

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1331
Economic Matters

(Delegate Qi)

Consumer Protection - Artificial Intelligence

This bill establishes numerous standards and requirements for developers and deployers of artificial intelligence (AI) systems. The bill's requirements include, among other things, disclosure requirements for developers of AI systems, and risk management policies and impact assessments for deployers. Deployers of AI systems must also make certain disclosures to the public, including how they manage any known and reasonably foreseeable risks. The bill also establishes requirements for certain agreements regarding voice and likeness clones. Violation of certain provisions of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), generally subject to MCPA's civil and criminal penalty provisions. However, a violation is not subject to an action for damages under MCPA, and the bill does not prevent a consumer from pursuing any other remedy provided by law.

Fiscal Summary

State Effect: General fund expenditures increase, at least minimally, for the Office of the Attorney General (OAG) to enforce the bill's requirements beginning in FY 2026, as discussed below. The bill's penalty provisions are not anticipated to have a material impact on State revenues.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Definitions

The bill defines numerous terms related to AI.

- “Algorithmic discrimination” means differential treatment as a result of the use of AI that negatively impacts a person based on the person’s actual or perceived age, color, disability, ethnicity, genetic information, proficiency in the English language, national origin, race, religion, reproductive health, sex, veteran status, or other protected class.
- “Dataset card” means a file that (1) is used to inform users about how to responsibly use the data in a dataset and (2) contains information about potential biases of the data.
- “Digital copy” means a newly created, electronic representation of the identity of an actual individual created using a computer, an algorithm software, a tool, AI, or any other technology that is (1) fixed in a sound recording or audiovisual work in which the individual did not actually perform or appear and (2) so realistic that a reasonable person would believe the digital copy is a performance by the individual being portrayed (and not another individual).
- “High-risk AI system” means any AI system that, when deployed, makes, or is a substantial factor in making, a decision that produces legal or similarly significant effects concerning the consumer.
- “Model card” means a file that accompanies the model and provides information about discoverability, reproducibility, and sharing.

Standards for Developers and Deployers

The bill requires both a developer and deployer to take reasonable precautions to protect consumers from known or reasonably foreseeable risks of algorithmic discrimination, as specified.

Developer Requirements: A developer that offers to sell a high-risk AI system must (1) provide to a purchaser of the high-risk AI system the standardized disclosure documentation pertaining to the uses of the high-risk AI system, as specified by the bill; (2) provide to a deployer information necessary for the deployer to complete an impact assessment; and (3) publish, on the developer’s website or in a public use case inventory, standardized information pertaining to each high-risk AI system that the developer offers for purchase. The bill specifies the content that must be included as part of the standardized

disclosure documentation (*e.g.*, the intended uses, benefits, and outputs of the high-risk AI system, a summary of the data used to train the system, the measures taken to examine possible biases and appropriate mitigation, etc.). Information required by the bill must be provided and/or updated in a specified manner – for example, to the extent feasible, the standardized disclosure must be provided in the form of model cards, dataset cards, or preexisting impact assessments.

A developer that learns through ongoing internal testing, or through a credible report, that a high-risk AI system offered for sale by the developer has caused, or is likely to cause, algorithmic discrimination must disclose the potential for algorithmic discrimination to (1) OAG in an appropriate form and manner and (2) all purchasers of the high-risk AI system.

The above requirements may not be construed to require a developer to disclose (1) a trade secret; (2) protected information under State or federal law; or (3) information that would otherwise create a security risk to the developer.

OAG may require a developer to disclose (to OAG) certain required disclosure information noted above.

Deployer Requirements: A deployer must implement a risk management policy to govern the deployment of a high-risk AI system. A risk management policy must, for example, identify, document, and mitigate known and reasonably foreseeable risks of algorithmic discrimination. The policy must be regularly and systematically reviewed and updated, as specified. A risk management policy may apply to more than one high-risk AI system. In creating a risk management policy, a deployer must consider and reasonably address specified guidance and other information.

Impact Assessment Requirement and Disclosures: Generally, a deployer must complete an impact assessment of any deployed high-risk AI system. The bill specifies a number of related requirements and procedures that must be followed (*e.g.*, the retention period, standardized disclosures, periodic updates, etc.).

A deployer need not provide a risk management policy, an impact assessment, or other specified disclosures if the deployer meets certain criteria (*e.g.*, employs fewer than 50 full-time equivalent employees, trains the high-risk AI system on data other than data collected by the deployer, etc.).

Content of Disclosure: A standardized disclosure required under the provisions noted above must meet a number of requirements. For example, the standardized disclosure must, among other things:

- notify a consumer subject to the high-risk AI system that the system is in use;
- disclose the purpose of the high-risk AI system in use, including the nature of a decision about a consumer that is made by the system;
- provide the contact information of the deployer; and
- provide a plain language description of the high-risk AI system.

Impact Assessment Timing and Content: An impact assessment must be completed (1) at least once each year and (2) within 90 days after an intentional and substantial modification of the high-risk AI system. An impact assessment must also include specified information. For example, among other things, it must include:

- the purpose, intended use cases, and benefits of the high-risk AI system;
- an analysis of known or reasonably foreseeable risks of algorithmic discrimination posed by the system;
- a description of known limitations of the system; and
- a description of the deployer’s oversight processes, as specified.

An impact assessment may (1) address multiple substantially similar high-risk AI systems and (2) have been created in order to comply with another requirement (*i.e.*, other than the bill’s) if the impact assessment satisfies the requirements of the bill.

Miscellaneous Provisions

There is a rebuttable presumption that a developer or deployer took reasonable precautions, as required by the bill, if the developer/deployer complied with the applicable provisions and any regulations adopted by OAG.

OAG may require a developer or deployer to provide disclosures otherwise required under the bill for purposes of evaluating compliance with the bill. A developer or deployer may decline to provide OAG with information that would require the disclosure of trade secrets or information otherwise protected by State or federal law. Information provided to OAG under this requirement is not subject to disclosure under the Maryland Public Information Act. Further, disclosure of information that is subject to attorney-client privilege or work-product protection does not waive that privilege or protection.

Maryland Consumer Protection Act

A violation of the provisions discussed above is an unfair, abusive, or deceptive trade practice under MCPA and generally subject to its enforcement and penalty provisions. However, a violation is not subject to an action for damages under MCPA, and the bill does not prevent a consumer from pursuing any other remedy provided by law.

Voice and Likeness Clones

An agreement to perform personal or professional services is unenforceable if:

- the agreement allows for the creation or use of a digital copy of a person’s voice or image instead of work performed live by the person;
- the agreement does not include (1) a description of the intended uses of the digital copy that is easily understandable and (2) the licensing terms governing the use of the digital copy; and
- the person was not represented by (1) a lawyer who negotiated on behalf of the person licensing the rights to a digital copy or (2) a labor union representing workers who perform similar work with a collective bargaining agreement that expressly covers the use of digital copies.

Current Law:

Artificial Intelligence – Definition

Under § 3.5-801 of the State Finance and Procurement Article, “Artificial Intelligence” means a machine-based system that (1) can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments; (2) uses machine and human-based inputs to perceive real and virtual environments and abstracts those perceptions into models through analysis in an automated manner; and (3) uses model inference to formulate options for information or action.

Artificial Intelligence – State Agencies

Chapter 496 of 2024 expanded the responsibilities of the Secretary of Information Technology as they relate to the procurement and use of AI by State agencies and codified the Governor’s AI Subcabinet that was established by [Executive Order 01.01.2024.02](#). Broadly, among other things, the Act:

- requires the Department of Information Technology (DoIT) to adopt policies and procedures, in consultation with the Governor’s AI Subcabinet, concerning the development, procurement, deployment, use, and ongoing assessment of systems that employ high-risk AI by a unit of State government;
- prohibits units of State government from procuring or deploying a new system that employs AI unless the system complies with the policies and procedures adopted by DoIT;
- requires each unit of State government to conduct a data inventory to identify data that meets criteria established by the Chief Data Officer and that is (1) necessary for

the operations of the unit or otherwise required to be collected as a condition to receive federal funds or by federal or State law and (2) in a form prescribed by the Chief Data Officer, including when the data is used in AI; and

- requires each unit of State government to conduct an inventory of systems that employ high-risk AI.

Maryland Consumer Protection Act

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease-and-desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

State Expenditures: General fund expenditures likely increase, at least minimally, for OAG to handle enforcement under the bill. OAG advises that it may require as many as 11 additional positions (4 full-time assistant Attorneys General, 4 forensic technologists, 1 investigator, 1 administrative officer, and 1 paralegal), with corresponding general fund expenditures of up to \$1.4 million in fiscal 2026 (accounting for the bill's October 1, 2025 effective date) and \$1.8 million by fiscal 2030.

However, the Department of Legislative Services advises that the extent of resources potentially needed by OAG is dependent on the number of complaints filed under the bill and the level of effort involved in each case, in addition to the growth of the use of AI in future years. While generally acknowledging that expenditures likely increase at least minimally for enforcement efforts, without experience under the bill, the need for additional staff is unclear. To the extent that additional staffing resources are required, OAG may request them through the annual budget process.

Small Business Effect: The bill establishes a significant regulatory framework related to the use of AI in the State. To the extent any small businesses in the State qualify as a developer or deployer or engage in certain types of work related to voice and likeness clones, they may be meaningfully affected.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2025
rh/jkb

Analysis by: Eric F. Pierce

Direct Inquiries to:
(410) 946-5510
(301) 970-5510