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SB 936 - Consumer Protection - High-Risk Artificial Intelligence - Developer and Deployer Requirements
Senate Finance Committee
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SUPPORT with AMENDMENTS

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Madame Chair and members of the Committee, thank you for the opportunity to submit testimony in support of SB 936 if amended. My name is Donna S. Edwards, and I am the President of the Maryland State and District of Columbia AFL-CIO. On behalf of Maryland's 300,000 union members, I offer the following comments.

SB 936 aims to create guardrails around the development and deployment of high-risk artificial intelligence (AI) systems to ensure fair and equitable decision-making. We support the provisions of the bill that enhance transparency as it provides individuals with a deeper understanding of the impacts of these types of systems. We applaud the sponsor's work to mitigate associated risks.

Strong AI legislation should include:

- Strong protections for both workers and consumers against discrimination and bias
- Transparency so workers and consumers know when and how companies use AI to make key decisions about them
- Broad definitions of covered systems to ensure accountability
- Ensure that consumer protections include workers and end users
- Include provisions for state governments as employers and deployers of AI
- Strong, loophole-free accountability and enforcement
- Liability provisions to incentivize upstream technology development
- Mandatory consultation with workers and their unions when employers deploy AI

However, SB 936 has several missing provisions including adequate worker protections, comprehensive definitions, measures to close loopholes that undermine accountability, and strong enforcement mechanisms.

As the AI industry continues to evolve, it is critical that we implement strong protections that close these gaps and do not allow companies to opt out of complying with the law. To address these concerns, we propose the following amendments:

On pg. 3, under (D)(3), insert:

(i) “INCLUDING ANY DECISION MADE BY AN EMPLOYER THAT AFFECTS WAGES, BENEFITS, OTHER COMPENSATION, HOURS, SCHEDULE, PERFORMANCE EVALUATION, HIRING, RECRUITMENT, DISCIPLINE, PROMOTION, TERMINATION, DUTIES, ASSIGNMENT OF WORK, ACCESS TO WORK OPPORTUNITIES, PRODUCTIVITY REQUIREMENTS, WORKPLACE HEALTH AND SAFETY, OR OTHER TERMS OR CONDITIONS OF EMPLOYMENT”

On pg. 4, (E)(1) should read:

“CONSUMER” MEANS AN INDIVIDUAL WHO:

(I) IS A RESIDENT OF THE STATE

(II) IS AN EMPLOYEE AS DEFINED IN § 3-1001 OF THE LABOR AND EMPLOYMENT ARTICLE

(III) IS EMPLOYED BY A BUSINESS IN THE STATE

On pg. 4, **strike lines 7-8**

On pg. 5, **replace lines 4-7 with:**

“HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM MEANS AN ARTIFICIAL INTELLIGENCE SYSTEM THAT, WHEN DEPLOYED, MAKES, OR IS A SUBSTANTIAL FACTOR IN MAKING, A CONSEQUENTIAL DECISION.”

On pg. 5, **strike lines 13-14**

On pg. 5, **strike lines 17-18**

On pg. 5, **strike line 25**

On pg. 5, **strike line 27**

On pg. 5, **strike line 28**

On pg. 6, **strike lines 10-14**

On pg. 7, **strike lines 1-16**

On pg. 7, under (M)(1), include “GOVERNMENTAL UNIT” to read:

“Person” MEANS AN INDIVIDUAL, AN ASSOCIATION, A COOPERATIVE, A CORPORATION, A LIMITED LIABILITY COMPANY, A PARTNERSHIP, A TRUST, A JOINT VENTURE, **A GOVERNMENTAL UNIT**, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY AND ANY SUCCESSOR, REPRESENTATIVE, AGENCY, OR INSTRUMENTALITY THEREOF.

On pg. 7, **strike line 21**

On pg. 8, **strike lines 12-31 (section 14-47A-02)**

On pg. 9, **strike lines 1-8**

On pg. 9, **strike lines 14-18**

On pg. 12, **strike lines 1-14**

On pg. 12, **strike lines 15-23**

On pg. 13, **strike lines 26-30**

On pg. 13, under section 14-47A-04, insert:

“(A) THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED

(B) “IMPACT ASSESSMENT” MEANS AN IMPARTIAL EVALUATION BY AN INDEPENDENT AUDITOR

(C)(1)“INDEPENDENT AUDITOR” MEANS A PERSON OR THIRD-PARTY ENTITY THAT CONDUCTS AN IMPACT ASSESSMENT OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM TASKED WITH MAKING A CONSEQUENTIAL DECISION AS DEFINED IN 14-47A-01(D)

(2) “INDEPENDENT AUDITOR” DOES NOT INCLUDE

(I) A PERSON CURRENTLY OR AT ANY POINT IN THE 5 YEARS PRECEDING THE IMPACT ASSESSMENT

(a) ARE OR WERE INVOLVED IN USING, DEVELOPING, OFFERING, LICENSING, OR DEPLOYING THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM;

(b) HAVE OR HAD AN EMPLOYMENT RELATIONSHIP WITH A DEVELOPER OR DEPLOYER THAT USES, OFFERS, OR LICENSES THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM; OR

(c) HAVE OR HAD A DIRECT FINANCIAL INTEREST OR MATERIAL INDIRECT FINANCIAL INTEREST IN A DEVELOPER OR DEPLOYER THAT USES, OFFERS, OR LICENSES THE HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM

On pg. 14, **strike lines 32-34**

On pg. 15, **strike lines 1-13**

On pg. 17, replace (3) with:

“(3) PRIOR TO DEPLOYMENT OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM, OR SIX MONTHS AFTER DEPLOYMENT, AND AT LEAST EIGHTEEN MONTHS THEREAFTER FOR EACH CALENDAR YEAR A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM IS IN USE AFTER THE FIRST POST-DEPLOYMENT AUDIT, EVERY DEVELOPER OR DEPLOYER OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM SHALL CONDUCT AT LEAST ONE THIRD-PARTY IMPACT ASSESSMENT TO ENSURE THAT THE PRODUCT DOES NOT PRODUCE ALGORITHMIC DISCRIMINATION AS DEFINED IN 14-47A-01(B)(1)”

On pg. 17, replace **“(3)”** with **“(4)”**

In that same line, replace “3 YEARS” with “5 YEARS”

On pg. 17, replace **“(4)”** with **“(5)”**

On pg. 19, in line 6, **strike “UNLESS PROVIDING THIS OPPORTUNITY”**

On pg. 19, **strike lines 7-9**

On pg. 21, in line 23, replace **“MAY”** with **“SHALL”**