

COLORADO

Colorado Enacts Comprehensive AI Legislation

On May 17, 2024, Colorado enacted [Senate Bill \(SB\) 24-205](#), becoming the first state to pass comprehensive artificial intelligence (AI) regulation. The law, effective on **February 1, 2026**, will require businesses to use reasonable care to avoid discrimination when using AI for consequential decision-making (such as hiring, termination and other employment decisions).

Overview of the New AI Law

The law will regulate the use of AI by **deployers** (i.e., users) and **developers** (i.e., creators) of “high-risk AI systems” doing business in Colorado, with a goal of preventing “algorithmic discrimination.”

- **Algorithmic discrimination** occurs when the use of a high-risk AI system leads to differential treatment or impact, disfavoring individuals based on a protected trait (e.g., age, race, disability, religion, or sex).
- **High-risk AI systems** are those that make or are a substantial factor in making consequential decisions, including those affecting:
 - Education enrollment or an education opportunity;
 - Employment or an employment opportunity;
 - A financial or lending service;
 - An essential government service;
 - Health care services;
 - Housing;
 - Insurance; or
 - A legal service.

Both deployers and developers will be required to use reasonable care to avoid algorithmic discrimination from high-risk AI systems. However, there will be a **rebuttable presumption** that the deployer or developer used reasonable care if it complies with certain requirements under the new law, described below, and additional requirements or obligations set forth by the Attorney General.

Important Dates

May 17, 2024

Colorado enacted a new AI law, which requires businesses that use or create AI tools to exercise reasonable care to avoid discrimination when such tools are used to make consequential decisions.

February 1, 2026

The new AI law takes effect.

Colorado employers will be required to exercise reasonable care to avoid discrimination when using AI tools to make consequential decisions.

Deployer Requirements

Typically, employers will be subject to the requirements for deployers (i.e., users) of AI systems. To establish a rebuttal presumption of reasonable care, AI deployers must:

- Implement a risk management policy and program for high-risk AI systems;
- Complete impact assessments of high-risk AI systems at least annually and within 90 days of any major modification to the system;
- Notify consumers (e.g., employees) that the high-risk system will be used to make a consequential decision and issue related disclosures;
- Make a publicly available statement summarizing the types of high-risk systems that the deployer currently uses; and
- Disclose the discovery of algorithmic discrimination to the Colorado Attorney General within 90 days of discovery.

Deployers may be exempt from certain requirements (other than consumer notice and disclosure requirements) if they:

- Employ fewer than 50 full-time equivalent employees;
- Use the AI system for its intended uses, and the AI system learns based on data derived from sources other than the deployer's own data;
- Do not use their own data to train the AI system; and
- Make certain impact assessment information available to consumers.

Developer Requirements

To establish a rebuttable presumption of reasonable care, AI developers must:

- Make specified information available to deployers and other developers about the AI system;
- Provide deployers with the necessary information and documentation to complete an impact assessment;
- Provide a public statement summarizing their AI systems and how they manage risks of algorithmic discrimination; and
- Disclose all known or reasonably foreseeable risks of algorithmic discrimination to the Colorado Attorney General within 90 days of discovery.

Enforcement

The new law does not provide a private right of action, and the Colorado Attorney General has the exclusive right of enforcement. The law also grants the Colorado Attorney General the right to implement additional rulemaking.

Impact on Employers

Employers who use AI tools in making employment decisions may wish to review existing AI tools and take steps now to ensure compliance with the law's broad requirements by early 2026. However, Colorado Gov. Jared Polis expressed concerns that the law would be too onerous on businesses and encouraged legislators to revise the law to reduce compliance burdens. Therefore, employers should monitor for updates to the legislation prior to its effective date. Further, while Colorado is the first state to adopt broad AI legislation, other jurisdictions—including New York City, Tennessee, Illinois and Maryland—have already passed different AI-related laws, and additional states may follow Colorado's lead. Therefore, employers should monitor the growing trend to regulate AI in the U.S.

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