

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 60

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

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

.230826.6

underscored material = new
[bracketed material] = delete

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, gender identity, genetic
4 information, proficiency in the English language, national
5 origin, race, religion, reproductive health, veteran status or
6 other status protected by the New Mexico Civil Rights Act or
7 federal law, but does not include:

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

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

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

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

20 B. "artificial intelligence system" means a:

21 (1) machine learning-based system that, for an
22 objective, infers from the inputs the system receives how to
23 generate outputs, including content, decisions, predictions and
24 recommendations, that can influence physical or virtual
25 environments; or

1 (2) system that a developer markets or
2 describes in its technical documentation as using artificial
3 intelligence or machine learning;

4 C. "consequential decision" means a decision that
5 has a material legal or similarly significant effect on the
6 provision or denial to a consumer of or the cost or terms of:

- 7 (1) education enrollment;
- 8 (2) employment or an employment opportunity;
- 9 (3) a financial or lending service;
- 10 (4) health care service;
- 11 (5) housing;
- 12 (6) insurance; or
- 13 (7) legal service;

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

15 E. "department" means the state department of
16 justice;

17 F. "deploy" means to put into effect, host or
18 otherwise commercialize an artificial intelligence system;

19 G. "deployer" means a person or public entity that
20 deploys or uses a high-risk artificial intelligence system to
21 make a consequential decision affecting a consumer in New
22 Mexico;

23 H. "developer" means a person or entity doing
24 business in New Mexico that:

- 25 (1) makes an artificial intelligence system

.230826.6

underscoring material = new
~~[bracketed material] = delete~~

1 publicly available for use in New Mexico;

2 (2) intentionally and substantially modifies a
3 high-risk artificial intelligence system that is used in New
4 Mexico; or

5 (3) intentionally and substantially modifies a
6 non-high-risk artificial intelligence system so that it becomes
7 a high-risk artificial intelligence system that is used in New
8 Mexico;

9 I. "health care services" means treatment or
10 services designed to maintain and promote the improved health
11 of a person, including primary care, prenatal care, dental
12 care, behavioral health care, alcohol or drug detoxification
13 and rehabilitation, enrollment in a clinical trial or similar
14 activity, hospital care, hospice care, the provision of
15 prescription drugs, preventive care or health outreach;

16 J. "high-level summary" means information about the
17 data and data sets used to train a high-risk artificial
18 intelligence system, including:

19 (1) the sources or owners of the data sets and
20 whether the data sets were purchased or licensed by the
21 developer;

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

25 (3) the demographic groups represented in the

1 data sets and the proportion of each age, ethnic, gender or
2 racial group in each dataset;

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

6 (5) whether the data sets include any data
7 protected by copyright, trademark or patent or whether the data
8 sets are entirely in the public domain;

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

13 (7) the time period during which the data in
14 the data sets were collected, including a notice when data
15 collection is ongoing;

16 (8) the geographical regions or jurisdictions
17 in which the data sets were collected, including whether the
18 data sets were collected solely in New Mexico, solely in other
19 states or in New Mexico in combination with other states; and

20 (9) other information as required by the
21 department by rule;

22 K. "high-risk artificial intelligence system" means
23 any artificial intelligence system that when deployed makes or
24 is a substantial factor in making a consequential decision, but
25 does not include:

.230826.6

- 1 (1) anti-fraud technology;
- 2 (2) anti-malware technology;
- 3 (3) antivirus technology;
- 4 (4) cybersecurity technology;
- 5 (5) databases;
- 6 (6) database, spreadsheet or other technology
- 7 that does no more than organize data already in possession of a
- 8 deployer;

- 9 (7) data storage;
- 10 (8) firewall technology;
- 11 (9) internet domain registration;
- 12 (10) internet website loading;
- 13 (11) networking;
- 14 (12) spam and robocall filtering;
- 15 (13) spell checking technology;
- 16 (14) transcription and transition technology;
- 17 (15) web caching;
- 18 (16) web hosting or similar technology; or
- 19 (17) technology that communicates with

20 consumers solely in spoken or written natural language for the
21 purpose of providing consumers with information, making
22 referrals or recommendations and answering questions:

- 23 (a) subject to the deployer's accepted
- 24 use policy as explicitly accepted by the consumer that may
- 25 prohibit generation of specific content by the technology; and

1 (b) that is not used to take any
2 autonomous action without consumer intervention;

3 L. "intentional and substantial modification" and
4 "intentionally and substantially modifies" means a deliberate
5 and material change made to an artificial intelligence system
6 that results in a new reasonably foreseeable risk of
7 algorithmic discrimination, but does not include a change made
8 to a high-risk artificial intelligence system or the
9 performance of a high-risk artificial intelligence system when:

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

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

14 (b) deployed;

15 (2) the change is made as a result of system
16 learning after being made available to a deployer or being
17 deployed;

18 (3) the change was predetermined by the
19 deployer or a third party contracted by the deployer when the
20 deployer or third party completed an impact assessment of the
21 high-risk artificial intelligence system pursuant to Section 6
22 of the Artificial Intelligence Act; or

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

25 M. "machine learning" means the development and

1 incorporation of algorithms to build data-derived statistical
2 models that are capable of drawing inferences from previously
3 unseen data without explicit human instruction;

4 N. "offered or made available" includes a gift,
5 lease, sale or other conveyance of an artificial intelligence
6 system to a recipient deployer or a developer other than the
7 original system developer;

8 O. "recipient" means a deployer who has received an
9 artificial intelligence system from a developer or a developer
10 who has received an artificial intelligence system from another
11 developer;

12 P. "risk incident" means an incident when a
13 developer discovers or receives a credible report from a
14 deployer that a high-risk artificial intelligence system
15 offered or made available by the developer has caused or is
16 reasonably likely to have caused algorithmic discrimination;

17 Q. "substantial factor" means a decision, score,
18 label, prediction or recommendation generated by an artificial
19 intelligence system that is used as a basis or partial basis to
20 make a consequential decision; and

21 R. "trade secret" means information, including a
22 formula, pattern, compilation, program, device, method,
23 technique or process, that:

24 (1) derives independent economic value, actual
25 or potential, from not being generally known to and not being

1 readily ascertainable by proper means by other persons who
2 could obtain economic value from the information's disclosure
3 or use; and

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

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

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

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

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

19 (2) documentation disclosing:

20 (a) the purpose, intended uses and
21 benefits of the system;

22 (b) a high-level summary of the types of
23 data used to train the system;

24 (c) known or reasonable foreseeable
25 limitations of the system, including the risk of algorithmic

.230826.6

1 discrimination arising from the intended use of the system;

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

10 (e) the data governance measures used to
11 cover the training datasets and the measures used to examine
12 the suitability of data sources, possible biases and bias
13 mitigation;

14 (f) the intended outputs of the system;

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

19 (h) how the system should be used and
20 monitored by the deployer;

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

25 (j) any other information necessary to

1 allow the deployer to comply with the requirements of the
2 Artificial Intelligence Act;

3 C. except for information excluded pursuant to
4 Subsection C of Section 4 of the Artificial Intelligence Act,
5 to the extent feasible, make available to the deployer the
6 necessary information to conduct an impact assessment as
7 required pursuant to Section 6 of the Artificial Intelligence
8 Act. The information shall include comprehensive information
9 about the high-risk artificial intelligence system, including:

10 (1) the name, version and a brief description
11 of the system;

12 (2) the intended use of the system;

13 (3) information about the data set used to
14 train the system, including all model input data and training
15 data, demographic composition, data collection methods, data
16 sources, preprocessing steps, potential biases and known
17 limitations;

18 (4) limitations or risks associated with the
19 system's use; and

20 (5) previous impact assessments relevant to
21 the system, its development or use;

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

25 (1) the types of high-risk artificial

.230826.6

1 intelligence systems that the developer has developed or
2 intentionally and substantially modified and currently offers
3 or makes available to recipients; and

4 (2) how the developer manages known or
5 reasonably foreseeable risks of algorithmic discrimination that
6 may arise from the use or intentional and substantial
7 modification of the systems listed on the developer's website
8 pursuant to this subsection; and

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

14 SECTION 4. [NEW MATERIAL] RISK INCIDENTS--REQUIRED
15 DISCLOSURE AND SUBMISSION--EXCEPTIONS.--

16 A. Within ninety days of a risk incident and in a
17 form and manner prescribed by the department, a developer shall
18 disclose to the department and all known recipients of the
19 high-risk artificial intelligence system that is the basis of
20 the risk incident the known and foreseeable risks of
21 algorithmic discrimination that may arise from the intended
22 uses of the system.

23 B. Within ninety days of a request by the
24 department, a developer shall submit to the department a copy
25 of the summary and documentation the developer has made

1 available to recipients pursuant to Section 3 of the Artificial
 2 Intelligence Act. A developer may designate the summary or
 3 documentation as including a trade secret. To the extent that
 4 information contained in the summary or documentation includes
 5 information subject to attorney-client privilege or work-
 6 product protection, compliance with this section does not
 7 constitute a waiver of the privilege or protection.

8 C. As part of a disclosure, notice or submission
 9 pursuant to the Artificial Intelligence Act, a developer shall
 10 not be required to disclose a trade secret, information
 11 protected from disclosure by state or federal law or
 12 information that would create a security risk to the developer.
 13 Such disclosure, notice or submission shall be exempt from
 14 disclosure pursuant to the Inspection of Public Records Act.

15 SECTION 5. [NEW MATERIAL] DEPLOYER RISK-MANAGEMENT POLICY
 16 REQUIRED.--

17 A. A deployer shall use reasonable care to protect
 18 consumers from known or reasonably foreseeable risks of
 19 algorithmic discrimination.

20 B. A deployer shall implement a risk management
 21 policy and program to govern the deployer's deployment of a
 22 high-risk artificial intelligence system. The risk management
 23 policy and program shall:

24 (1) specify and incorporate the principles,
 25 processes and personnel that the deployer uses to identify,

.230826.6

1 document and mitigate known or reasonably foreseeable risks of
2 algorithmic discrimination; and

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

7 C. A risk management policy shall meet standards
8 established by the department by rule.

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

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

14 (1) annually; and

15 (2) within ninety days of an intentional and
16 substantial modification to the system.

17 B. An impact assessment of a high-risk artificial
18 intelligence system completed pursuant to this section shall
19 include, to the extent reasonably known by or available to the
20 deployer:

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

23 (2) an analysis of any known or reasonably
24 foreseeable risks of algorithmic discrimination posed by the
25 system and when:

1 (a) a risk exists, the nature of the
2 algorithmic discrimination and the steps that have been taken
3 to mitigate the risk;

4 (b) the impact assessment is dependent
5 on developer information outside of the deployer's control,
6 include a statement detailing that dependence; and

7 (c) the deployer has cause to believe
8 algorithmic discrimination exists, the deployer shall use
9 reasonable efforts to mitigate the impacts of such
10 discrimination;

11 (3) a description of the categories of data
12 the system processes as inputs and the outputs the system
13 produces;

14 (4) a summary of categories of any data used
15 to customize the system;

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

18 (a) whether the evaluation was carried
19 out using test data;

20 (b) whether the test data sets were
21 collected solely in New Mexico, solely in other states or in
22 New Mexico in combination with other states;

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

.230826.6

1 (d) any independent studies carried out
2 to evaluate the system for performance and risk of
3 discrimination and whether the studies are publicly available
4 or peer-reviewed;

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

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

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

19 D. A deployer may use a single impact assessment to
20 address a set of comparable high-risk artificial intelligence
21 systems.

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

25 (1) meets the requirements of this section;

1 and

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

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

11 G. One hundred twenty days after the department has
12 promulgated rules pursuant to Section 14 of the Artificial
13 Intelligence Act, a deployer shall review each high-risk
14 artificial intelligence system that the deployer has deployed
15 to ensure that the system is not causing algorithmic
16 discrimination.

17 H. This section is not applicable when:

18 (1) a deployer using a high-risk artificial
19 intelligence system:

- 20 (a) impacts fewer than fifty consumers;
21 (b) does not use the deployer's own data
22 to train the system;
23 (c) uses the system solely for the
24 system's intended uses as disclosed by a developer pursuant to
25 the Artificial Intelligence Act; and

.230826.6

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

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

6 I. A deployer may supply documentation provided by
7 a developer to complete the requirements for an item pursuant
8 to Subsection B of this section; provided that the deployer has
9 not modified the item.

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

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

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

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

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

1 SECTION 8. [NEW MATERIAL] USE OF ARTIFICIAL INTELLIGENCE
2 SYSTEMS WHEN MAKING CONSEQUENTIAL DECISIONS--DIRECT NOTICE TO
3 AFFECTED CONSUMERS--ADVERSE DECISIONS--OPPORTUNITY FOR
4 APPEAL.--

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

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

12 (2) information describing:

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

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

18 (c) the deployer's contact information.

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

25 (1) a statement explaining:

.230826.6

underscored material = new
[bracketed material] = delete

1 (a) the principal reason or reasons for
2 the decision;

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

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

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

11 (3) an opportunity to appeal the adverse
12 decision except in instances where an appeal may pose a risk of
13 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

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
7 DEPARTMENT--INSPECTION OF PUBLIC RECORDS ACT EXEMPTION.--

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

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

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

24 D. As part of a disclosure, notice or submission
25 pursuant to the Artificial Intelligence Act, a deployer shall

.230826.6

1 not be required to disclose a trade secret, information
2 protected from disclosure by state or federal law or
3 information that would create a security risk to the deployer.
4 Such a disclosure, notice or submission shall be exempt from
5 disclosure pursuant to the Inspection of Public Records Act.

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

16 SECTION 10. [NEW MATERIAL] INTERACTION OF ARTIFICIAL
17 INTELLIGENCE SYSTEM WITH CONSUMERS--REQUIRED DISCLOSURE.--

18 A. A developer or a deployer that offers or makes
19 available an artificial intelligence system intended to
20 interact with consumers shall ensure that a consumer is
21 informed that the consumer is interacting with an artificial
22 intelligence system.

23 B. Prior to deploying a high-risk artificial
24 intelligence system to make, or be a substantial factor in
25 making, a consequential decision concerning a consumer, a

1 deployer shall notify the consumer that the high-risk
2 artificial intelligence system is being deployed and of the
3 system's role in making the consequential decision.

4 SECTION 11. ~~[NEW MATERIAL]~~ EXEMPTION FROM DISCLOSURE--
5 TRADE SECRETS AND OTHER INFORMATION PROTECTED BY LAW--NOTICE TO
6 CONSUMER.--

7 A. Nothing in the Artificial Intelligence Act shall
8 require a deployer or developer to disclose a trade secret or
9 other information protected from disclosure by state or federal
10 law.

11 B. To the extent that a deployer or developer
12 withholds information pursuant to this section that would
13 otherwise be part of a disclosure pursuant to the Artificial
14 Intelligence Act, the deployer or developer shall notify all
15 affected consumers, provide a basis for the withholding and
16 include all information not protected as a trade secret
17 pursuant to the Uniform Trade Secrets Act or other state or
18 federal law.

19 SECTION 12. ~~[NEW MATERIAL]~~ APPLICABILITY EXEMPTIONS--
20 OTHER LAW--SECURITY AND TESTING--FEDERAL USE--INSURANCE
21 PROVIDERS.--

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

24 (1) comply with federal, state or municipal
25 laws or regulations;

.230826.6

1 (2) comply with a civil, criminal or
2 regulatory inquiry, investigation, subpoena or summons by a
3 governmental authority;

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

7 (4) defend, exercise or investigate legal
8 claims;

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

11 (6) by any means:

12 (a) detect, prevent, protect against or
13 respond to deceptive, illegal or malicious activity, fraud,
14 identity theft, harassment or security incidents; or

15 (b) investigate, prosecute or report
16 persons responsible for the actions listed in Subparagraph (a)
17 of this paragraph;

18 (7) preserve the integrity or security of
19 artificial intelligence, computer, electronic or internet
20 connection systems;

21 (8) engage in public or peer-reviewed
22 scientific or statistical research, including clinical trials,
23 that adheres to and is conducted in accordance with applicable
24 federal and state law;

25 (9) engage in pre-market testing other than

1 testing conducted under real-world conditions, including
2 development, research and testing of artificial intelligence
3 systems; or

4 (10) assist another person with compliance
5 with the Artificial Intelligence Act.

6 B. No provision of the Artificial Intelligence Act
7 shall be construed to restrict:

8 (1) a product recall; or

9 (2) identification or repair of technical
10 errors that impair the functionality of the artificial
11 intelligence system.

12 C. The Artificial Intelligence Act does not apply
13 in circumstances in which compliance would violate an
14 evidentiary privilege pursuant to law.

15 D. No provision of the Artificial Intelligence Act
16 shall be construed so as to limit the rights of a person,
17 including the rights to free speech or freedom of the press
18 pursuant to the first amendment to the United States
19 constitution or Article 2, Section 17 of the constitution of
20 New Mexico.

21 E. The Artificial Intelligence Act does not apply
22 to a developer, deployer or other person who:

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

25 (a) has been authorized by a federal

.230826.6

1 agency in accordance with federal law; and

2 (b) is in compliance with standards
3 established by a federal agency in accordance with federal law
4 when such standards are substantially equivalent or more
5 stringent than the requirements of the Artificial Intelligence
6 Act;

7 (2) conducts research to support an
8 application for approval, certification or review by a federal
9 agency pursuant to federal law; or

10 (3) performs work under or in connection with
11 a contract with a federal agency, unless the work is on a high-
12 risk artificial intelligence system used to make or as a
13 substantial factor in making a decision concerning employment
14 or housing.

15 F. The Artificial Intelligence Act does not apply
16 to an artificial intelligence system to the extent the system
17 is used by the federal government, except for a high-risk
18 artificial intelligence system used to make or as a substantial
19 factor in making a decision concerning employment or housing.

20 G. A financial institution, an affiliate or a
21 subsidiary of a financial institution or a service provider
22 that is subject to prudential regulation by another state or by
23 the federal government pursuant to laws that apply to the use
24 of high-risk artificial intelligence systems shall be deemed to
25 be in compliance with the Artificial Intelligence Act when the

underscoring material = new
~~[bracketed material] = delete~~

1 applicable laws:

2 (1) impose requirements that are substantially
3 equivalent to or more stringent than the requirements imposed
4 by the Artificial Intelligence Act; and

5 (2) at a minimum, require the financial
6 institution, affiliate or service provider to:

7 (a) notify consumers subject to the
8 high-risk artificial intelligence system of the system's use
9 and its role in consequential decisions;

10 (b) regularly audit the institution's
11 use of high-risk artificial intelligence systems for compliance
12 with state and federal antidiscrimination laws; and

13 (c) mitigate any algorithmic
14 discrimination caused by the use of a high-risk artificial
15 intelligence system.

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

20 I. As used in this section, "financial institution"
21 means an insured state or national bank, a state or federal
22 savings and loan association or savings bank, a state or
23 federal credit union or authorized branches of each of the
24 foregoing.

25 SECTION 13. [NEW MATERIAL] ENFORCEMENT--DEPARTMENT--

.230826.6

1 OPPORTUNITY TO CURE--CONSUMER CIVIL ACTIONS.--

2 A. Upon the promulgation of rules pursuant to
3 Section 14 of the Artificial Intelligence Act:

4 (1) the department shall have authority to
5 enforce that act; and

6 (2) a consumer may bring a civil action in
7 district court against a developer or deployer for declaratory
8 or injunctive relief and attorney fees for a violation of that
9 act.

10 B. Prior to the promulgation of rules by the
11 department pursuant to Section 14 of the Artificial
12 Intelligence Act, the department shall issue a notice to a
13 prospective defendant prior to initiating an action for
14 violation of the act. The notice shall include a detailed
15 description of the alleged violation and the actions required
16 to cure the violation. The prospective defendant shall have
17 ninety days from the receipt of the notice to submit evidence
18 satisfactory to the department that the violation has been
19 cured. Ninety-one days after the prospective defendant has
20 received the notice, if the department has not received
21 satisfactory evidence that the violation has been cured, the
22 department may file an action in district court for the
23 violation.

24 C. For one calendar year from the date the
25 department promulgates rules pursuant to Section 14 of the

1 Artificial Intelligence Act, it shall be an affirmative defense
2 in an action brought by the department to enforce the
3 Artificial Intelligence Act when:

4 (1) the developer, deployer or other person
5 discovers a violation of the Artificial Intelligence Act as a
6 result of adversarial testing, red teaming or an internal
7 review process;

8 (2) the developer, deployer or other person
9 reports the violation to the department and cures the violation
10 within seven days of the violation;

11 (3) the developer, deployer or other person is
12 in compliance with a risk management framework for artificial
13 intelligence systems designated by the department by rule;

14 (4) the deployer is dependent on documentation
15 from the developer to cure or otherwise resolve a violation and
16 the deployer complies with the requirements in Paragraph (2) of
17 Subsection B of Section 6 of the Artificial Intelligence Act;
18 and

19 (5) the developer, deployer or other person
20 demonstrates that the violation was inadvertent, affected fewer
21 than one hundred consumers and could not have been discovered
22 through reasonable diligence.

23 D. After one calendar year from the date the
24 department promulgates rules pursuant to Section 14 of the
25 Artificial Intelligence Act, a deployer, developer or other

.230826.6

1 person subject to enforcement for a violation of that act shall
2 have no right to cure the violation or an affirmative defense
3 pursuant to this section.

4 E. In an action by the department to enforce the
5 Artificial Intelligence Act, the developer, deployer or other
6 person who is the subject of the enforcement shall bear the
7 burden of demonstrating that the requirements for an
8 affirmative defense pursuant to this section have been met.

9 F. Nothing in the Artificial Intelligence Act,
10 including the enforcement authority granted to the department
11 pursuant to this section, preempts or otherwise affects any
12 right, claim, remedy, presumption or defense available in law
13 or equity.

14 G. An affirmative defense presumption established
15 by the Artificial Intelligence Act applies only to an
16 enforcement action by the department and does not apply to any
17 right, claim, remedy, presumption or defense available in law
18 or equity.

19 H. A violation of the Artificial Intelligence Act
20 is an unfair practice and may be enforced pursuant to the
21 Unfair Practices Act.

22 I. As used in this section:

23 (1) "adversarial testing" means to proactively
24 try to break an application by providing it with data most
25 likely to elicit problematic output, or as defined by the

1 department by rule; and

2 (2) "red teaming" means the practice of
3 simulating attack scenarios on an artificial intelligence
4 application to pinpoint weaknesses and plan preventive measures
5 or as defined by the department by rule.

6 SECTION 14. [NEW MATERIAL] RULEMAKING.--

7 A. On or before January 1, 2027, the department
8 shall promulgate rules to implement the Artificial Intelligence
9 Act and shall post them prominently on the department's
10 website.

11 B. The department shall consult artificial
12 intelligence experts, academic researchers, civil rights
13 organizations, deployers, developers, labor unions and
14 organizations representing the interests of consumers when
15 developing the rules to be promulgated pursuant to the
16 Artificial Intelligence Act.

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