



Good Afternoon, Senators of the Maryland General Assembly. My name is Crystal Weise. I am the Innovation Policy and Program Manager of the AFL-CIO Technology Institute (Tech Institute) and am also a Maryland resident. We are an independent, non-partisan organization affiliated with the AFL-CIO – a voluntary, democratic federation of 63 unions representing more than 15 million workers in all regions and sectors of the economy and public service. The AFL-CIO Technology Institute was launched to focus on the intersection of work and technology. It seeks to provide workers a voice in the technological developments sweeping the workplace and society, including artificial intelligence. We would like to express our position as favorable with amendments, and we are committed to working with the Senator to get the bill in the best posture possible to protect workers and consumers.

THE IMPACT OF UNREGULATED AI

The AI industry is rapidly transforming workplaces, leaving workers unprotected from [surveillance](#), privacy invasions, [discrimination](#), and erosion of labor rights. These technology systems are often linked to negative worker outcomes, including increased psychological stress, injury risk, scheduling and income instability, burnout, and turnover. In some cases, the implementation of data-driven systems impacts compensation structures in industries, for example, by "deskilling" work, depressing wages, eroding job security, or undermining royalty structures by threatening essential copyright and intellectual property protections. In other cases, these technologies can have a dramatic impact on other elements of job quality, including worker health and safety, professional discretion, [worker autonomy](#), [job satisfaction](#), and dignity. Beyond these effects, AI systems have shown algorithmic bias often resulting in discriminatory hiring practices and other hiring and compensation inequities. Employers [increasingly use](#) workplace AI systems for [key functions](#), such as hiring, scheduling, task assignment, performance evaluation, and even disciplining or terminating workers.

These immediate threats are real, and labor unions, public officials and civil society are leading the charge to fight back. But to proactively protect workers over the long-term, we must also strategize beyond these obstacles to prevent future ones through laws and regulations that shape and incentivize the technological development ecosystem.

Workers are [experts](#) in the use of technology. A lot can be learned by engaging them and their union representatives in the early stages of both the development of laws and the deployment of technology. Failure to involve workers meaningfully can lead to significant negative consequences especially if decisions about technology development and deployment are made that harm or ignore impacts on workers. Moreover, a technology ecosystem that fails to

incorporate workers into the development process risks slowing things down, stymieing innovation, and creating costly and negative outcomes.

FRAMEWORK FOR WORKER-CENTERED, UNION LED AI POLICY

We work with unions across the country on both federal and state-level policy. Labor has a broad framework for how technology should be governed and regulated. Legislation that protects end users (including workers) 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, including a private right of action
- Liability provisions to incentivize upstream technology development
- Mandatory consultation with workers and their unions when employers deploy AI

Putting these principles into practice is how we get to responsible and safe deployment of these technologies. We appreciate all the work that has been done by Senator Katie Fry Hester into developing guardrails for responsible AI policy. Several of these things are addressed in MD SB 936.

RECOMMENDATIONS

It's good to see that the bill addresses discrimination and potential harms to users with transparency requirements around disclosure, notification, and appeal processes. However, the legislation in its current state fails to protect workers and workplaces. Additionally, there are numerous loopholes that leave consumers and workers vulnerable to harm. We respectfully request that the bill be amended to strengthen the bill's ability to protect against the harms of AI.

Strengthen Worker Protections

The existing definition of "consumer" excludes workers in employment capacity (pg. 4, 14–47A–01). Furthermore, the bill lacks mechanisms for public and worker input in AI governance.

Solidify Definitions

A number of definitions should be strengthened to remove unnecessary exclusions and loopholes that undermine accountability for developers and deployers of AI. For example, the bill excludes certain technologies, including chatbots that can harm users. Additionally, the definition of "substantial factor" as the "principal factor" leaves open the opportunity for companies to evade the law by assigning a human to rubber-stamp AI decisions.

Close Loopholes

The impact assessment does not require an independent 3rd party independent auditor, allowing for self-policing. Furthermore, exemptions for anything a company considers “confidential” or a “trade secret” allow companies to skirt disclosure requirements. There are also numerous carveouts including for some insurance and healthcare uses that leave workers and consumers exposed to harms.

Inadequate Enforcement Mechanisms

Affirmative defenses and rebuttable presumptions undermine accountability and enforcement of the bill’s provisions, allowing companies to ignore or circumvent regulations.

In order to address these issues and others, we recommend 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”**

To truly protect workers and consumers, strong protections against the harms of AI and a role for worker voice in the implementation of the technology are essential strategies. Maryland’s workers deserve comprehensive and robust protections for consumers and workers from AI.