEMPTION.--

9 A. When a deployer discovers that a high-risk  
10 artificial intelligence system that has been used has caused  
11 algorithmic discrimination, the deployer shall as expeditiously  
12 as possible but at a maximum within ninety days notify the  
13 state department of justice of the discovery. The notice shall  
14 be in a form and manner prescribed by the department.

15 B. Upon request by the state department of justice,  
16 a deployer shall within ninety days submit to the state  
17 department of justice any risk management policy, impact  
18 assessment or records conducted, implemented, maintained or  
19 received pursuant to the Artificial Intelligence Act. The  
20 submission shall be in a form and manner prescribed by the  
21 department.

22 C. The state department of justice may evaluate  
23 risk management policies, impact assessments or records  
24 submitted pursuant to this section for compliance with the  
25 Artificial Intelligence Act.

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1           D. A risk management policy, impact assessment or  
2 record submitted to the state department of justice pursuant to  
3 this section is exempt from disclosure pursuant to the  
4 Inspection of Public Records Act.

5           E. In a submission pursuant to this section, a  
6 deployer may designate a portion of the submission as including  
7 proprietary information or a trade secret and to the extent  
8 that a submission contains information subject to attorney-  
9 client privilege or work-product protection, the submission  
10 does not constitute a waiver of the privilege or protection.

11           **SECTION 10. [NEW MATERIAL] INTERACTION OF ARTIFICIAL**  
12 **INTELLIGENCE SYSTEM WITH CONSUMERS--REQUIRED DISCLOSURE.--A**  
13 **developer that offers or makes available an artificial**  
14 **intelligence system intended to interact with consumers shall**  
15 **ensure that a consumer is informed that the consumer is**  
16 **interacting with an artificial intelligence system. This**  
17 **section does not apply when it would be obvious to a reasonable**  
18 **person that the consumer is interacting with an artificial**  
19 **intelligence system.**

20           **SECTION 11. [NEW MATERIAL] EXEMPTION FROM DISCLOSURE--**  
21 **TRADE SECRETS AND OTHER INFORMATION PROTECTED BY LAW--NOTICE TO**  
22 **CONSUMER.--**

23           A. Nothing in the Artificial Intelligence Act shall  
24 require a deployer or developer to disclose a trade secret or  
25 other information protected from disclosure by state or federal

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1 law.

2 B. To the extent that a deployer or developer  
3 withholds information pursuant to this section that would  
4 otherwise be part of a disclosure pursuant to the Artificial  
5 Intelligence Act, the deployer or developer shall notify a  
6 consumer and provide a basis for the withholding.

7 SECTION 12. [NEW MATERIAL] APPLICABILITY EXEMPTIONS--  
8 OTHER LAW--SECURITY AND TESTING--FEDERAL USE--INSURANCE  
9 PROVIDERS.--

10 A. No provision of the Artificial Intelligence Act  
11 shall be construed to restrict a person's ability to:

12 (1) comply with federal, state or municipal  
13 laws or regulations;

14 (2) comply with a civil, criminal or  
15 regulatory inquiry, investigation, subpoena or summons by a  
16 governmental authority;

17 (3) cooperate with a law enforcement agency  
18 concerning activity that the person reasonably and in good  
19 faith believes may violate other laws or regulations;

20 (4) defend, exercise or investigate legal  
21 claims;

22 (5) act to protect an interest that is  
23 essential for the life or physical safety of a person;

24 (6) by means other than the use of facial  
25 recognition technology:

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1 (a) detect, prevent, protect against or  
2 respond to deceptive, illegal or malicious activity, fraud,  
3 identity theft, harassment or security incidents; or

4 (b) investigate, prosecute or report  
5 persons responsible for the actions listed in Subparagraph (a)  
6 of this paragraph;

7 (7) preserve the integrity or security of  
8 artificial intelligence, computer, electronic or internet  
9 connection systems;

10 (8) engage in public or peer-reviewed  
11 scientific or statistical research that adheres to and is  
12 conducted in accordance with applicable federal and state law;

13 (9) engage in pre-market testing other than  
14 testing conducted under real-world conditions, including  
15 development, research and testing of artificial intelligence  
16 systems; or

17 (10) assist another person with compliance  
18 with the Artificial Intelligence Use Act.

19 B. No provision of the Artificial Intelligence Act  
20 shall be construed to restrict:

21 (1) a product recall; or

22 (2) identification or repair of technical  
23 errors that impair the functionality of an artificial  
24 intelligence system.

25 C. The Artificial Intelligence Act shall not apply

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1 in circumstances where compliance would violate an evidentiary  
2 privilege pursuant to law.

3 D. No provision of the Artificial Intelligence Act  
4 shall be construed so as to limit a person's rights to free  
5 speech or freedom of the press pursuant to the first amendment  
6 to the United States constitution or Article 2, Section 17 of  
7 the constitution of New Mexico.

8 E. The Artificial Intelligence Act shall not apply  
9 to a developer, deployer or other person who:

10 (1) uses or intentionally and substantially  
11 modifies a high-risk artificial intelligence system that:

12 (a) has been authorized by a federal  
13 agency in accordance with federal law; and

14 (b) is in compliance with standards  
15 established by a federal agency in accordance with federal law  
16 when such standards are substantially equivalent or more  
17 stringent than the requirements of the Artificial Intelligence  
18 Act;

19 (2) conducts research to support an  
20 application for certification or review by a federal agency  
21 pursuant to federal law;

22 (3) performs work under or in connection with  
23 a contract with a federal agency, unless the work is on a high-  
24 risk artificial intelligence system used to make or as a  
25 substantial factor in making a decision concerning employment



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1 or housing; or

2 (4) is a covered entity pursuant to federal  
3 health insurance law and is providing health care  
4 recommendations:

5 (a) generated by an artificial  
6 intelligence system;

7 (b) that require a health care provider  
8 to take action to implement the recommendations; and

9 (c) that are not considered to be high  
10 risk.

11 F. The Artificial Intelligence Act shall not apply  
12 to an artificial intelligence system acquired by the federal  
13 government, except for a high-risk artificial intelligence  
14 system used to make or as a substantial factor in making a  
15 decision concerning employment or housing.

16 G. A financial institution or affiliate or  
17 subsidiary of a financial institution that is subject to  
18 prudential regulation by another state or by the federal  
19 government pursuant to laws that apply to the use of high-risk  
20 artificial intelligence systems shall be deemed to be in  
21 compliance with the Artificial Intelligence Act when the  
22 applicable laws:

23 (1) impose requirements that are substantially  
24 equivalent to or more stringent than the requirements imposed  
25 by the Artificial Intelligence Act; and

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1 (2) at a minimum, require the financial  
2 institution to:

3 (a) regularly audit the institution's  
4 use of high-risk artificial intelligence systems for compliance  
5 with state and federal antidiscrimination laws; and

6 (b) mitigate any algorithmic  
7 discrimination caused by the use of a high-risk artificial  
8 intelligence system.

9 H. As used in this section, "financial institution"  
10 means an insured state or national bank, a state or federal  
11 savings and loan association or savings bank, a state or  
12 federal credit union or authorized branches of each of the  
13 foregoing.

14 I. A developer, deployer or other person who  
15 engages in an action pursuant to an exemption set forth in this  
16 section shall bear the burden of demonstrating that the action  
17 qualifies for the exemption.

18 SECTION 13. [NEW MATERIAL] ENFORCEMENT--STATE DEPARTMENT  
19 OF JUSTICE--CONSUMER CIVIL ACTIONS.--

20 A. Upon the promulgation of rules pursuant to  
21 Section 14 of the Artificial Intelligence Act:

22 (1) the state department of justice shall have  
23 authority to enforce that act; and

24 (2) a consumer may bring a civil action in  
25 district court against a developer or deployer for declaratory

1 or injunctive relief and attorney fees for a violation of that  
2 act.

3 B. In an action by the state department of justice  
4 to enforce the Artificial Intelligence Act, it is an  
5 affirmative defense when:

6 (1) the developer, deployer or other person  
7 discovers and cures a violation of the Artificial Intelligence  
8 Act as a result of:

9 (a) feedback that the developer,  
10 deployer or other person encourages the deployer or users to  
11 provide; or

12 (b) adversarial testing, red teaming or  
13 an internal review process; and

14 (2) the developer, deployer or other person is  
15 in compliance with a risk management framework for artificial  
16 intelligence systems designated by the state department of  
17 justice by rule.

18 C. In an action by the state department of justice  
19 to enforce the Artificial Intelligence Act, the developer,  
20 deployer or other person who is the subject of the enforcement  
21 shall bear the burden of demonstrating that the requirements  
22 for an affirmative defense pursuant to this section have been  
23 met.

24 D. Nothing within the Artificial Intelligence Act,  
25 including the enforcement authority granted to the state

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1 department of justice pursuant to this section, preempts or  
2 otherwise affects any right, claim, remedy, presumption or  
3 defense available in law or equity.

4 E. An affirmative defense or rebuttable  
5 presumption established by the Artificial Intelligence Act  
6 applies only to an enforcement action by the state department  
7 of justice and does not apply to any right, claim, remedy,  
8 presumption or defense available in law or equity.

9 F. A violation of the Artificial Intelligence Act  
10 is an unfair practice and may be enforced pursuant to the  
11 Unfair Practices Act.

12 G. As used in this section:

13 (1) "adversarial testing" means to proactively  
14 try to break an application by providing it with data most  
15 likely to elicit problematic output, or as defined by the state  
16 department of justice by rule; and

17 (2) "red teaming" means the practice of  
18 simulating attack scenarios on an artificial intelligence  
19 application to pinpoint weaknesses and plan preventive measures  
20 or as defined by the state department of justice by rule.

21 SECTION 14. [NEW MATERIAL] RULEMAKING.--On or before  
22 January 1, 2027, the state department of justice shall  
23 promulgate rules to implement the Artificial Intelligence Act  
24 and shall post them prominently on the state department of  
25 justice's website.

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SECTION 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2026.