

Letter of Support for SB0936 Consumer Protection – High-Risk Artificial Intelligence – Developer and Deployer Requirements

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The Honorable Pamela Beidle
Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401

Dear Chairperson Beidle and Members of the Committee,

We support the proposed legislation that, “Requiring a certain developer of, and a certain deployer who uses, a certain high-risk artificial intelligence system to use reasonable care to protect consumers from known and reasonably foreseeable risks of certain algorithmic discrimination in a certain high-risk artificial intelligence system; regulating the use of high-risk artificial intelligence systems by establishing certain requirements for disclosures, impact assessments, and other consumer protection provisions.”. As the Legislative Director of the Maryland Veterans Chamber of Commerce, I advocate for policies that protect our citizens and promote the ethical use of technology.

The inclusion of consumer protections in the legal and regulatory framework is a crucial step in ensuring that our laws keep pace with technological advancements. AI technology has the potential to create realistic images, text, and video that can be misused, making it essential to update our legal definitions to encompass these new forms of media and prevent exploitation.

Moreover, the lack of comprehensive AI legislation in the State of Maryland is detrimental to both our citizens and businesses. The absence of clear guidelines and regulations creates uncertainty and poses risks to privacy, security, and ethical standards. Maryland should create a strong regulatory agency (Maryland AI Regulatory Agency, MARA) to govern responsible AI development and operations by following principles outlined in other regions (e.g. EU AI Act, Canadian AI & Data Act, etc.).

An active and engaged regulatory body is necessary to enforce transparency, accountability, and fairness in the development and deployment of AI technologies. Additionally, the agility present within the body of subject matter experts positions MARA to mitigate economic (job loss, displacement, etc.), social (Does an entity born of artificial general intelligence (AGI) have rights?), and ethical (If an AGI instance is deleted, is the person who pushed the button guilty of murder?) issues that are on the horizon. Failure to act may result in the unchecked proliferation of AI applications that could harm individuals and erode public trust in technology, government, and our society.

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We urge the committee to favorably consider this legislation and to read the appended draft of the Maryland Artificial Intelligence Regulation Act (MAIRA). This act provides a comprehensive approach to governing AI technologies, ensuring that Maryland remains at the forefront of ethical and responsible AI innovation.

Thank you for your attention. We look forward to your response.

Sincerely,

Matthew Kilbane



Legislative Director,
Maryland Veterans Chamber of Commerce

In the absence of specific legislation regulating artificial intelligence (AI) in the United States, the American public faces significant risks and challenges. Without clear legal frameworks, AI technologies can be deployed without adequate oversight, leading to potential abuses and unintended consequences. The lack of regulation allows for the development and use of high-risk AI systems that could infringe on individuals' privacy, perpetuate biases, and make critical decisions without transparency or accountability. This vacuum leaves citizens vulnerable to the whims of private entities and foreign actors who may not prioritize ethical considerations or the public good.

Furthermore, the absence of US-specific AI legislation hampers the country's ability to compete globally in the rapidly evolving AI landscape. Other nations are forging ahead with comprehensive regulatory frameworks that ensure safe, fair, and innovative AI development. Without similar measures, the United States risks falling behind in both technological advancement and ethical leadership. This legislative gap not only compromises public trust in AI but also jeopardizes the nation's position as a leader in technological innovation and governance.

The proposal below is my attempt to bridge that gap for the State of Maryland and I firmly believe that similar legislation is needed at the Federal level to ensure that we, as a Nation, are all to continue establishing justice, ensuring domestic tranquility, providing for the common defense, and promote the general welfare of our society for generations to come.

DRAFT for legislation to govern Artificial Intelligence in the State of Maryland

Maryland Artificial Intelligence Regulation Act (MAIRA)

Section 1: Purpose and Scope

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1.1 The purpose of this Act is to ensure the ethical and responsible development, deployment, and use of Artificial Intelligence (AI) systems within the State of Maryland.

1.2 This Act applies to all AI systems developed, deployed, or used within the State of Maryland by public and private entities.

Section 2: Definitions

2.1 **Artificial Intelligence (AI) System:** A machine-based system that can, for a given set of human defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing real or virtual environments.

2.2 **High-Risk AI System:** AI systems that pose significant risks to the health, safety, and fundamental rights of individuals.

2.3 **Fairness and Non-Discrimination:** Ensuring that AI systems are designed and implemented in a manner that prevents discrimination against individuals based on race, gender, age, disability, or any other protected characteristic.

2.4 **Transparency:** Providing clear and accessible information about the AI system’s capabilities, limitations, and the data it uses, as well as disclosing the purpose and intended use of AI systems to users and affected individuals.

2.5 **Accountability:** The responsibility of entities deploying AI systems to ensure their proper functioning and compliance with this Act, including appointing a designated officer or team to oversee the ethical deployment and operation of AI systems.

2.6 **Privacy and Data Protection:** Compliance with existing data protection laws, ensuring the anonymization or pseudonymization of personal data, and implementing robust data security measures to protect individual privacy.

2.7 **Reliability and Safety:** Rigorous testing of AI systems to ensure they operate reliably and safely under various conditions, establishing safety protocols, and continuous monitoring and maintenance of AI systems.

2.8 **Inclusiveness:** Designing AI systems to be inclusive and accessible to all individuals, including those with disabilities, and involving diverse groups in the development and testing of AI systems.

2.9 **Human Oversight:** Designing AI systems to complement human decision-making, allowing for human intervention in the operation of AI systems, especially in high-risk scenarios, and providing training programs to ensure individuals understand the capabilities and limitations of AI systems.

2.10 **Impact Assessments:** Evaluations conducted to identify and mitigate potential risks associated with high-risk AI systems.

2.11 **Maryland AI Regulatory Authority (MARA):** The body established to oversee the implementation and enforcement of this Act, responsible for issuing guidelines, conducting audits, and imposing penalties for non-compliance.

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2.12 Public Consultation: The process of involving the community in the development and deployment of high-risk AI systems to ensure transparency and community involvement.

2.13 Penalties: Fines, suspension of operations, or other penalties imposed on entities found in violation of this Act.

Section 3: General Principles

3.1 Fairness and Non-Discrimination:

- AI systems must be designed and implemented in a manner that ensures fairness and prevents discrimination against individuals based on race, gender, age, disability, or any other protected characteristic.
- Developers and deployers of AI systems must conduct regular audits to identify and mitigate biases in AI algorithms and data sets.
- Mechanisms must be in place to allow individuals to report instances of discrimination or unfair treatment resulting from AI systems.

3.2 Transparency:

- Clear and accessible information must be provided about the AI system’s capabilities, limitations, and the data it uses.
- Entities must disclose the purpose and intended use of AI systems to users and affected individuals.
- AI systems must be designed to provide explanations for their decisions and actions, enabling users to understand how outcomes are generated.

3.3 Accountability:

- Entities deploying AI systems are responsible for ensuring their proper functioning and compliance with this Act.
- A designated officer or team must be appointed to oversee the ethical deployment and operation of AI systems.
- Entities must maintain detailed records of AI system development, deployment, and performance to facilitate audits and investigations.

3.4 Privacy and Data Protection:

- AI systems must comply with existing data protection laws, including the Maryland Data Privacy Act and other relevant regulations.
- Personal data used by AI systems must be anonymized or pseudonymized to protect individual privacy.

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- Entities must implement robust data security measures to prevent unauthorized access, use, or disclosure of personal data.
- Users must be informed about the data collection practices of AI systems and provided with options to control their data.

3.5 Reliability and Safety:

- AI systems must be rigorously tested to ensure they operate reliably and safely under various conditions.

Safety protocols must be established to address potential failures or malfunctions of AI systems.

- Continuous monitoring and maintenance of AI systems are required to ensure they remain safe and effective over time.

3.6 Inclusiveness:

- AI systems must be designed to be inclusive and accessible to all individuals, including those with disabilities.
- Efforts must be made to involve diverse groups in the development and testing of AI systems to ensure they meet the needs of all users.

3.7 Human Oversight:

- AI systems must be designed to complement human decision-making, not replace it.
- Mechanisms must be in place to allow human intervention in the operation of AI systems, especially in high-risk scenarios.
- Training programs must be provided to ensure that individuals interacting with AI systems understand their capabilities and limitations.

Section 4: Requirements for High-Risk AI Systems

4.1 Rigorous Testing and Validation:

- High-risk AI systems must undergo comprehensive testing and validation to ensure their safety, reliability, and compliance with ethical standards.
- Testing must include simulations and real-world scenarios to evaluate the system's performance under various conditions.

4.2 Impact Assessments:

- Entities must conduct thorough impact assessments to identify and mitigate potential risks associated with high-risk AI systems.
- Impact assessments must consider the potential effects on health, safety, privacy, and fundamental rights of individuals.

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4.3 Continuous Monitoring and Evaluation:

- High-risk AI systems must be subject to continuous monitoring and evaluation to ensure ongoing compliance with safety and ethical standards.
- Entities must establish mechanisms for real-time monitoring and periodic reviews of AI system performance.

4.4 Risk Mitigation Strategies:

Entities must develop and implement risk mitigation strategies to address identified risks and vulnerabilities in high-risk AI systems.

- Risk mitigation strategies must include contingency plans for potential failures or malfunctions.

4.5 Documentation and Reporting:

- Entities must maintain detailed documentation of the development, deployment, and operation of high-risk AI systems.
- Regular reports on the performance, risks, and compliance of high-risk AI systems must be submitted to the Maryland AI Regulatory Authority (MARA).

Section 5: Governance and Oversight

5.1 Establishment of MARA:

- The Maryland AI Regulatory Authority (MARA) is established to oversee the implementation and enforcement of this Act.
- MARA will be composed of experts in AI, ethics, law, and public policy.

5.2 Responsibilities of MARA:

- MARA is responsible for issuing guidelines, conducting audits, and imposing penalties for non-compliance.
- MARA will develop and maintain a registry of high-risk AI systems deployed within the state.
- MARA will provide advisory services to entities developing or deploying AI systems to ensure compliance with this Act.

5.3 Audit and Compliance:

- MARA will conduct regular audits of AI systems to ensure compliance with this Act.
- Entities must cooperate with MARA during audits and provide access to necessary documentation and data.

5.4 Public Reporting:

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- MARA will publish annual reports on the state of AI deployment in Maryland, including compliance statistics and identified risks.

Section 5.1: Governance and Regulatory Responsibility for Artificial General Intelligence

The governance and regulatory responsibility for Artificial General Intelligence (AGI) is crucial to ensure the ethical and safe development, deployment, and use of AGI systems. The following principles and guidelines are proposed to address the unique challenges posed by AGI:

- 5.1.1 Establishment of a Dedicated Regulatory Body:** A specialized regulatory body should be established to oversee AGI development and deployment. This body will be responsible for creating and enforcing regulations, conducting audits, and ensuring compliance with ethical standards.
- 5.1.2 Ethical Frameworks and Guidelines:** The regulatory body should develop comprehensive ethical frameworks and guidelines for AGI. These frameworks should address issues such as fairness, transparency, accountability, privacy, and safety.
- 5.1.3 Risk Assessment and Mitigation:** Entities developing AGI systems must conduct thorough risk assessments to identify potential risks and vulnerabilities. Risk mitigation strategies should be implemented to address these risks and ensure the safety and reliability of AGI systems.
- 5.1.4 Public Consultation and Stakeholder Engagement:** Public consultation and stakeholder engagement are essential to ensure transparency and community involvement in AGI governance. Entities must engage with a diverse range of stakeholders, including community groups, industry experts, and advocacy organizations.
- 5.1.5 Continuous Monitoring and Evaluation:** AGI systems must be subject to continuous monitoring and evaluation to ensure ongoing compliance with safety and ethical standards. Regular audits and performance reviews should be conducted to identify and address any issues.
- 5.1.6 International Collaboration:** Collaboration with international regulatory bodies and organizations is necessary to develop harmonized standards and guidelines for AGI. This will ensure that AGI development and deployment are aligned with global best practices.
- 5.1.7 Education and Training:** Comprehensive education and training programs should be provided to individuals involved in AGI development and deployment. These programs should cover ethical considerations, regulatory requirements, and technical aspects of AGI.

Section 6: Public Participation and Consultation

6.1 Public Consultation Process:

- Public consultation is required for the development and deployment of high-risk AI systems to ensure community involvement and transparency.

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- Entities must provide clear and accessible information about proposed AI systems and their potential impacts.

6.2 Stakeholder Engagement:

- Entities must engage with a diverse range of stakeholders, including community groups, industry experts, and advocacy organizations, during the consultation process.
- Feedback from stakeholders must be documented and considered in the development and deployment of AI systems.

6.3 Transparency in Consultation:

- The results of public consultations must be made publicly available, including how feedback was addressed and incorporated into the AI system’s design and deployment.

Section 7: Penalties and Enforcement

7.1 Penalties for Non-Compliance:

- Entities found in violation of this Act may be subject to fines, suspension of operations, or other penalties as deemed appropriate by MARA.
- Penalties will be proportionate to the severity of the violation and the potential harm caused.

7.2 Enforcement Mechanisms:

- MARA will have the authority to issue enforcement notices, requiring entities to take corrective actions to address non-compliance.
- In cases of severe or repeated violations, MARA may revoke the authorization to deploy high-risk AI systems.

7.3 Appeals Process:

- Entities subject to penalties or enforcement actions may appeal MARA’s decisions through an established appeals process.
- The appeals process will be transparent and provide entities with an opportunity to present their case.

Section 8: Effective Date

8.1 Implementation Timeline:

- This Act shall take effect on [Effective Date].
- Entities must comply with the requirements by [Effective Date].

– Nothing Follows –