

PROPOSALS TO AMEND SB 24-205 AS ENACTED

Consolidated Proposals by Colorado Technology Association, TechNet, and Colorado Chamber of Commerce

[DRAFT – December 20, 2024 - subject to further changes]

| ISSUE | PROPOSAL | NOTES |
|--|--|---|
| <p>6-1-1701(1)</p> <p>Definition of “Algorithmic Discrimination”</p> | <p>6-1-1701</p> <p>(1) (a) "ALGORITHMIC DISCRIMINATION" MEANS ANY CONDITION IN WHICH THE USE OF AN ARTIFICIAL INTELLIGENCE SYSTEM WHICH RESULTS IN AN UNLAWFUL DIFFERENTIAL TREATMENT OR IMPACT THAT DISFAVORS AN INDIVIDUAL OR GROUP OF INDIVIDUALS <u>A VIOLATION OF STATE OR FEDERAL ANTI-DISCRIMINATION LAWS, INCLUDING FEDERAL OR STATE STATUTES PROHIBITING DISCRIMINATION ON THE BASIS OF THEIR ACTUAL OR PERCEIVED AGE</u> RACE, COLOR, <u>SEX</u>, DISABILITY, <u>ETHNICITY</u>, <u>GENETIC INFORMATION</u>, <u>LIMITED PROFICIENCY IN THE ENGLISH LANGUAGE</u>, NATIONAL ORIGIN, <u>RACE</u>, <u>RELIGION</u>, <u>REPRODUCTIVE HEALTH</u>, <u>SEX</u>, <u>VETERAN STATUS</u>, <u>CITIZENSHIP STATUS</u> OR OTHER CLASSIFICATION PROTECTED UNDER THE LAWS OF THIS STATE OR FEDERAL LAW.</p> <p>...</p> <p>(b)(I)(A) THE DEVELOPER'S OR DEPLOYER'S SELF-TESTING TO IDENTIFY, MITIGATE, OR PREVENT DISCRIMINATION OR OTHERWISE ENSURE COMPLIANCE WITH STATE AND FEDERAL LAW; OR</p> | <p>Aligns the definition of “Algorithmic Discrimination” with definitions of discrimination in existing federal and state laws. This approach ensures consistency across discrimination laws and does not rely on the potentially vague phrase “unlawful differential treatment or impact”.</p> |
| <p>6-1-1701(3)</p> <p>Definition of “Consequential Decision”</p> | <p>6-1-1701</p> <p>(3) "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:</p> <p>(a) <u>ACCESS OR ADMISSION TO, OR ENROLLMENT AT, AN EDUCATIONAL INSTITUTION</u> EDUCATION ENROLLMENT OR AN EDUCATION OPPORTUNITY;</p> <p>(b) EMPLOYMENT OR AN EMPLOYMENT OPPORTUNITY; <u>WHERE THE DECISION HAS A MATERIAL LEGAL OR SIMILARLY SIGNIFICANT EFFECT WITH RESPECT TO THE CONSUMER’S HIRING, PROMOTION, TERMINATION, OR PAY;</u></p> <p>(c) A FINANCIAL OR LENDING SERVICE;</p> <p>(d) AN ESSENTIAL GOVERNMENT SERVICE;</p> <p>(e) HEALTH-CARE SERVICES;</p> <p>(f) HOUSING <u>THE PURCHASE OR RENTING OF A PRIMARY RESIDENCE; OR</u></p> <p>(g) INSURANCE; OR</p> <p>(h) A LEGAL SERVICE</p> | <p>Provides better clarity about the scope of the law by providing additional definition to the categories of Consequential Decisions and eliminating vague and overly broad terms that have led to uncertainty about the law’s scope.</p> |

| ISSUE | PROPOSAL | NOTES |
|---|---|--|
| <p>6-1-1701(6)</p> <p>Definition of “Deployer”</p> | <p>6-1-1701</p> <p>(6) "DEPLOYER" MEANS A PERSON DOING BUSINESS IN THIS STATE THAT DEPLOYS A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM <u>IN THE STATE</u>.</p> | <p>Clarifies intended scope of law as addressing AI systems deployed in Colorado.</p> |
| <p>6-1-1701(7)</p> <p>Definition of “Developer”</p> | <p>6-1-1701</p> <p>(7) "DEVELOPER" MEANS A PERSON DOING BUSINESS IN THIS STATE THAT DEVELOPS OR INTENTIONALLY AND SUBSTANTIALLY MODIFIES A <u>HIGH-RISK</u> ARTIFICIAL INTELLIGENCE SYSTEM <u>TO BE USED IN THE STATE</u>.</p> | <p>Clarifies that Developers covered by the law are ones that develop High Risk AI Systems, not other AI Systems that are not developed to make Consequential Decisions.</p> <p>Clarifies intended scope of law as addressing AI systems to be used in Colorado.</p> |
| <p>6-1-1701(9)</p> <p>Definition of “High Risk AI System”</p> | <p>6-1-1701</p> <p>(9) (a) "HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM" MEANS ANY ARTIFICIAL INTELLIGENCE SYSTEM THAT, WHEN DEPLOYED, MAKES, OR IS A SUBSTANTIAL FACTOR IN MAKING, A CONSEQUENTIAL DECISION.</p> <p>(b) "HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM" DOES NOT INCLUDE:</p> <p>(I) AN ARTIFICIAL INTELLIGENCE SYSTEM IF THE ARTIFICIAL INTELLIGENCE SYSTEM IS INTENDED TO:</p> <p>(A) PERFORM A NARROW PROCEDURAL TASK; OR</p> <p><u>(B) IMPROVE THE RESULT OF A PREVIOUSLY COMPLETED HUMAN ACTIVITY;</u></p> <p><u>(C) PERFORM A PREPARATORY TASK TO AN ASSESSMENT THAT IS RELEVANT TO A CONSEQUENTIAL DECISION; OR</u></p> <p><u>(D) DETECT DECISION-MAKING PATTERNS OR DEVIATIONS FROM PRIORPREEXISTING DECISION-MAKING PATTERNS AND IS NOT INTENDED TO REPLACE OR INFLUENCE A PREVIOUSLY COMPLETED HUMAN ASSESSMENT WITHOUT SUFFICIENT HUMAN REVIEW; OR</u></p> <p>(II) THE FOLLOWING TECHNOLOGIES, UNLESS THE TECHNOLOGIES, WHEN DEPLOYED, MAKE, OR ARE A SUBSTANTIAL FACTOR IN MAKING, A CONSEQUENTIAL DECISION:</p> <p>(A) ANTI-FRAUD TECHNOLOGY THAT DOES NOT USE FACIAL RECOGNITION TECHNOLOGY;</p> <p>...</p> | <p>Provides better clarity regarding the scope of “high risk AI systems”.</p> <p>Adds additional exempted technologies that should be excluded from being considered High Risk AI Systems.</p> |

| ISSUE | PROPOSAL | NOTES |
|---|--|--|
| | <p>(R) TECHNOLOGY THAT COMMUNICATES WITH CONSUMERS IN NATURAL LANGUAGE FOR THE PURPOSE OF PROVIDING USERS WITH INFORMATION, MAKING REFERRALS OR RECOMMENDATIONS, AND ANSWERING QUESTIONS AND IS SUBJECT TO AN ACCEPTED<u>ACCEPTABLE</u> USE POLICY THAT PROHIBITS GENERATING CONTENT THAT IS DISCRIMINATORY<u>UNLAWFUL</u> OR HARMFUL.;</p> <p><u>(S) DATA SECURITY SYSTEMS;</u></p> <p><u>(T) SYSTEMS OR INFRASTRUCTURE OPTIMIZATION TOOLS;</u></p> <p><u>OR</u></p> <p><u>(U) OTHER INTERNAL BUSINESS OPERATIONS TOOLS.</u></p> | |
| <p>6-1-1701(10)</p> <p>Definition of “Intentional and Substantial Modification” or “Intentionally And Substantially Modifies”</p> | <p>6-1-1701</p> <p>(10) (a) "INTENTIONAL AND SUBSTANTIAL MODIFICATION" OR "INTENTIONALLY AND SUBSTANTIALLY MODIFIES" MEANS A DELIBERATE CHANGE MADE TO AN ARTIFICIAL INTELLIGENCE SYSTEM THAT <u>MATERIALLY INCREASES THE KNOWN RISK OF ALGORITHMIC DISCRIMINATION</u>RESULTS IN ANY NEW REASONABLY FORESEEABLE RISK OF ALGORITHMIC DISCRIMINATION.</p> | <p>Within the definition of “intentional and substantial modification”, replaces the vague concept of “reasonably foreseeable risks” with the more definite concept of “known risks”</p> |
| <p>6-1-1701(11)</p> <p>Definition of “Substantial Factor”</p> | <p>6-1-1701</p> <p>(11) (a) "SUBSTANTIAL FACTOR" MEANS A FACTOR THAT:</p> <p>(I) ASSISTS IN MAKING A CONSEQUENTIAL DECISION ;</p> <p>(II) IS CAPABLE OF ALTERING THE OUTCOME OF A CONSEQUENTIAL DECISION; AND</p> <p>III) IS GENERATED BY AN ARTIFICIAL INTELLIGENCE SYSTEM.</p> <p>(b) "SUBSTANTIAL FACTOR" INCLUDES ANY USE OF AN ARTIFICIAL INTELLIGENCE SYSTEM TO GENERATE ANY CONTENT, DECISION, PREDICTION, OR RECOMMENDATION CONCERNING A CONSUMER THAT IS USED AS A BASIS TO MAKE A CONSEQUENTIAL DECISION CONCERNING THE CONSUMER</p> | <p>Proposal pending further review -- Clarifies the definition of “substantial factor” to help provide a clearer scope of what constitutes a Consequential Decision.</p> |
| <p>6-1-1702(1)</p> <p>Limit Developer obligations to known high risk uses</p> <p>Remove rebuttable presumption</p> | <p>6-1-1702. Developer duty to avoid algorithmic discrimination -required documentation. (1) ON AND AFTER FEBRUARY 1, 2026, A DEVELOPER OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM SHALL USE REASONABLE CARE TO PROTECT CONSUMERS FROM ANY KNOWN OR REASONABLY FORESEEABLE-RISKS OF ALGORITHMIC DISCRIMINATION ARISING FROM THE INTENDED AND CONTRACTED USES OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM. IN ANY ENFORCEMENT ACTION BROUGHT ON OR AFTER FEBRUARY 1, 2026, BY THE ATTORNEY GENERAL PURSUANT TO SECTION 6-1-1706, THERE IS A REBUTTABLE PRESUMPTION THAT A DEVELOPER SHALL BE DEEMED TO HAVE USED REASONABLE CARE AS REQUIRED UNDER THIS SECTION IF THE DEVELOPER COMPLIED WITH THIS SECTION AND ANY ADDITIONAL REQUIREMENTS OR OBLIGATIONS AS SET FORTH IN RULES</p> | <p>The current law expects Developers to anticipate or predict uses of the AI systems they develop. These modifications to 1702(1) ensure Developer’s documentation and disclosure obligations are limited to known risks based on the intended and contracted uses of the system.</p> |

| ISSUE | PROPOSAL | NOTES |
|---|--|---|
| <p>Limit AG rule-making authority</p> | <p>PROMULGATED BY THE ATTORNEY GENERAL PURSUANT TO SECTION 6-1-1707.</p> <p>[Other conforming changes to eliminate “reasonably foreseeable” language throughout 6-1-1702]</p> | <p>Revision to “rebuttable presumption” clarifies that the duty of care is satisfied when the requirements of the statute are met.</p> <p>The revisions at the end of 6-1-1702(1) clarify that the AG may engage in rulemaking and guidance to implement the Act’s requirements but may not use rulemaking to add substantive requirements that are not already in the statute. Such a delegation of open-ended authority could be, in any event, unconstitutional under Colorado’s nondelegation doctrine.</p> |
| <p>6-1-1702(2)</p> <p>Reduce additional documentation requirements for Developers</p> | <p>6-1-1702</p> <p>(2) ON AND AFTER FEBRUARY 1, 2026, AND EXCEPT AS PROVIDED IN SUBSECTION (6) OF THIS SECTION, A DEVELOPER OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM SHALL MAKE AVAILABLE TO THE DEPLOYER OR OTHER DEVELOPER OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM:</p> <p>(a) A GENERAL STATEMENT DESCRIBING THE REASONABLY FORESEEABLE USES AND KNOWN HARMFUL OR INAPPROPRIATE USES OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM;</p> <p>(b) DOCUMENTATION DISCLOSING:</p> <p>(I) HIGH-LEVEL SUMMARIES OF THE TYPE OF DATA USED TO TRAIN THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM;</p> <p>(II) KNOWN OR REASONABLY FORESEEABLE LIMITATIONS OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM, INCLUDING KNOWN OR REASONABLY FORESEEABLE RISKS OF ALGORITHMIC DISCRIMINATION ARISING FROM THE INTENDED USES OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM;</p> <p>(III) THE PURPOSE OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM;</p> | <p>Developers have several disclosure and documentation obligations under 6-1-1702. These changes help clarify Developers’ obligations by removing vague, arguably redundant requirements.</p> |

| ISSUE | PROPOSAL | NOTES |
|---|--|---|
| | <p>(IV) THE INTENDED BENEFITS AND USES OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM; AND</p> <p>(V) ALL OTHER INFORMATION NECESSARY TO ALLOW THE DEPLOYER TO COMPLY WITH THE REQUIREMENTS OF SECTION 6-1-1703;</p> <p>(c) DOCUMENTATION DESCRIBING:</p> <p>(I) HOW THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM WAS EVALUATED FOR PERFORMANCE AND MITIGATION OF ALGORITHMIC DISCRIMINATION BEFORE THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM WAS OFFERED, SOLD, LEASED, LICENSED, GIVEN, OR OTHERWISE MADE AVAILABLE TO THE DEPLOYER;</p> <p>(II) THE DATA GOVERNANCE MEASURES USED TO COVER THE TRAINING DATASETS AND THE MEASURES USED TO EXAMINE THE SUITABILITY OF DATA SOURCES, POSSIBLE BIASES, AND APPROPRIATE MITIGATION;</p> <p>(III) THE INTENDED OUTPUTS OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM;</p> <p>(IV) THE MEASURES THE DEVELOPER HAS TAKEN TO MITIGATE KNOWN OR REASONABLY FORESEEABLE RISKS OF ALGORITHMIC DISCRIMINATION THAT MAY ARISE FROM THE REASONABLY FORESEEABLE DEPLOYMENT OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM; AND</p> <p>(V) HOW THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM SHOULD BE USED, NOT BE USED, AND BE MONITORED BY AN INDIVIDUAL WHEN THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM IS USED TO MAKE, OR IS A SUBSTANTIAL FACTOR IN MAKING, A CONSEQUENTIAL DECISION; AND</p> <p>(d) ANY ADDITIONAL DOCUMENTATION THAT IS REASONABLY NECESSARY TO ASSIST THE DEPLOYER IN UNDERSTANDING THE OUTPUTS AND MONITOR THE PERFORMANCE OF THE HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM FOR RISKS OF ALGORITHMIC DISCRIMINATION.</p> | |
| <p>6-1-1702(3)(a) Disclosure of dataset cards</p> | <p>6-1-1702(3)(a)</p> <p>(3) (a) EXCEPT AS PROVIDED IN SUBSECTION (6) OF THIS SECTION, A DEVELOPER THAT OFFERS, SELLS, LEASES, LICENSES, GIVES, OR OTHERWISE MAKES AVAILABLE TO A DEPLOYER OR OTHER DEVELOPER A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM ON OR AFTER FEBRUARY 1, 2026, SHALL MAKE AVAILABLE TO THE DEPLOYER OR OTHER DEVELOPER, TO THE EXTENT FEASIBLE, THE DOCUMENTATION AND INFORMATION, THROUGH ARTIFACTS SUCH AS MODEL CARDS, DATASET CARDS, OR OTHER IMPACT ASSESSMENTS, NECESSARY FOR A DEPLOYER, OR FOR A THIRD PARTY CONTRACTED BY A DEPLOYER, TO</p> | <p>Eliminates the suggestion that dataset cards must be disclosed, which could result in the disclosure of trade secrets and run afoul of the law’s intent.</p> |

| ISSUE | PROPOSAL | NOTES |
|--|--|--|
| | <p>COMPLETE AN IMPACT ASSESSMENT PURSUANT TO SECTION 6-1-1703 (3).</p> | |
| <p>6-1-1702(4) Obligation to place Statement on Developer’s website</p> | <p>6-1-1702</p> <p>(4) (a) ON AND AFTER FEBRUARY 1, 2026, A DEVELOPER SHALL MAKE AVAILABLE, IN A MANNER THAT IS CLEAR AND READILY AVAILABLE ON THE DEVELOPER’S WEBSITE OR IN A PUBLIC USE CASE INVENTORY, A STATEMENT SUMMARIZING:</p> <p>...</p> | <p>Provides that this statement need not specifically be located on a Developer’s website so long as it is otherwise available.</p> |
| <p>6-1-1702(5) Replace proactive disclosure with disclosure requirements upon AG request</p> | <p>6-1-1702</p> <p>(5) ON AND AFTER FEBRUARY 1, 2026, A DEVELOPER OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM SHALL DISCLOSE TO THE ATTORNEY GENERAL, IN A FORM AND MANNER PRESCRIBED BY THE ATTORNEY GENERAL, AND TO ALL KNOWN DEPLOYERS OR OTHER DEVELOPERS OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM, ANY <u>PREVIOUSLY UNDISCLOSED</u> KNOWN OR REASONABLY FORESEEABLE RISKS OF ALGORITHMIC DISCRIMINATION ARISING FROM THE INTENDED <u>AND CONTRACTED</u> USES OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM WITHOUT UNREASONABLE DELAY BUT NO LATER THAN NINETY DAYS AFTER THE DATE ON WHICH:</p> <p>(a) THE DEVELOPER DISCOVERS THROUGH THE DEVELOPER’S ONGOING TESTING AND ANALYSIS <u>OR FOLLOWING CONFIRMATION THROUGH THE INVESTIGATION OF A CREDIBLE REPORT FROM A DEPLOYER</u> THAT THE DEVELOPER’S HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM HAS BEEN DEPLOYED AND HAS CAUSED OR IS REASONABLY LIKELY TO HAVE CAUSED ALGORITHMIC DISCRIMINATION; OR</p> <p>(b) THE DEVELOPER RECEIVES FROM A DEPLOYER A CREDIBLE REPORT THAT THE HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM HAS BEEN DEPLOYED AND HAS CAUSED ALGORITHMIC DISCRIMINATION.</p> | <p>Aligns the disclosure requirements with compliance regimes that require regulated entities to maintain the appropriate documentation demonstrating compliance but not disclose such documentation to the enforcement agency until the agency has reasonable cause to investigate and request the information. This will ensure that the documentation obtained by the AG is tailored to assist the AG in actual investigations and enforcement actions. This proposed change better aligns with the AG’s authorities set forth in the CPA.</p> <p>See also 6-1-1702(7) below.</p> |
| <p>6-1-1702(6) Improve protection of trade secrets and other proprietary information</p> | <p>6-1-1702</p> <p>(6) NOTHING IN SUBSECTIONS (2) TO (5) OF THIS SECTION REQUIRES A DEVELOPER TO DISCLOSE A TRADE SECRET <u>OR OTHER CONFIDENTIAL OR PROPRIETARY INFORMATION</u>, INFORMATION PROTECTED FROM DISCLOSURE BY STATE OR FEDERAL LAW, OR INFORMATION THAT WOULD CREATE A SECURITY RISK TO THE DEVELOPER.</p> | <p>This provides more protection for sensitive information that does not necessarily fall under the definition of “Trade Secret” under CRS 7-74-102(4). It aligns with limitations on disclosing trade secrets set forth in Connecticut SB 2.</p> |

| ISSUE | PROPOSAL | NOTES |
|--|--|--|
| | | <p>The change to 6-1-1702 provides protection of this information from disclosures required of Developers.</p> <p>See similar changes to 6-1-1703(8) and 1705(9) below.</p> |
| <p>6-1-1702(7) Limit ability for AG to request disclosures</p> | <p>(7) ON AND AFTER FEBRUARY 1,2026, <u>WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE THAT A DEVELOPER HAS VIOLATED ANY OF THE REQUIREMENTS OF THIS SECTION 6-1-1702</u>, THE ATTORNEY GENERAL MAY REQUIRE THAT A DEVELOPER DISCLOSE TO THE ATTORNEY GENERAL, NO LATER THAN NINETY DAYS AFTER THE REQUEST AND IN A FORM AND MANNER PRESCRIBED BY THE ATTORNEY GENERAL, THE STATEMENT OR DOCUMENTATION DESCRIBED IN SUBSECTION (2) OF THIS SECTION. THE ATTORNEY GENERAL MAY EVALUATE SUCH STATEMENT OR DOCUMENTATION, TO ENSURE COMPLIANCE WITH THIS PART 17, AND THE STATEMENT OR DOCUMENTATION IS NOT SUBJECT TO DISCLOSURE UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24. <u>TO THE EXTENT ANY SUCH STATEMENT OR DOCUMENTATION INCLUDES ANY PROPRIETARY INFORMATION OR ANY TRADE SECRET THAT IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, AS DEFINED IN [APPLICABLE] STATUTES, SUCH STATEMENT OR DOCUMENTATION SHALL BE EXEMPT FROM DISCLOSURE UNDER SAID ACT.</u> IN A DISCLOSURE PURSUANT TO THIS SUBSECTION (7), A DEVELOPER MAY DESIGNATE THE STATEMENT OR DOCUMENTATION AS INCLUDING PROPRIETARY INFORMATION OR A TRADE SECRET. TO THE EXTENT THAT ANY INFORMATION CONTAINED IN THE STATEMENT OR DOCUMENTATION INCLUDES INFORMATION SUBJECT TO ATTORNEY-CLIENT PRIVILEGE OR WORK-PRODUCT PROTECTION, THE DISCLOSURE DOES NOT CONSTITUTE A WAIVER OF THE PRIVILEGE OR PROTECTION. <u>THE DEVELOPER MAY REQUEST A FORTY-FIVE-DAY EXTENSION OF THE NINETY-DAY PERIOD DESCRIBED IN SUBSECTION (7) OF THIS SECTION BY SUBMITTING A REQUEST IN WRITING TO THE ATTORNEY GENERAL, SPECIFYING THE REASONS FOR THE EXTENSION AND DEMONSTRATING GOOD CAUSE FOR THE EXTENSION. THE ATTORNEY GENERAL SHALL GRANT SUCH REQUESTS THAT REASONABLY DEMONSTRATE GOOD CAUSE.</u></p> <p><u>(8) IF A DEVELOPER COMPLETES DOCUMENTATION FOR THE PURPOSE OF COMPLYING WITH ANOTHER APPLICABLE LAW OR REGULATION, SUCH DOCUMENTATION SHALL BE DEEMED TO SATISFY THE REQUIREMENTS</u></p> | <p>Aligns the disclosure requirements with compliance regimes that require regulated entities to maintain the appropriate documentation demonstrating compliance but not disclose such documentation to the enforcement agency until the agency has reasonable cause to investigate and request the information.</p> <p>See also 6-1-1702(5) above</p> <p>The addition of (8) eliminates the risk of duplicative and therefore unnecessarily</p> |

| ISSUE | PROPOSAL | NOTES |
|--|--|--|
| | <p><u>ESTABLISHED IN THIS SUBSECTION IF SUCH DOCUMENTATION IS REASONABLY SIMILAR IN SCOPE AND EFFECT TO THE DOCUMENTATION THAT WOULD OTHERWISE BE COMPLETED PURSUANT TO THIS SUBSECTION.</u></p> | <p>burdensome documentations requirements in different jurisdictions.</p> |
| <p>6-1-1703(1) Deployer duty of care</p> | <p>6-1-1703. Deployer duty to avoid algorithmic discrimination - risk management policy and program. (1) ON AND AFTER FEBRUARY 1, 2026, A DEPLOYER OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM SHALL USE REASONABLE CARE TO PROTECT CONSUMERS FROM ANY KNOWN OR REASONABLY FORESEEABLE RISKS OF ALGORITHMIC DISCRIMINATION. IN ANY ENFORCEMENT ACTION BROUGHT ON OR AFTER FEBRUARY 1, 2026, BY THE ATTORNEY GENERAL PURSUANT TO SECTION 6-1-1706, THERE IS A REBUTTABLE PRESUMPTION THAT A DEPLOYER OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM <u>SHALL BE DEEMED TO HAVE</u> USED REASONABLE CARE AS REQUIRED UNDER THIS SECTION IF THE DEPLOYER COMPLIED WITH THIS SECTION AND ANY ADDITIONAL REQUIREMENTS OR OBLIGATIONS AS SET FORTH IN RULES PROMULGATED BY THE ATTORNEY GENERAL PURSUANT TO SECTION 6-1-1707.</p> | <p>Revisions to conform 1703(1) with the proposals for 1702(1), which are discussed above.</p> |
| <p>6-1-1703(2) Deployer risk management programs</p> | <p>6-1-1703(2) (2) (a) ON AND AFTER FEBRUARY 1, 2026, AND EXCEPT AS PROVIDED IN SUBSECTION (6) OF THIS SECTION, A DEPLOYER OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM SHALL IMPLEMENT A RISK MANAGEMENT POLICY AND PROGRAM TO GOVERN THE DEPLOYER'S DEPLOYMENT OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM. <u>HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEMS THAT ARE IN CONFORMITY WITH THE LATEST VERSION OF THE ARTIFICIAL INTELLIGENCE RISK MANAGEMENT FRAMEWORK PUBLISHED BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY, STANDARD ISO/IEC 42001 OF THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION, OR ANOTHER NATIONALLY OR INTERNATIONALLY RECOGNIZED RISK MANAGEMENT FRAMEWORK FOR ARTIFICIAL INTELLIGENCE SYSTEMS, OR PARTS THEREOF, SHALL BE PRESUMED TO BE IN CONFORMITY WITH THE RELATED REQUIREMENTS SET OUT IN THIS SECTION.</u> THE RISK MANAGEMENT POLICY AND PROGRAM MUST SPECIFY AND INCORPORATE THE PRINCIPLES, PROCESSES, AND PERSONNEL THAT THE DEPLOYER USES TO IDENTIFY, DOCUMENT, AND MITIGATE KNOWN OR REASONABLY FORESEEABLE RISKS OF ALGORITHMIC DISCRIMINATION. THE RISK MANAGEMENT POLICY AND PROGRAM MUST BE AN ITERATIVE PROCESS PLANNED, IMPLEMENTED, AND REGULARLY AND SYSTEMATICALLY REVIEWED AND UPDATED OVER THE LIFE CYCLE OF A HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM, REQUIRING REGULAR, SYSTEMATIC REVIEW AND UPDATES. A RISK MANAGEMENT POLICY AND PROGRAM IMPLEMENTED</p> | <p>Provides that compliance with ISO/IEC 42001 or similar framework satisfies compliance.</p> |

| ISSUE | PROPOSAL | NOTES |
|---|--|--|
| | <p>AND MAINTAINED PURSUANT TO THIS SUBSECTION (2) MUST BE REASONABLE CONSIDERING:</p> <p>(I) (A) THE GUIDANCE AND STANDARDS SET FORTH IN THE LATEST VERSION OF THE "ARTIFICIAL INTELLIGENCE RISK MANAGEMENT FRAMEWORK" PUBLISHED BY THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY IN THE UNITED STATES DEPARTMENT OF COMMERCE, STANDARD ISO/IEC 42001 OF THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION, OR ANOTHER NATIONALLY OR INTERNATIONALLY RECOGNIZED RISK MANAGEMENT FRAMEWORK FOR ARTIFICIAL INTELLIGENCE SYSTEMS, IF THE STANDARDS ARE SUBSTANTIALLY EQUIVALENT TO OR MORE STRINGENT THAN THE REQUIREMENTS OF THIS PART 17; OR</p> <p>(B) ANY RISK MANAGEMENT FRAMEWORK FOR ARTIFICIAL INTELLIGENCE SYSTEMS THAT THE ATTORNEY GENERAL, IN THE ATTORNEY GENERAL'S DISCRETION, MAY DESIGNATE;</p> <p>(II) THE SIZE AND COMPLEXITY OF THE DEPLOYER;</p> <p>(III) THE NATURE AND SCOPE OF THE HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEMS DEPLOYED BY THE DEPLOYER, INCLUDING THE INTENDED USES OF THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEMS; AND</p> <p>(IV) THE SENSITIVITY AND VOLUME OF DATA PROCESSED IN CONNECTION WITH THE HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEMS DEPLOYED BY THE DEPLOYER.</p> <p>(b) A RISK MANAGEMENT POLICY AND PROGRAM IMPLEMENTED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION MAY COVER MULTIPLE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEMS DEPLOYED BY THE DEPLOYER.</p> | |
| <p>6-1-1703(3) Deployer assessments</p> | <p>(3) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (3)(d), (3)(e), AND (6) OF THIS SECTION:</p> <p>...</p> <p>(II) ON AND AFTER FEBRUARY 1, 2026, A DEPLOYER, OR A THIRD PARTY CONTRACTED BY THE DEPLOYER, SHALL COMPLETE AN IMPACT ASSESSMENT FOR A DEPLOYED HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM AT LEAST ANNUALLY AND WITHIN NINETY DAYS AFTER ANY INTENTIONAL AND SUBSTANTIAL MODIFICATION TO THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM IS MADE AVAILABLE, <u>PROVIDED THAT SUCH ASSESSMENTS ARE NOT REQUIRED MORE THAN ONCE ANNUALLY.</u></p> <p>...</p> <p>(b) AN IMPACT ASSESSMENT COMPLETED PURSUANT TO THIS SUBSECTION (3) MUST INCLUDE, AT A MINIMUM,</p> | <p>The requirement for Deployers to conduct regular assessments when the HR AI System has not materially changed or more than once per year is unnecessarily burdensome.</p> |

| ISSUE | PROPOSAL | NOTES |
|---|--|---|
| | <p>AND TO THE EXTENT REASONABLY KNOWN BY OR AVAILABLE TO THE DEPLOYER:</p> <p>...</p> <p>(III) A <u>HIGH LEVEL SUMMARY DESCRIPTION</u> OF THE CATEGORIES OF DATA THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM PROCESSES AS INPUTS AND THE OUTPUTS THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM PRODUCES;</p> <p>...</p> <p>(f) A DEPLOYER SHALL MAINTAIN THE MOST RECENTLY COMPLETED IMPACT ASSESSMENT FOR A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM AS REQUIRED UNDER THIS SUBSECTION (3); <u>AND ALL RECORDS CONCERNING EACH IMPACT ASSESSMENT, AND ALL PRIOR IMPACT ASSESSMENTS, IF ANY, FOR AT LEAST THREE YEARS FOLLOWING THE FINAL DEPLOYMENT OF THE HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM <u>THE COMPLETION OF THE IMPACT ASSESSMENT.</u></u></p> <p>(g) ON OR BEFORE FEBRUARY 1, 2026, AND AT LEAST ANNUALLY THEREAFTER, A DEPLOYER, OR A THIRD PARTY CONTRACTED BY THE DEPLOYER, MUST REVIEW THE DEPLOYMENT OF EACH HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM DEPLOYED BY THE DEPLOYER TO ENSURE THAT THE HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM IS NOT CAUSING ALGORITHMIC DISCRIMINATION.</p> | <p>The change in (f) recognizes that “Final deployment” is broad as systems are continuously changed/upgraded and released or “deployed,” making a determination of a final deployment date uncertain and lengthy. There are also concerns that the data retention requirements would require deployers to retain records for an excessive amount of time if the relevant system is used for a long time and/or is subject to changes/upgrades.</p> |
| <p>6-1-1703(4)</p> <p>Deployer disclosures to consumers; consumer right to appeal</p> | <p>6-1-1703(4)</p> <p>(b) ON AND AFTER FEBRUARY 1, 2026, A DEPLOYER THAT HAS DEPLOYED A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM TO MAKE, OR BE A SUBSTANTIAL FACTOR IN MAKING, A CONSEQUENTIAL DECISION CONCERNING A CONSUMER SHALL, IF THE CONSEQUENTIAL DECISION IS ADVERSE TO THE CONSUMER, PROVIDE TO THE CONSUMER:</p> <p>(I) A STATEMENT DISCLOSING <u>THAT AN ARTIFICIAL INTELLIGENCE SYSTEM WAS A SUBSTANTIAL FACTOR IN THE DECISION</u>THE PRINCIPAL REASON OR REASONS FOR THE CONSEQUENTIAL DECISION, INCLUDING: <u>AND IDENTIFYING SUCH ARTIFICIAL INTELLIGENCE SYSTEM OR SYSTEMS; AND</u></p> <p><u>(II) A STATEMENT INFORMING THE CONSUMER OF THEIR OPPORTUNITY TO REPORT TO THE ATTORNEY GENERAL CONCERNS ABOUT AN ADVERSE CONSEQUENTIAL DECISION, AS FURTHER DESCRIBED IN SECTION 6-1-1706(7).</u></p> <p>———— (A) THE DEGREE TO WHICH, AND MANNER IN WHICH, THE HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM CONTRIBUTED TO THE CONSEQUENTIAL DECISION;</p> | <p>Modifies consumer right to appeal to instead provide an opportunity for consumers facing adverse decisions to report concerns to the AG; the AG can then use this information to identify trends among companies, industries, systems, etc. that will help direct the AG’s investigation and enforcement efforts.</p> <p>See 6-1-1706(7) below</p> |

| ISSUE | PROPOSAL | NOTES |
|--|---|--|
| | <p>———— (B) THE TYPE OF DATA THAT WAS PROCESSED BY THE HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM IN MAKING THE CONSEQUENTIAL DECISION; AND</p> <p>———— (C) THE SOURCE OR SOURCES OF THE DATA DESCRIBED IN SUBSECTION (4)(b)(i)(B) OF THIS SECTION;</p> <p>(II) AN OPPORTUNITY TO CORRECT ANY INCORRECT PERSONAL DATA THAT THE HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM PROCESSED IN MAKING, OR AS A SUBSTANTIAL FACTOR IN MAKING, THE CONSEQUENTIAL DECISION; AND</p> <p>———— (III) AN OPPORTUNITY TO APPEAL AN ADVERSE CONSEQUENTIAL DECISION CONCERNING THE CONSUMER ARISING FROM THE DEPLOYMENT OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM, WHICH APPEAL MUST, IF TECHNICALLY FEASIBLE, ALLOW FOR HUMAN REVIEW UNLESS PROVIDING THE OPPORTUNITY FOR APPEAL IS NOT IN THE BEST INTEREST OF THE CONSUMER, INCLUDING IN INSTANCES IN WHICH ANY DELAY MIGHT POSE A RISK TO THE LIFE OR SAFETY OF SUCH CONSUMER.</p> <p>...</p> | |
| <p>6-1-1703(5) Deployer disclosures</p> | <p>(5) (a) ON AND AFTER FEBRUARY 1, 2026, AND EXCEPT AS PROVIDED IN SUBSECTION (6) OF THIS SECTION, A DEPLOYER SHALL MAKE AVAILABLE, IN A MANNER THAT IS CLEAR AND READILY AVAILABLE ON THE DEPLOYER'S WEBSITE, A STATEMENT SUMMARIZING:</p> <p>...</p> <p>(III) IN DETAIL, THE NATURE, SOURCE, AND EXTENT OF THE INFORMATION COLLECTED AND USED BY THE DEPLOYER.</p> | <p>Parity with Sec. 1702, also removing subjective language</p> |
| <p>6-1-1703(7) Self-reporting of discrimination</p> | <p>(7) IF A DEPLOYER DEPLOYS A HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM ON OR AFTER FEBRUARY 1, 2026, AND SUBSEQUENTLY DISCOVERS THAT THE HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEM HAS CAUSED ALGORITHMIC DISCRIMINATION, THE DEPLOYER, WITHOUT UNREASONABLE DELAY, BUT NO LATER THAN NINETY DAYS AFTER THE DATE OF THE DISCOVERY, SHALL SEND TO THE ATTORNEY GENERAL, IN A FORM AND MANNER PRESCRIBED BY THE ATTORNEY GENERAL, A NOTICE DISCLOSING THE DISCOVERY.</p> | <p>It may be legally problematic to require a company to report itself for discrimination depending on the circumstances.</p> |
| <p>6-1-1703(8) Improve protection of trade secrets and other proprietary information</p> | <p>(8) NOTHING IN SUBSECTIONS (2) TO (5) AND (7) OF THIS SECTION REQUIRES A DEPLOYER TO DISCLOSE A TRADE SECRET <u>OR OTHER CONFIDENTIAL OR PROPRIETARY INFORMATION</u>, OR INFORMATION PROTECTED FROM DISCLOSURE BY STATE OR FEDERAL LAW. TO THE EXTENT THAT A DEPLOYER WITHHOLDS INFORMATION PURSUANT TO THIS SUBSECTION (8) OR SECTION 6-1-1705 (5), THE DEPLOYER SHALL NOTIFY THE CONSUMER AND PROVIDE A BASIS FOR THE WITHHOLDING.</p> | <p>This proposed change provides more protection for sensitive information that does not necessarily fall under the definition of “Trade Secret” under CRS 7-74-102(4). It aligns with limitations on disclosing trade</p> |

| ISSUE | PROPOSAL | NOTES |
|--|---|--|
| | | <p>secrets set forth in Connecticut SB 2.</p> <p>This change to 6-1-1703 provides protection for Deployers. See similar changes to 6-1-1702(6) above and 1705(9) below.</p> |
| <p>6-1-1703(9)</p> <p>Limits disclosure requirements and extends time to respond</p> | <p>(9) ON AND AFTER FEBRUARY 1, 2026, <u>WHEN THE ATTORNEY GENERAL HAS REASONABLE CAUSE TO BELIEVE THAT A DEPLOYER HAS VIOLATED ANY OF THE REQUIREMENTS OF THIS SECTION 6-1-1703.</u> THE ATTORNEY GENERAL MAY REQUIRE THAT A DEPLOYER, OR A THIRD PARTY CONTRACTED BY THE DEPLOYER, DISCLOSE TO THE ATTORNEY GENERAL, NO LATER THAN NINETY DAYS AFTER THE REQUEST AND IN A FORM AND MANNER PRESCRIBED BY THE ATTORNEY GENERAL, THE RISK MANAGEMENT POLICY IMPLEMENTED PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE IMPACT ASSESSMENT COMPLETED PURSUANT TO SUBSECTION (3) OF THIS SECTION, OR THE RECORDS MAINTAINED PURSUANT TO SUBSECTION (3)(f) OF THIS SECTION. THE ATTORNEY GENERAL MAY EVALUATE THE RISK MANAGEMENT POLICY, IMPACT ASSESSMENT, OR RECORDS TO ENSURE COMPLIANCE WITH THIS PART 17, AND THE RISK MANAGEMENT POLICY, IMPACT ASSESSMENT, AND RECORDS ARE NOT SUBJECT TO DISCLOSURE UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24. IN A DISCLOSURE PURSUANT TO THIS SUBSECTION (9), A DEPLOYER MAY DESIGNATE THE STATEMENT OR DOCUMENTATION AS INCLUDING PROPRIETARY INFORMATION OR A TRADE SECRET. TO THE EXTENT THAT ANY INFORMATION CONTAINED IN THE RISK MANAGEMENT POLICY, IMPACT ASSESSMENT, OR RECORDS INCLUDE INFORMATION SUBJECT TO ATTORNEY-CLIENT PRIVILEGE OR WORK-PRODUCT PROTECTION, THE DISCLOSURE DOES NOT CONSTITUTE A WAIVER OF THE PRIVILEGE OR PROTECTION. <u>THE DEPLOYER MAY REQUEST A FORTY-FIVE-DAY EXTENSION OF THE NINETY-DAY PERIOD DESCRIBED IN SUBSECTION (9) OF THIS SECTION BY SUBMITTING A REQUEST IN WRITING TO THE ATTORNEY GENERAL, SPECIFYING THE REASONS FOR THE EXTENSION AND DEMONSTRATING GOOD CAUSE FOR THE EXTENSION. THE ATTORNEY GENERAL SHALL GRANT SUCH REQUESTS THAT REASONABLY DEMONSTRATE GOOD CAUSE.</u></p> | <p>Aligns the disclosure requirements with compliance regimes that require regulated entities to maintain the appropriate documentation demonstrating compliance but not disclose such documentation to the enforcement agency until the agency has reasonable cause to investigate and request the information.</p> <p>See similar proposed changes to 1702(5) and (7) above.</p> <p>Also provides 45-day extension upon request.</p> |
| <p>6-1-1703</p> <p>Compliance with similar laws</p> | <p><u>(10) IF A DEPLOYER COMPLETES DOCUMENTATION FOR THE PURPOSE OF COMPLYING WITH ANOTHER APPLICABLE LAW OR REGULATION, SUCH DOCUMENTATION SHALL BE DEEMED TO SATISFY THE REQUIREMENTS ESTABLISHED IN THIS SUBSECTION IF SUCH DOCUMENTATION IS REASONABLY SIMILAR IN SCOPE AND</u></p> | <p>New section to provide relief to Deployers, similar to proposed edit for Developers in Sec. 1702</p> |

| ISSUE | PROPOSAL | NOTES |
|--|---|--|
| | <p><u>EFFECT TO THE DOCUMENTATION THAT WOULD OTHERWISE BE COMPLETED PURSUANT TO THIS SUBSECTION.</u></p> | |
| <p>6-1-1705(1) Compliance with other legal obligations</p> | <p>6-1-1705. Compliance with other legal obligations - definitions. (1) NOTHING IN THIS PART 17 RESTRICTS A DEVELOPER'S, A DEPLOYER'S, OR OTHER PERSON'S ABILITY TO:</p> <p>...</p> <p>(f) BY ANY MEANS OTHER THAN THE USE OF FACIAL RECOGNITION TECHNOLOGY, PREVENT, DETECT, PROTECT AGAINST, OR RESPOND TO SECURITY INCIDENTS, IDENTITY THEFT, FRAUD, HARASSMENT, MALICIOUS OR DECEPTIVE ACTIVITIES, OR ILLEGAL ACTIVITY; INVESTIGATE, REPORT, OR PROSECUTE THE PERSONS RESPONSIBLE FOR ANY SUCH ACTION; OR PRESERVE THE INTEGRITY OR SECURITY OF SYSTEMS;</p> <p>...</p> <p><u>(i) EFFECTUATE A PRODUCT RECALL;</u></p> <p><u>(j) IDENTIFY AND REPAIR TECHNICAL ERRORS THAT IMPAIR EXISTING OR INTENDED FUNCTIONALITY;</u> OR</p> <p>(k) ASSIST ANOTHER DEVELOPER, DEPLOYER, OR OTHER PERSON WITH ANY OF THE OBLIGATIONS IMPOSED UNDER THIS PART 17.</p> | <p>Provides additional clarity about scope of compliance requirements.</p> |
| <p>6-1-1705(5) Exemptions</p> | <p>6-1-1705</p> <p>(5) NOTHING IN THIS PART 17 APPLIES TO A DEVELOPER, A DEPLOYER, OR OTHER PERSON:</p> <p>(a) IN SO FAR AS THE DEVELOPER, DEPLOYER, OR OTHER PERSON DEVELOPS, DEPLOYS, PUTS INTO SERVICE, OR INTENTIONALLY AND SUBSTANTIALLY MODIFIES, AS APPLICABLE, A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM:</p> <p>(I) THAT HAS BEEN APPROVED, AUTHORIZED, CERTIFIED, CLEARED, DEVELOPED, <u>DEPLOYED,</u> OR GRANTED BY A FEDERAL AGENCY, SUCH AS THE FEDERAL FOOD AND DRUG ADMINISTRATION OR THE FEDERAL AVIATION ADMINISTRATION, ACTING WITHIN THE SCOPE OF THE FEDERAL AGENCY'S AUTHORITY, OR BY A REGULATED ENTITY SUBJECT TO THE SUPERVISION AND REGULATION OF THE FEDERAL HOUSING FINANCE AGENCY; OR</p> <p>(II) IN COMPLIANCE WITH STANDARDS ESTABLISHED BY A FEDERAL AGENCY, INCLUDING STANDARDS ESTABLISHED BY THE FEDERAL OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY, OR BY A REGULATED ENTITY SUBJECT TO THE SUPERVISION AND REGULATION OF THE FEDERAL HOUSING FINANCE AGENCY, IF THE STANDARDS ARE SUBSTANTIALLY EQUIVALENT OR MORE STRINGENT THAN THE REQUIREMENTS OF THIS PART 17;</p> | <p>Provides additional clarity about scope of compliance requirements.</p> |

| ISSUE | PROPOSAL | NOTES |
|---|---|--|
| | <p>...</p> <p>(d) THAT IS A COVERED ENTITY WITHIN THE MEANING OF THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SECS. 1320d TO 1320d-9, AND THE REGULATIONS PROMULGATED UNDER THE FEDERAL ACT, AS BOTH MAY BE AMENDED FROM TIME TO TIME, AND IS PROVIDING HEALTH-CARE RECOMMENDATIONS THAT: (I) ARE GENERATED BY AN ARTIFICIAL INTELLIGENCE SYSTEM; (II) REQUIRE A HEALTH-CARE PROVIDER TO TAKE ACTION TO IMPLEMENT THE RECOMMENDATIONS; AND (III) ARE NOT CONSIDERED TO BE HIGH RISK.</p> | |
| <p>6-1-1705(8)(a)</p> <p>Financial service provider exemption</p> | <p>6-1-1705</p> <p>(8) (a) A BANK, OUT-OF-STATE BANK, CREDIT UNION CHARTERED BY THE STATE OF COLORADO, FEDERAL CREDIT UNION, OUT-OF-STATE CREDIT UNION, OR ANY AFFILIATE OR SUBSIDIARY THEREOF, <u>OR SERVICE PROVIDER THEROF</u>, IS IN FULL COMPLIANCE WITH THIS PART 17 IF THE BANK, OUT-OF-STATE BANK, CREDIT UNION CHARTERED BY THE STATE OF COLORADO, FEDERAL CREDIT UNION, OUT-OF-STATE CREDIT UNION, OR AFFILIATE OR SUBSIDIARY, <u>OR SERVICE PROVIDER</u>, IS SUBJECT TO EXAMINATION BY A STATE OR FEDERAL PRUDENTIAL REGULATOR UNDER ANY PUBLISHED GUIDANCE OR REGULATIONS THAT APPLY TO THE USE OF HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEMS AND THE GUIDANCE OR REGULATIONS:</p> | <p>Financial services models are already subject to federal oversight from the Office of the Comptroller of the Currency (OCC) as well as subject to anti-bias requirements and testing under the Equal Credit Opportunity Act (ECOA). These models are trained to predict outcomes based on carefully controlled, curated data and a clear understanding of prior outcomes. The exemption in 6-1-1705(8)(a) applies to certain financial institutions and their affiliates and subsidiaries, but the exemption does not extend to service providers that develop financial services models.</p> |
| <p>6-1-1705(9)</p> <p>Improve protection of trade secrets and other proprietary information</p> | <p>6-1-1705</p> <p>(9) <u>NOTHING IN THIS PART 17 REQUIRES THE DISCLOSURE OF TRADE SECRETS OR OTHER CONFIDENTIAL OR PROPRIETARY INFORMATION. IF A DEVELOPER OR DEPOYER WITHHOLDS INFORMATION PURSUANT TO THIS SUBSECTION, THE DEVELOPER OR DEPLOYER SHALL NOTIFY THE RELEVANT ENTITY OR CONSUMER AND PROVIDE A BASIS FOR THE WITHHOLDING.</u></p> | <p>This change provides more protection for sensitive information that does not necessarily fall under the definition of “Trade Secret” under CRS 7-74-102(4). It aligns with limitations on disclosing trade secrets</p> |

| ISSUE | PROPOSAL | NOTES |
|---|--|--|
| | | <p>set forth in Connecticut SB 2.</p> <p>See similar changes to 6-1-1702(6) and 1703(8) above.</p> |
| <p>6-1-1705</p> <p>New subsection (10) regarding AI systems for scientific research and development</p> | <p>6-1-1705</p> <p><u>(10) NOTHING IN THIS PART 17 SHALL APPLY TO ARTIFICIAL INTELLIGENCE SYSTEMS, INCLUDING THEIR OUTPUT, SPECIFICALLY DEVELOPED AND PUT INTO SERVICE FOR THE SOLE PURPOSE OF SCIENTIFIC RESEARCH AND DEVELOPMENT.</u></p> | <p>Provides clarity about inapplicability of compliance requirements to AI systems whose sole purpose is scientific research and development.</p> |
| <p>6-1-1705</p> <p>New subsection (11) regarding federal housing finance agencies or certain creditors</p> | <p>6-1-1705</p> <p><u>(11) NOTHING IN THIS PART 17 APPLIES TO:</u></p> <p><u>(I) A REGULATED ENTITY SUBJECT TO THE SUPERVISION AND REGULATION OF EITHER THE FEDERAL HOUSING FINANCE AGENCY; OR</u></p> <p><u>(II) A CREDITOR AS DEFINED BY AND SUBJECT TO THE EQUAL CREDIT OPPORTUNITY ACT, 15 U.S.C. 1691 ET SEQ., OR THE REGULATIONS ADOPTED PURSUANT THERETO.</u></p> | <p>Provides clarity about inapplicability of compliance requirements to certain entities.</p> |
| <p>6-1-1706</p> <p>Restoring right to cure</p> | <p>6-1-1706</p> <p><u>(3) EXCEPT AS PROVIDED IN SUBSECTION (5) OF THIS SECTION, THE ATTORNEY GENERAL SHALL, PRIOR TO INITIATING ANY ACTION FOR A VIOLATION OF ANY PROVISION OF SECTIONS [ABOVE], ISSUE A NOTICE OF VIOLATION TO THE DEVELOPER, DEPLOYER OR OTHER PERSON DESCRIBING WITH SPECIFICITY THE ALLEGED VIOLATION AND THE ACTIONS THAT MUST BE TAKEN BY THE RECIPIENT OF THE NOTICE TO CURE THE VIOLATION. IF THE DEVELOPER, DEPLOYER OR OTHER PERSON FAILS TO CURE SUCH VIOLATION NOT LATER THAN NINETY DAYS AFTER RECEIPT OF THE NOTICE OF VIOLATION, THE ATTORNEY GENERAL MAY BRING AN ACTION PURSUANT TO THIS SECTION.</u></p> <p>Renumber existing paragraph (3) as paragraph (5).</p> | <p>Restores the opportunity to cure that was part of earlier versions of the bill and that re-focuses the law on encouraging compliance rather than punishing good faith actors who may fail to fully comply with all technical requirements of a novel law that creates a new enforcement regime.</p> |
| <p>6-1-1706</p> <p>Modification of consumer right to appeal</p> | <p>6-1-1706</p> <p><u>(5) NOTHING IN THIS PART 17, INCLUDING, BUT NOT LIMITED TO, THE ENFORCEMENT AUTHORITY GRANTED TO THE ATTORNEY GENERAL UNDER THIS SECTION, PREEMPTS SHALL BE CONSTRUED TO PREEMPT OR OTHERWISE AFFECTS ANY RIGHT, CLAIM, REMEDY, PRESUMPTION, OR DEFENSE AVAILABLE AT LAW OR IN EQUITY. ANY REBUTTABLE</u></p> | <p>Provides clarifying edits in subsection (5).</p> <p>The new subsection (7) further modifies consumer right to appeal to instead</p> |

| ISSUE | PROPOSAL | NOTES |
|---|--|---|
| | <p>PRESUMPTION OR AFFIRMATIVE DEFENSE ESTABLISHED UNDER THIS PART 17 APPLIES ONLY TO AN ENFORCEMENT ACTION BROUGHT BY THE ATTORNEY GENERAL PURSUANT TO THIS SECTION AND DOES <u>SHALL</u> NOT APPLY TO ANY RIGHT, CLAIM, REMEDY, PRESUMPTION, OR DEFENSE AVAILABLE AT LAW OR IN EQUITY.</p> <p>(6) THIS PART 17 DOES NOT PROVIDE THE BASIS FOR, AND IS NOT SUBJECT TO, A PRIVATE RIGHT OF ACTION FOR VIOLATIONS OF THIS PART 17 OR ANY OTHER LAW.</p> <p><u>(7) THE ATTORNEY GENERAL SHALL ESTABLISH PROCEDURES TO RECEIVE AND REVIEW CONSUMER CONCERNS ABOUT ADVERSE CONSEQUENTIAL DECISIONS AND OTHER PUBLIC CONCERNS ABOUT ALGORITHMIC DISCRIMINATION ALLEGED TO HAVE RESULTED FROM HIGH RISK ARTIFICIAL INTELLIGENCE SYSTEMS. THE ATTORNEY GENERAL SHALL USE THIS INFORMATION TO ASSIST IN DETERMINING WHETHER THERE IS REASONABLE CAUSE TO BELIEVE THAT A DEPLOYER OR DEVELOPER HAS VIOLATED ANY OF THE REQUIREMENTS IN THIS PART 17 SUCH THAT AN INVESTIGATION OR OTHER ENFORCEMENT PROCESSES SHOULD OCCUR.</u></p> | <p>provide an opportunity for consumers facing adverse decisions to report concerns to the AG; the AG can then use this information to identify trends among companies, industries, systems, etc. that will help direct the AG’s investigation and enforcement efforts.</p> <p>See 6-1-1703(4) above.</p> |
| <p>6-1-1707 AG rule-making authority</p> | <p>6-1-1707</p> <p>(1) THE ATTORNEY GENERAL MAY PROMULGATE RULES AS NECESSARY FOR THE PURPOSE OF IMPLEMENTING AND ENFORCING, <u>BUT NOT ADDING TO THE REQUIREMENTS OF,</u> THIS PART 17, INCLUDING:</p> | <p>This edit clarifies that the AG may engage in rulemaking and guidance to implement the Act’s requirements but may not use rulemaking to add substantive requirements that are not already in the statute. Such a delegation of open-ended authority would be, in any event, unconstitutional under Colorado’s nondelegation doctrine</p> <p>See also 6-1-1702(1) and 1703(1) above</p> |
| <p>New Section 4 Effective date</p> | <p><u>Replace every instance of “ON OR AFTER FEBRUARY 1, 2026” with “ON OR AFTER FEBRUARY 1, 2027.”</u></p> <p>[. . .]</p> <p>SECTION 3. SAFETY CLAUSE. THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT THIS ACT IS NECESSARY FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH, OR SAFETY OR FOR</p> | <p>Extend the effective date of the Act by one year</p> |

| ISSUE | PROPOSAL | NOTES |
|-------|---|-------|
| | <p>APPROPRIATIONS FOR THE SUPPORT AND MAINTENANCE OF THE DEPARTMENTS OF THE STATE AND STATE INSTITUTIONS.</p> <p><u>SECTION 4. EFFECTIVE DATE – APPLICABILITY. (1) THIS ACT TAKES EFFECT FEBRUARY 1, 2027.</u></p> <p><u>(2) THIS ACT APPLIES TO CONDUCT OCCURRING ON OR AFTER THE APPLICABLE EFFECTIVE DATE OF THIS ACT.</u></p> | |