



March 25, 2024

Chair Joseline A. Pena-Melnyk
House Health and Government Operations Committee
Maryland General Assembly

RE: SIA Concerns with Senate Bill 818

Dear Chair Pena-Melnyk, Vice Chair Cullison, and Members of the Committee:

On behalf of the Security Industry Association (SIA) and our members, I am writing to express our concerns with SB 818 as it currently stands under consideration by the committee.

SIA is a nonprofit trade association located in Silver Spring, MD that represents companies providing a broad range of safety and security-focused products and services in the U.S and throughout Maryland, including more than 40 companies headquartered in our state. AI-driven technologies are critical to today's safety and security applications, driving many recent innovations in our industry that have enabled groundbreaking improvements in capabilities to protect businesses and consumers and bolster public safety. We support development and use of AI technologies in ways that are human-centric, ethical and trustworthy and that mitigate potential risks, and support policies that allow society to continue to harness the benefits of AI for enhancing safety and security.

We appreciate the aims of SB 818 to ensure state government use of AI within these parameters, as we evaluate AI policy proposals under consideration at the federal level and in state capitals across the country. However, we are concerned that SB 818 as it currently stands is an unfinished product that could cause significant confusion regarding its requirements and result in unintended negative consequences. These factors, along with its high fiscal note of \$7-8 million per year, demand further review and refinement before the investment is made.

Terminology and Scope

Issues regarding the terminology in the legislation alone leave us unsure of the intent and practical impact of the proposed bill. In one glaring example, the bill includes two different definitions for same term, "Algorithmic decision system," yet it does not appear elsewhere in the bill language as an operative term. Further, both definitions are inaccurate and overbroad in scope: "a computational process that facilitates decision making" and "decisions derived from machines, statistics facial recognition, and decisions on paper." This would include spreadsheets or anything that includes scoring, adding, such as all procurement and HR performance assessments, because it only includes "computational" and "decision" as its criteria. The term and definitions should obviously be deleted from the measure.

More importantly, the bill was amended under Senate consideration to switch key terms in the bill with those borrowed from the Office of Management and Budget's recent draft memorandum to federal agencies on implementing the Administration's executive order on AI. However, this document, which was open for public comment late last year, has yet to be finalized and may change significantly. Many commenters had very serious concerns that the broad definitions of novel terms "rights-impacting AI" and "safety-impacting AI," and

the agency procedural and procurement requirements associated with each, could ultimately discourage beneficial uses of AI in government.

These sweeping definitions risk including nearly *all* AI use cases with any connection to the listed categories and do not adequately differentiate between different levels of risk. The definition of “rights-impacting AI” includes, for example, “AI whose output serves as a basis for a decision or action that has a legal, material, or similarly significant effect” on individuals’ or communities’ privacy and access to critical resources or services, among other things. Without adequate tailoring or guidance, these concepts can be construed broadly and sweep in a vast array of AI use cases – for example, AI outputs that are just one factor in a decision made by an individual, and/or that have a potential effect on “privacy” generally even if there is no directly applicable privacy law.

The definition of “safety-impacting AI” is similarly broad. This category includes AI that “has the potential to meaningfully impact the safety” of a range of things, from “human life or well-being” to “critical infrastructure” and “[s]trategic assets or resources.” The inclusion of the word “potential”, as well as the broad and vague range of impacts – for example, “well-being” – does not provide meaningful parameters to help agencies draw lines between these applications and others. This approach is likely to result in a set of policies and practices that may ultimately fall short of accomplishing the intended risk-based approach because it does not sufficiently differentiate, at a practical level, between that which may actually cause harm and that which is much less likely to cause harm.

Procurement Impact

Depending on the scope of applicability, there is potential the procurement requirements in the bill could delay or hinder beneficial technology applications. Regarding instances that require impact assessments, it is not clear who would perform these or how. It is unclear whether state agencies have the expertise to perform these or if outside consultants are expected to play this role. And in the latter case, there needs to be certainty that those services exist, and that those performing them are qualified and unbiased. Additionally, automatic eligibility to bid on AI procurements for vendors awarded a “proof of concept procurement” could be considered an unfair advantage. This could be remedied by ensuring that proof of concept is a phase of the procurement if there is competition available.

Conclusion

Our members likely include some of the state’s vendors offering services which offer some ancillary AI component. SIA supports directing key state administrators to take reasonable, proactive measures to collaborate with one another and ensure that the state procures and utilizes AI appropriately. **However, an executive order may better suit this objective.** The state’s subject matter experts could then amend it more nimbly than a codified law when technology and policymakers’ concerns about it inevitably evolve.

We generally support efforts for the state to understand how and when it currently implements AI, and we stand ready to provide any additional information or expertise needed as you consider these issues. However, for all the reasons stated above, we urge the committee not to approve this measure without significant revision.

Respectfully submitted,

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