

STATE OF NEW YORK

9654

IN ASSEMBLY

January 21, 2026

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Science and Technology

AN ACT to amend the civil rights law, in relation to enacting the "New York Artificial Intelligence Civil Rights Act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 10 and sections 100 and 101 of the civil rights law, as renumbered by chapter 263 of the laws of 2019, are renumbered article 20 and sections 200 and 201, and a new article 10 is added to read as follows:

ARTICLE 10

NEW YORK ARTIFICIAL INTELLIGENCE CIVIL RIGHTS ACT

Section 100. Short title.

101. Definitions.

102. Discrimination.

103. Pre-deployment evaluations.

104. Post-deployment impact assessments.

105. Content regulations.

106. Covered algorithm standards.

107. Relationships between developers and deployers.

108. Human alternatives and other protections.

109. Prohibition on retaliation; whistleblower protections.

110. Notice and disclosure.

111. Study on explanations regarding the use of covered algorithms.

112. Consumer awareness.

113. Enforcement.

114. Private right of action.

115. Regulations.

116. Rules of construction.

117. Severability.

§ 100. Short title. This article shall be known and may be cited as the "New York Artificial Intelligence Civil Rights Act".

§ 101. Definitions. As used in this article:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14318-01-5

1 1. "Collection of personal data" means buying, renting, gathering,
2 obtaining, receiving, accessing, or otherwise acquiring an individual's
3 data by any means.

4 2. "Commercial act", with respect to a covered algorithm, means an act
5 conducted for monetary or other valuable consideration, including
6 conducting an activity in furtherance of obtaining such consideration.

7 3. "Consequential action" means an act that is likely to have a mate-
8 rial effect on, or to materially contribute to, access to, security and
9 authentication relating to, eligibility for, cost of, terms of, or
10 conditions related to any of the following:

11 (a) employment, including hiring, pay, independent contracting, worker
12 management, promotion, and termination;

13 (b) education and career and technical education, including assess-
14 ment, proctoring, promotion of academic integrity, accreditation,
15 certification, admissions, enrollment, disciplinary actions including
16 suspension, expulsion, or referral to law enforcement, eligibility for
17 graduation, grade promotion or degree conferral, academic performance
18 evaluation, and provision of financial aid and scholarships;

19 (c) housing and lodging, including rental and short-term housing and
20 lodging, home appraisals, rental subsidies, publicly supported housing,
21 and mortgage lending;

22 (d) essential utilities, including electricity, heat, water, municipal
23 trash or sewage services, internet and telecommunications service, and
24 public transportation;

25 (e) health care, including mental health care, dental, vision, and
26 adoption services, and other health care-related services, treatment
27 options, trials, and studies;

28 (f) credit, banking, and other financial services;

29 (g) insurance, including insurance claim determinations;

30 (h) actions of the criminal justice system, law enforcement or intel-
31 ligence operations, immigration determinations or enforcement, border
32 control (vetting, screening, and inspection), child protective services,
33 child welfare, and family services, including risk and threat assess-
34 ments, situational awareness and threat detection, investigations,
35 watchlisting, bail determinations, sentencing, administration of parole,
36 surveillance, use of unmanned vehicles and machines, and predictive
37 policing;

38 (i) justice and determinations concerning guilt or liability, includ-
39 ing assignment of cases or counsel, bail determinations, pre-detention
40 risk assessments, case intake, sequencing, and processing, awards of
41 actual or punitive damages, and binding and nonbinding determinations in
42 arbitration, mediation, or other alternative dispute resolution;

43 (j) elections, including voting, requirements for documentation or
44 proof of identity to vote or register to vote (and determinations about
45 whether an individual meets those requirements), redistricting, polling
46 place resources, reduction or alteration of multilingual or English
47 language voting materials, alteration of the manner in which voting
48 materials are provided or distributed, reduction, consolidation, or
49 relocation of voting locations in elections for federal, state, or local
50 office (including early, absentee, and election-day voting locations),
51 reduction in days or hours of in-person voting during a period occurring
52 prior to the date of an election for federal, state, or local office
53 during which voters may cast ballots in such election, election securi-
54 ty, and election administration, including maintenance processes for
55 voter registration lists that add a new basis for removal from the list
56 of active voters registered to vote in elections for federal, state, or

1 local office, or that incorporate a new source of information in deter-
2 mining a voter's eligibility to vote in elections for federal, state, or
3 local office;

4 (k) government benefits and services, as well as verification of iden-
5 tity, citizenship, and immigration status, fraud prevention, and assign-
6 ment of penalties;

7 (l) a public accommodation; and/or

8 (m) any other service, program, product, or opportunity which has a
9 comparable legal, material, or similarly significant effect on an indi-
10 vidual's life as determined by the division through rules.

11 4. "Covered algorithm" means:

12 (a) a computational process derived from machine learning, natural
13 language processing, artificial intelligence techniques, or other compu-
14 tational processing techniques of similar or greater complexity, that,
15 with respect to a consequential action:

16 (i) creates or facilitates the creation of a product or information
17 that is used as an integral part of the consequential action;

18 (ii) promotes, recommends, ranks, or otherwise affects the display or
19 delivery of information that is used as an integral part of the conse-
20 quential action;

21 (iii) makes a decision; or

22 (iv) facilitates human decision making; or

23 (b) any other computational process deemed appropriate by the division
24 through rules.

25 5. "Covered language" means the ten languages with the most speakers
26 in the state, according to the most recent data collected by the United
27 States Census Bureau;

28 6. "De-identified data" means information:

29 (a) that does not identify and is not linked or reasonably linkable to
30 an individual or a device, regardless of whether the information is
31 aggregated; and

32 (b) with respect to which any developer or deployer using such infor-
33 mation:

34 (i) takes reasonable technical measures to ensure that the information
35 cannot, at any point, be used to re-identify any individual or device
36 that identifies or is linked or reasonably linkable to an individual;

37 (ii) publicly commits in a clear and conspicuous manner:

38 (A) to process and transfer the information solely in a de-identified
39 form without any reasonable means for re-identification; and

40 (B) to not attempt to re-identify the information with any individual
41 or device that identifies or is linked or reasonably linkable to an
42 individual; and

43 (C) contractually obligates any person that receives the information
44 from the developer or deployer to comply with all of the provisions of
45 this paragraph with respect to such information; and to require that
46 such contractual obligations be included in all subsequent instances for
47 which the information may be received.

48 7. "Deployer" means any person that uses a covered algorithm for a
49 commercial act. The terms "deployer" and "developer" shall not be inter-
50 preted to be mutually exclusive.

51 8. (a) "Developer" means any person that designs, codes, customizes,
52 produces, or substantially modifies an algorithm that is intended or
53 reasonably likely to be used as a covered algorithm for such person's
54 own use, or use by a third party, in connection with a commercial act,
55 or for use by a government entity.

(b) In the event that a deployer uses an algorithm as a covered algorithm, and no person is considered the developer of the algorithm for purposes of paragraph (a) of this subdivision, the deployer shall be considered the developer of the covered algorithm for the purposes of this article.

(c) The terms "deployer" and "developer" shall not be interpreted to be mutually exclusive.

9. (a) "Disparate impact" means an unjustified differential effect on an individual or group of individuals on the basis of an actual or perceived protected characteristic. An action, a policy, or a practice of a developer or deployer, a differential effect is unjustified if:

(i) the developer or deployer fails to demonstrate that such action, policy, or practice causing the differential effect is necessary to achieve a substantial, legitimate, and nondiscriminatory interest; or

(ii) in the event the developer or deployer demonstrates such interest, an alternative action, policy, or practice could serve such interest with less differential effect.

(b) With respect to demonstrating that a covered algorithm causes or contributes to a differential effect, the covered algorithm is presumed to be not separable for analysis and may be analyzed holistically as a single action, policy, or practice, unless the developer or deployer proves that the covered algorithm is separable by a preponderance of the evidence.

10. "Division" means the division of consumer protection.

11. "Harm", with respect to a consequential action, means a non-de minimis adverse effect on an individual or group of individuals:

(a) on the basis of a protected characteristic;

(b) that involves the use of force, coercion, harassment, intimidation, or detention; or

(c) that involves the infringement of a right protected under the Constitution of the United States or the Constitution of the state of New York.

12. (a) "Independent auditor" means an individual that conducts a pre-deployment evaluation or impact assessment of a covered algorithm in a manner that exercises objective and impartial judgment on all issues within the scope of such evaluation or assessment.

(b) An individual is not an independent auditor of a covered algorithm if such individual:

(i) is or was involved in using, developing, offering, licensing, or deploying the covered algorithm for a commercial act;

(ii) at any point during the pre-deployment evaluation or impact assessment, has an employment relationship, including a contractor relationship, but not including a contractor relationship for the auditing service described in subparagraph (i) of this paragraph, with a developer or deployer that uses, offers, or licenses the covered algorithm; or

(iii) at any point during the pre-deployment evaluation or impact assessment, has a direct financial interest, a reasonably foreseeable future financial interest, or a material indirect financial interest in a developer or deployer that uses, offers, or licenses a covered algorithm, not including routine payment for the auditing services described in subparagraph (i) of this paragraph.

13. "Individual" means a natural person in the state.

14. "Personal data" means information that identifies or is linked or reasonably linkable, alone or in combination with other information, to an individual or an individual's device; and shall include derived data

1 and unique persistent identifiers. The term "personal data" does not
2 include de-identified data.

3 15. "Process", with respect to personal data, means to conduct or
4 direct any operation or set of operations performed on such data,
5 including analyzing, organizing, structuring, retaining, storing, using,
6 or otherwise handling such data.

7 16. "Protected characteristic" means any of the following actual or
8 perceived traits of an individual or group of individuals:

9 (a) race;

10 (b) color;

11 (c) ethnicity;

12 (d) national origin, nationality, or immigration status;

13 (e) religion;

14 (f) sex, including a sex stereotype, pregnancy, childbirth, or a
15 related medical condition, sexual orientation or gender identity, and
16 sex characteristics, including intersex traits;

17 (g) disability;

18 (h) limited English proficiency;

19 (i) biometric information;

20 (j) familial or marital status;

21 (k) source of income;

22 (l) income level, not including the ability to pay for a specific good
23 or service being offered;

24 (m) age;

25 (n) veteran status;

26 (o) genetic information or medical conditions; and/or

27 (p) any other classification protected by federal or New York state
28 law.

29 17. (a) "Public accommodation" means:

30 (i) a business that offers goods or services to the general public,
31 regardless of whether the business is operated for profit or operates
32 from a physical facility;

33 (ii) a park, road, or pedestrian pathway open to the general public;

34 (iii) a means of public transportation; or

35 (iv) a publicly owned or operated facility open to the general public.

36 (b) The term "public accommodation" does not include a private club or
37 establishment, any private club or other establishment not in fact open
38 to the public, as described in section 201(e) of the Civil Rights Act of
39 1964 (42 U.S.C. 2000a(e)).

40 18. "Transfer", with respect to personal data, means to disclose,
41 release, disseminate, make available, license, rent, or share such data
42 orally, in writing, electronically, or by any other means.

43 § 102. Discrimination. 1. A developer or deployer shall not offer,
44 license, promote, sell, or use a covered algorithm in a manner that:

45 (a) causes or contributes to a disparate impact in a manner that
46 prevents;

47 (b) otherwise discriminates in a manner that prevents; or

48 (c) otherwise makes unavailable, the equal enjoyment of goods,
49 services, or other activities or opportunities, related to a consequen-
50 tial action, on the basis of a protected characteristic.

51 2. This section shall not apply to:

52 (a) the offer, licensing, or use of a covered algorithm for the sole
53 purpose of:

54 (i) a developer's or deployer's self-testing (or auditing by an inde-
55 pendent auditor at a developer's or deployer's request) to identify,

1 prevent, or mitigate discrimination, or otherwise to ensure compliance
2 with obligations, under federal or state law;

3 (ii) expanding an applicant, participant, or customer pool to raise
4 the likelihood of increasing diversity or redressing historic discrimi-
5 nation; or

6 (iii) conducting good faith security research, or other research, if
7 conducting the research is not part or all of a commercial act; or

8 (b) any private club or other establishment not in fact open to the
9 public, as described in section 201(e) of the Civil Rights Act of 1964
10 (42 U.S.C. 2000a(e)).

11 § 103. Pre-deployment evaluations. 1. Prior to deploying, licensing,
12 or offering a covered algorithm (including deploying a material change
13 to a previously-deployed covered algorithm or a material change made
14 prior to deployment) for a consequential action, a developer or deployer
15 shall conduct a pre-deployment evaluation in accordance with this
16 section.

17 2. (a) The developer shall conduct a preliminary evaluation of the
18 plausibility that any expected use of the covered algorithm may result
19 in a harm.

20 (b) The deployer shall conduct a preliminary evaluation of the plausi-
21 bility that any intended use of the covered algorithm may result in a
22 harm.

23 (c) Based on the results of the preliminary evaluation, the developer
24 or deployer shall:

25 (i) in the event that a harm is not plausible, record a finding of no
26 plausible harm, including a description of the developer's expected use
27 or the deployer's intended use of the covered algorithm, how the prelim-
28 inary evaluation was conducted, and an explanation for the finding, and
29 submit such record to the division; and

30 (ii) in the event that a harm is plausible, conduct a full pre-deploy-
31 ment evaluation as described in subdivision three or subdivision four of
32 this section, as applicable.

33 (d) When conducting a preliminary evaluation of a material change to,
34 or new use of, a previously-deployed covered algorithm, the developer or
35 deployer may limit the scope of the evaluation to whether use of the
36 covered algorithm may result in a harm as a result of the material
37 change or new use.

38 3. (a) If a developer determines a harm is plausible during the
39 preliminary evaluation described in subdivision two of this section, the
40 developer shall engage an independent auditor to conduct a pre-deploy-
41 ment evaluation. The evaluation required by this subdivision shall
42 include a detailed review and description, sufficient for an individual
43 having ordinary skill in the art to understand the functioning, risks,
44 uses, benefits, limitations, and other pertinent attributes of the
45 covered algorithm, including:

46 (i) the covered algorithm's design and methodology, including the
47 inputs the covered algorithm is designed to use to produce an output and
48 the outputs the covered algorithm is designed to produce;

49 (ii) how the covered algorithm was created, trained, and tested,
50 including:

51 (A) any metric used to test the performance of the covered algorithm;

52 (B) defined benchmarks and goals that correspond to such metrics,
53 including whether there was sufficient representation of demographic
54 groups that are reasonably likely to use or be affected by the covered
55 algorithm in the data used to create or train the algorithm, and whether
56 there was reasonable testing, if any, across such demographic groups;

1 (C) the outputs the covered algorithm actually produces in testing;

2 (D) a description of any consultation with relevant stakeholders,
3 including any communities that will be impacted by the covered algo-
4 rithm, regarding the development of the covered algorithm, or a disclo-
5 sure that no such consultation occurred;

6 (E) a description of which protected characteristics, if any, were
7 used for testing and evaluation, and how and why such characteristics
8 were used, including:

9 (1) whether the testing occurred in comparable contextual conditions
10 to the conditions in which the covered algorithm is expected to be used;
11 and

12 (2) if protected characteristics were not available to conduct such
13 testing, a description of alternative methods the developer used to
14 conduct the required assessment;

15 (F) any other computational algorithm incorporated into the develop-
16 ment of the covered algorithm, regardless of whether such precursor
17 computational algorithm involves a consequential action;

18 (G) a description of the data and information used to develop, test,
19 maintain, or update the covered algorithm, including:

20 (1) each type of personal data used, each source from which the
21 personal data was collected, and how each type of personal data was
22 inferred and processed;

23 (2) the legal authorization for collecting and processing the personal
24 data; and

25 (3) an explanation of how the data (including personal data) used is
26 representative, proportional, and appropriate to the development and
27 intended uses of the covered algorithm; and

28 (H) a description of the training process for the covered algorithm
29 which includes the training, validation, and test data utilized to
30 confirm the intended outputs;

31 (iii) the potential for the covered algorithm to produce a harm or to
32 have a disparate impact in the equal enjoyment of goods, services, or
33 other activities or opportunities, and a description of such potential
34 harm or disparate impact;

35 (iv) alternative practices and recommendations to prevent or mitigate
36 harm and recommendations for how the developer could monitor for harm
37 after offering, licensing, or deploying the covered algorithm; and

38 (v) any other information the division deems pertinent to prevent the
39 covered algorithm from causing harm or having a disparate impact in the
40 equal enjoyment of goods, services, or other activities or opportu-
41 nities, as prescribed by rules promulgated by the division.

42 (b) The independent auditor shall submit to the developer a report on
43 the evaluation conducted under this subdivision, including the findings
44 and recommendations of such independent auditor.

45 4. (a) If a deployer determines a harm is plausible during the prelim-
46 inary evaluation described in subdivision two of this section, the
47 deployer shall engage an independent auditor to conduct a pre-deployment
48 evaluation. The evaluation required by this subdivision shall include a
49 detailed review and description, sufficient for an individual having
50 ordinary skill in the art to understand the functioning, risks, uses,
51 benefits, limitations, and other pertinent attributes of the covered
52 algorithm, including:

53 (i) the manner in which the covered algorithm makes or contributes to
54 a consequential action and the purpose for which the covered algorithm
55 will be deployed;

(ii) the necessity and proportionality of the covered algorithm in relation to its planned use, including the intended benefits and limitations of the covered algorithm and a description of the baseline process being enhanced or replaced by the covered algorithm, if applicable;

(iii) the inputs that the deployer plans to use to produce an output, including:

(A) the type of personal data and information used and how the personal data and information will be collected, inferred, and processed;

(B) the legal authorization for collecting and processing the personal data; and

(C) an explanation of how the data used is representative, proportional, and appropriate to the deployment of the covered algorithm;

(iv) the outputs the covered algorithm is expected to produce and the outputs the covered algorithm actually produces in testing;

(v) a description of any additional testing or training completed by the deployer for the context in which the covered algorithm will be deployed;

(vi) a description of any consultation with relevant stakeholders, including any communities that will be impacted by the covered algorithm, regarding the deployment of the covered algorithm;

(vii) the potential for the covered algorithm to produce a harm or to have a disparate impact in the equal enjoyment of goods, services, or other activities or opportunities in the context in which the covered algorithm will be deployed and a description of such potential harm or disparate impact;

(viii) alternative practices and recommendations to prevent or mitigate harm in the context in which the covered algorithm will be deployed and recommendations for how the deployer could monitor for harm after offering, licensing, or deploying the covered algorithm; and

(ix) any other information the division deems pertinent to prevent the covered algorithm from causing harm or having a disparate impact in the equal enjoyment of goods, services, or other activities or opportunities as prescribed by rules promulgated by the division.

(b) The independent auditor shall submit to the deployer a report on the evaluation conducted under this subdivision, including the findings and recommendations of such independent auditor.

§ 104. Post-deployment impact assessments. 1. After the deployment of a covered algorithm, a deployer shall, on an annual basis, conduct an impact assessment in accordance with this section. The deployer shall conduct a preliminary impact assessment of the covered algorithm to identify any harm that resulted from the covered algorithm during the reporting period and:

(a) if no resulting harm is identified by such assessment, shall record a finding of no harm, including a description of the developer's expected use or the deployer's intended use of the covered algorithm, how the preliminary evaluation was conducted, and an explanation for such finding, and submit such finding to the division; and

(b) if a resulting harm is identified by such assessment, shall conduct a full impact assessment as described in subdivision two of this section.

2. In the event that the covered algorithm resulted in a harm during the reporting period, the deployer shall engage an independent auditor to conduct a full impact assessment with respect to the reporting period, including:

1 (a) an assessment of the harm that resulted or was reasonably likely
2 to have been produced during the reporting period;

3 (b) a description of the extent to which the covered algorithm
4 produced a disparate impact in the equal enjoyment of goods, services,
5 or other activities or opportunities, including the methodology for such
6 evaluation, of how the covered algorithm produced or likely produced
7 such disparity;

8 (c) a description of the types of data input into the covered algo-
9 rithm during the reporting period to produce an output, including:

10 (i) documentation of how data input into the covered algorithm to
11 produce an output is represented and complete descriptions of each field
12 of data; and

13 (ii) whether and to what extent the data input into the covered algo-
14 rithm to produce an output was used to train or otherwise modify the
15 covered algorithm;

16 (d) whether and to what extent the covered algorithm produced the
17 outputs it was expected to produce;

18 (e) a detailed description of how the covered algorithm was used to
19 make a consequential action;

20 (f) any action taken to prevent or mitigate harms, including how rele-
21 vant staff are informed of, trained about, and implement harm mitigation
22 policies and practices, and recommendations for how the deployer could
23 monitor for and prevent harm after offering, licensing, or deploying the
24 covered algorithm; and

25 (g) any other information the division deems pertinent to prevent the
26 covered algorithm from causing harm or having a disparate impact in the
27 equal enjoyment of goods, services, or other activities or opportunities
28 as prescribed by rules promulgated by the division.

29 3. (a) After the engagement of the independent auditor, the independ-
30 ent auditor shall submit to the deployer a report on the impact assess-
31 ment conducted under subdivision two of this section, including the
32 findings and recommendations of such independent auditor.

33 (b) Not later than thirty days after the submission of a report on an
34 impact assessment under this section, a deployer shall submit to the
35 developer of the covered algorithm a summary of such report, subject to
36 the trade secret and privacy protections described in subdivision six of
37 this section.

38 4. A developer shall, on an annual basis, review each impact assess-
39 ment summary submitted by a deployer of its covered algorithm under
40 subdivision three of this section for the following purposes:

41 (a) to assess how the deployer is using the covered algorithm, includ-
42 ing the methodology for assessing such use;

43 (b) to assess the type of data the deployer is inputting into the
44 covered algorithm to produce an output and the types of outputs the
45 covered algorithm is producing;

46 (c) to assess whether the deployer is complying with any relevant
47 contractual agreement with the developer and whether any remedial action
48 is necessary;

49 (d) to compare the covered algorithm's performance in real-world
50 conditions versus pre-deployment testing, including the methodology used
51 to evaluate such performance;

52 (e) to assess whether the covered algorithm is causing harm or is
53 reasonably likely to be causing harm;

54 (f) to assess whether the covered algorithm is causing, or is reason-
55 ably likely to be causing, a disparate impact in the equal enjoyment of

goods, services, or other activities or opportunities, and, if so, how and with respect to which protected characteristic;

(g) to determine whether the covered algorithm needs modification;

(h) to determine whether any other action is appropriate to ensure that the covered algorithm remains safe and effective; and

(i) to undertake any other assessment or responsive action the division deems pertinent to prevent the covered algorithm from causing harm or having a disparate impact in the equal enjoyment of goods, services, or other activities or opportunities, as prescribed by rules promulgated by the division.

5. If a person is both the developer and deployer of a covered algorithm, the person may conduct combined pre-deployment evaluations and annual assessments, provided that each combined evaluation or assessment satisfies all requirements for both developers and deployers.

6. (a) A developer or deployer that conducts a full pre-deployment evaluation, full impact assessment, or developer annual review of assessments shall:

(i) not later than thirty days after completion, submit the evaluation, assessment, or review to the division;

(ii) upon request, make the evaluation, assessment, or review available to the legislature; and

(iii) not later than thirty days after completion:

(A) publish a summary of the evaluation, assessment, or review on the website of the developer or deployer in a manner that is easily accessible to individuals; and

(B) submit such summary to the division.

(b) A developer or deployer shall retain all evaluations, assessments, and reviews described in this section for a period of not fewer than ten years.

(c) A developer or deployer:

(i) may redact and segregate any trade secret (as defined in section 1839 of title 18, United States Code) from public disclosure under this subdivision; and

(ii) shall redact and segregate personal data from public disclosure under this section.

§ 105. Content regulations. Not later than two years after the effective date of this article, the division shall:

(a) promulgate rules specifying:

(i) what information and factors a developer or deployer shall consider in making the preliminary evaluation or preliminary impact assessment described in sections one hundred three and one hundred four of this article, respectively;

(ii) what information a developer or deployer shall include in a summary of an evaluation, assessment, or developer review described in section one hundred four of this article; and

(iii) the extent to and process by which a developer may request additional information from a deployer, including the purposes for which a developer is permitted to use such additional information; and

(b) in promulgating such rules, consider the need to protect the privacy of personal data, as well as the need for information sharing by developers and deployers to comply with this section and inform the public.

§ 106. Covered algorithm standards. 1. A developer or deployer shall do the following:

(a) take reasonable measures to prevent and mitigate any harm identified by a pre-deployment evaluation described in section one hundred

1 three or an impact assessment described in section one hundred four of
2 this article;

3 (b) take reasonable measures to ensure that an independent auditor has
4 all necessary information to complete an accurate and effective pre-de-
5 ployment evaluation described in section one hundred three or an impact
6 assessment described in section one hundred four of this article;

7 (c) with respect to a covered algorithm, consult stakeholders, includ-
8 ing any communities that will be impacted by the covered algorithm,
9 regarding the development or deployment of the covered algorithm prior
10 to the deploying, licensing, or offering the covered algorithm;

11 (d) with respect to a covered algorithm, certify that, based on the
12 results of a pre-deployment evaluation described in section one hundred
13 three or an impact assessment described in section one hundred four of
14 this article;

15 (i) use of the covered algorithm is not likely to result in harm or
16 disparate impact in the equal enjoyment of goods, services, or other
17 activities or opportunities;

18 (ii) the benefits from the use of the covered algorithm to individuals
19 affected by the covered algorithm likely outweigh the harms from the use
20 of the covered algorithm to such individuals; and

21 (iii) use of the covered algorithm is not likely to result in a decep-
22 tive act or practice;

23 (e) ensure that any covered algorithm of the developer or deployer
24 functions at a level that would be considered reasonable performance by
25 an individual with ordinary skill in the art; and in a manner that is
26 consistent with its expected and publicly-advertised performance,
27 purpose, or use;

28 (f) ensure any data used in the design, development, deployment, or
29 use of the covered algorithm is relevant and appropriate to the deploy-
30 ment context and the publicly-advertised purpose or use; and

31 (g) ensure use of the covered algorithm as intended is not likely to
32 result in a violation of this article.

33 2. (a) It shall be unlawful for a developer or deployer to engage in
34 false, deceptive, or misleading advertising, marketing, or publicizing
35 of a covered algorithm of the developer or deployer.

36 (b) It shall be unlawful for a developer to knowingly offer or license
37 a covered algorithm for any consequential action other than those evalu-
38 ated in the pre-deployment evaluation described in section one hundred
39 three of this article.

40 (c) It shall be unlawful for a deployer to knowingly use a covered
41 algorithm for any consequential action other than a use evaluated in the
42 pre-deployment evaluation described in section one hundred three of this
43 article, unless the deployer agrees to assume the responsibilities of a
44 developer required by this article.

45 § 107. Relationships between developers and deployers. 1. A developer
46 shall do the following:

47 (a) upon the reasonable request of the deployer, make available to the
48 deployer information necessary to demonstrate the compliance of the
49 deployer with the requirements of this article, including:

50 (i) making available a report of the pre-deployment evaluation
51 described in section one hundred three of this article or the annual
52 review of assessments conducted by the developer under section one
53 hundred four of this article; and

54 (ii) providing information necessary to enable the deployer to conduct
55 and document a pre-deployment evaluation under section one hundred three

1 or an impact assessment described in section one hundred four of this
2 article; and

3 (b) either:

4 (i) allow and cooperate with reasonable assessments conducted by the
5 deployer or the deployer's designated independent auditor; or

6 (ii) arrange for an independent auditor to conduct an assessment of
7 the developer's policies and practices in support of the obligations
8 under this article using an appropriate and accepted control standard or
9 framework and assessment procedure for such assessments and provide a
10 report of such assessment to the deployer upon request.

11 2. A developer may offer or license a covered algorithm to a deployer
12 pursuant to a written contract between the developer and deployer,
13 provided that the contract:

14 (a) clearly sets forth the data processing procedures of the developer
15 with respect to any collection, processing, or transfer of data
16 performed on behalf of the deployer;

17 (b) clearly sets forth:

18 (i) instructions for collecting, processing, transferring, or dispos-
19 ing of data by the developer or deployer in the context of the use of
20 the covered algorithm;

21 (ii) instructions for deploying the covered algorithm as intended;

22 (iii) the nature and purpose of any collection, processing, or trans-
23 ferring of data;

24 (iv) the type of data subject to such collection, processing, or
25 transferring;

26 (v) the duration of such processing of data; and

27 (vi) the rights and obligations of both parties, including a method by
28 which the developer shall notify the deployer of material changes to its
29 covered algorithm;

30 (c) shall not relieve a developer or deployer of any requirement or
31 liability imposed on such developer or deployer under this article;

32 (d) prohibits both the developer and deployer from combining data
33 received from or collected on behalf of the other party with data the
34 developer or deployer received from or collected on behalf of another
35 party; and

36 (e) shall not prohibit a developer or deployer from raising concerns
37 to any relevant enforcement agency with respect to the other party.

38 3. Each developer shall retain for a period of ten years a copy of
39 each contract entered into with a deployer to which it provides
40 requested products or services.

41 4. For purposes of this section, any requirement for a developer to
42 contract with, assist, and follow the instructions of a deployer shall
43 be read to include a requirement to contract with, assist, and follow
44 the instructions of a government entity if the developer is providing a
45 service to a government entity.

46 § 108. Human alternatives and other protections. 1. Not later than two
47 years after the effective date of this article, the division shall
48 promulgate regulations in accordance with specifying the circumstances
49 and manner in which a deployer shall provide to an individual a means to
50 opt-out of the use of a covered algorithm for a consequential action and
51 to elect to have the consequential action concerning the individual
52 undertaken by a human without the use of a covered algorithm. In promul-
53 gating the regulations under this subdivision, the division shall
54 consider the following:

1 (a) how to ensure that any notice or request from a deployer regarding
2 the right to a human alternative is clear and conspicuous, in plain
3 language, easy to execute, and at no cost to an individual;

4 (b) how to ensure that any such notice to individuals is effective,
5 timely, and useful;

6 (c) the specific types of consequential actions for which a human
7 alternative is appropriate, considering the magnitude of the action and
8 risk of harm;

9 (d) the extent to which a human alternative would be beneficial to
10 individuals and the public interest;

11 (e) the extent to which a human alternative can prevent or mitigate
12 harm;

13 (f) the risk of harm to individuals beyond the requestor if a human
14 alternative is available or not available;

15 (g) the feasibility of providing a human alternative in different
16 circumstances; and

17 (h) any other considerations the division deems appropriate to balance
18 the need to give an individual control over a consequential action
19 related to such individual with the practical feasibility and effective-
20 ness of granting such control.

21 2. A developer or deployer may not condition, effectively condition,
22 attempt to condition, or attempt to effectively condition the exercise
23 of any individual right under this article or individual choice through:

24 (a) the use of any false, fictitious, fraudulent, or materially
25 misleading statement or representation; or

26 (b) the design, modification, or manipulation of any user interface
27 with the purpose or substantial effect of obscuring, subverting, or
28 impairing a reasonable individual's autonomy, decision making, or choice
29 to exercise any such right.

30 3. Not later than two years after the effective date of this article,
31 the division shall promulgate regulations specifying the circumstances
32 and manner in which a deployer shall provide to an individual a mech-
33 anism to appeal to a human a consequential action resulting from the
34 deployer's use of a covered algorithm. In promulgating the regulations
35 under this subdivision, the division shall do the following:

36 (a) ensure that the appeal mechanism is clear and conspicuous, in
37 plain language, easy-to-execute, and at no cost to individuals;

38 (b) ensure that the appeal mechanism is proportionate to the conse-
39 quential action;

40 (c) ensure that the appeal mechanism is reasonably accessible to indi-
41 viduals with disabilities, timely, usable, effective, and non-discrimi-
42 natory;

43 (d) require, where appropriate, a mechanism for individuals to identi-
44 fy and correct any personal data used by the covered algorithm;

45 (e) specify training requirements for human reviewers with respect to
46 a consequential action; and

47 (f) consider any other circumstances, procedures, or matters the divi-
48 sion deems appropriate to balance the need to give an individual a right
49 to appeal a consequential action related to such individual with the
50 practical feasibility and effectiveness of granting such right.

51 § 109. Prohibition on retaliation; whistleblower protections. 1. A
52 developer or deployer may not:

53 (a) discriminate or retaliate against an individual (including by
54 denying or threatening to deny the equal enjoyment of goods, services,
55 or other activities or opportunities in relation to a consequential
56 action) because the individual exercised any right, refused to waive any

1 such right, raised a concern about a consequential action under this
2 article, or assisted in any investigation or proceeding under this arti-
3 cle; or

4 (b) directly or indirectly, discharge, demote, suspend, threaten,
5 harass, or otherwise discriminate or retaliate against an individual for
6 raising a concern, reporting or attempting to report a violation of this
7 article, or cooperating in any investigation or proceeding under this
8 article.

9 2. Nothing in this article shall prohibit a developer or deployer
10 from:

11 (a) denying service to an individual, charging an individual a differ-
12 ent price or rate, or providing a different level or quality of goods or
13 services to an individual if the differential in service is necessary
14 and directly related to the value provided to the developer or deployer
15 by the covered algorithm; or

16 (b) offering loyalty, rewards, premium features, discounts, or club
17 card programs that provide benefits or rewards based on frequency of
18 patronizing, or the amount of money spent at, a business consistent with
19 this article.

20 § 110. Notice and disclosure. 1. Each developer or deployer shall make
21 publicly available, in plain language and in a clear, conspicuous, not
22 misleading, easy-to-read, and readily accessible manner, a disclosure
23 that provides a detailed and accurate representation of the developer or
24 deployer's practices regarding the requirements under this article.

25 2. The disclosure required under subdivision one of this section shall
26 include, at a minimum, the following:

27 (a) the identity and the contact information of:

28 (i) the developer or deployer to which the disclosure applies (includ-
29 ing the developer or deployer's point of contact and electronic and
30 physical mail address, as applicable for any inquiry concerning a
31 covered algorithm or individual rights under this article); and

32 (ii) any other entity within the same corporate structure as the
33 developer or deployer to which personal data is transferred by the
34 developer or deployer.

35 (b) a link to the website containing the developer or deployer's
36 summaries of pre-deployment evaluations, impact assessments, and annual
37 review of assessments, as applicable;

38 (c) the categories of personal data the developer or deployer collects
39 or processes in the development or deployment of a covered algorithm and
40 the processing purpose for each such category;

41 (d) whether the developer or deployer transfers personal data, and, if
42 so, each third party to which the developer or deployer transfers such
43 data and the purpose for which such data is transferred, except with
44 respect to a transfer to a governmental entity pursuant to a court order
45 or law that prohibits the developer or deployer from disclosing such
46 transfer;

47 (e) a prominent description of how an individual can exercise the
48 rights described in this article;

49 (f) a general description of the developer or deployer's practices for
50 compliance with the requirements described in sections one hundred three
51 and one hundred six of this article;

52 (g) the following disclosure:

53 "The audit of this algorithm was conducted to comply with the New York
54 Artificial Intelligence Civil Rights Act, which seeks to avoid the use
55 of any algorithm that has a disparate impact on certain protected class-

1 es of individuals. The audit does not guarantee that this algorithm is
2 safe or in compliance with all applicable laws."; and

3 (h) the effective date of the disclosure.

4 3. The disclosure required under this section shall be made available
5 in each covered language in which the developer or deployer operates or
6 provides a good or service.

7 4. Any disclosure provided under this section shall be made available
8 in a manner that is reasonably accessible to and usable by individuals
9 with disabilities.

10 5. (a) If a developer or deployer makes a material change to the
11 disclosure required under this section, the developer or deployer shall
12 notify each individual affected by such material change prior to imple-
13 menting the material change.

14 (b) Each developer or deployer shall take all reasonable measures to
15 provide to each affected individual a direct electronic notification
16 regarding any material change to the disclosure, in each covered
17 language in which the disclosure is made available and taking into
18 account available technology and the nature of the relationship with
19 such individual.

20 (c) (i) Beginning after the effective date of this article, each
21 developer or deployer shall retain a copy of each previous version of
22 the disclosure required under this section for a period of at least ten
23 years after the last day on which such version was effective and publish
24 each such version on its website. Each developer or deployer shall make
25 publicly available, in a clear, conspicuous, and readily accessible
26 manner, a log describing the date and nature of each material change to
27 its disclosure during the retention period, and such descriptions shall
28 be sufficient for a reasonable individual to understand the material
29 effect of each material change.

30 (ii) The obligations described in this paragraph shall not apply to
31 any previous version of a developer or deployer's disclosure of prac-
32 tices regarding the collection, processing, and transfer of personal
33 data, or any material change to such disclosure, that precedes the
34 effective date of this article.

35 6. A deployer shall provide a short-form notice regarding a covered
36 algorithm it develops, offers, licenses, or uses in a manner that:

37 (a) is concise, clear, conspicuous, in plain language, and not
38 misleading;

39 (b) is readily accessible to individuals with disabilities;

40 (c) is based on what is reasonably anticipated within the context of
41 the relationship between the individual and the deployer;

42 (d) includes an overview of each applicable individual right and
43 disclosure in a manner that draws attention to any practice that may be
44 unexpected to a reasonable individual or that involves a consequential
45 action;

46 (e) is not more than five hundred words in length; and

47 (f) is available to the public at no cost.

48 7. (a) If a deployer has a relationship with an individual, the
49 deployer shall provide an electronic version of the short-form notice
50 directly to the individual upon the individual's first interaction with
51 the covered algorithm.

52 (b) If a deployer does not have a relationship with an individual, the
53 deployer shall provide the short-form notice in a clear, conspicuous,
54 accessible, and not misleading manner on their website.

55 8. The division shall promulgate regulations specifying the minimum
56 content required to be included in the short-form notice described in

subdivision six of this section, which shall not exceed the content requirements described in subdivision six of this section and shall include a template or model for the short-form notice described in subdivision seven of this section.

9. Each developer or deployer shall make publicly available, in a clear, conspicuous, and readily accessible manner, a mechanism for an individual impacted by a covered algorithm to report to the developer or deployer potential violations of this article.

§ 111. Study on explanations regarding the use of covered algorithms.

1. The division shall conduct a study, with notice and public comment, on the feasibility of requiring deployers to provide a clear, conspicuous, easy-to-use, no-cost mechanism that is accessible for individuals with disabilities and allows an individual to receive an explanation as to whether and how a covered algorithm used by the deployer affects or affected an individual.

2. The study required under subdivision one of this section shall include the following:

(a) an overview of the purposes for which an explanation would be provided to an individual and the extent to which an explanation would feasibly serve such purposes.

(b) how explanations can be provided in a manner that is clear, conspicuous, easy-to-use, no-cost, accessible to individuals with disabilities, effective for individuals with limited English language proficiency, and calibrated to the level of risk based on the covered algorithm;

(c) an assessment of the feasibility of a requirement for deployers to provide a mechanism for individuals who may be affected or were affected by a covered algorithm to request an explanation that:

(i) includes information regarding why the covered algorithm produced the result it produced with respect to the individual making the request, and that is truthful, accurate, and scientifically valid;

(ii) identifies at least the most significant factors used to inform the covered algorithm's outputs; and

(iii) includes any other information deemed relevant by the division to provide an explanation for an individual who may be affected or was affected by a covered algorithm;

(d) an assessment of what information a developer must provide a deployer in order to ensure explanations can be provided to individuals upon request;

(e) the extent to which current technical capabilities of covered algorithms impacts the feasibility of providing explanations;

(f) how a deployer can take reasonable measures to verify the identity of an individual making a request for an explanation to ensure that the deployer provides an explanation only to the affected individual, including steps a deployer should take to ensure the safe and secure storage, collection, and deletion of personal information; and

(g) recommendations for the legislature on how to implement regulations around mechanisms for explanations.

3. In conducting the study required under this subsection, the division shall consult with the office of information technology services, and any other agency, office, commission or department deemed relevant by the division.

4. Not later than eighteen months after the effective date of this article, the division shall submit to the governor, the majority and minority leaders of the senate and the assembly, the senate Internet and Technology Committee, and the assembly Science and Technology Committee

1 a report that includes the findings of the study conducted under subdivi-
2 vision one of this section, together with recommendations for such
3 legislation and administrative action as the division determines appro-
4 priate.

5 § 112. Consumer awareness. 1. (a) Not later than ninety days after the
6 effective date of this article, the division shall publish, on the
7 internet website of the division, a web page that describes each
8 provision, right, obligation, and requirement of this article (categor-
9 ized with respect to individuals, deployers, and developers) and the
10 remedies, exemptions, and protections associated with this article, in
11 plain and concise language, in each covered language, and in an easy-to-
12 understand, accessible manner.

13 (b) The division shall update the information published under para-
14 graph (a) of this subdivision as necessitated by any change in law,
15 regulation, guidance, or judicial decision. Any such update shall be
16 published in plain and concise language, in each covered language, and
17 in an easy-to-understand, accessible manner.

18 2. Not later than two years after the date of effective date of this
19 article, and annually thereafter, the division shall publish on the
20 internet website of the division a report that:

21 (a) describes and summarizes the information contained in any pre-de-
22 ployment evaluation, impact assessment, and developer review submitted
23 to the division in accordance with this article;

24 (b) describes broad trends, aggregated statistics, and anonymized
25 information about performing impact assessments of covered algorithms,
26 for the purposes of updating guidance related to impact assessments and
27 summary reporting, oversight, and making recommendations to other regu-
28 latory agencies; and

29 (c) is accessible and machine readable.

30 3.(a) Not later than one hundred eighty days after the division
31 publishes the first annual report under subdivision two of this section,
32 the division shall develop a publicly accessible repository to publish
33 each pre-deployment evaluation, impact assessment, and developer review
34 submitted to the division in accordance with section one hundred three
35 and one hundred four of this article.

36 (b) The division shall design the repository established under para-
37 graph (a) of this section to:

38 (i) be publicly available and easily discoverable on the internet
39 website of the division;

40 (ii) allow users to sort and search the repository by multiple charac-
41 teristics (such as by developer or deployer and date reported) simul-
42 taneously;

43 (iii) allow users to make a copy of or download the information
44 obtained from the repository, including any subsets of information
45 obtained by sorting or searching as described in subparagraph (ii) of
46 this paragraph;

47 (iv) be in accordance with user experience and accessibility best
48 practices; and

49 (v) include information about the design, use, and maintenance of the
50 repository, including any other information determined appropriate by
51 the division.

52 (c) The division shall publish in the repository any pre-deployment
53 evaluation, impact assessment, and developer review not later than thir-
54 ty days after receiving such evaluation, assessment, or review, except
55 if the division has good cause to delay such publication.

56 (d) The division:

1 (i) may redact and segregate any trade secret (as defined in section
2 1839 of title 18, United States Code) from public disclosure under this
3 subsection;

4 (ii) shall redact and segregate personal data from public disclosure
5 under this subdivision; and

6 (iii) may withhold information as permitted under section 552 of title
7 5, United States Code.

8 § 113. Enforcement. In any case in which the attorney general has
9 reason to believe that an interest of the residents of the state has
10 been or is threatened or adversely affected by the engagement of a
11 person in a practice that violates this article, or a regulation promul-
12 gated thereunder, the attorney general may, as parens patriae, bring a
13 civil action on behalf of the residents of the state in an appropriate
14 Federal district court of the United States that meets applicable
15 requirements relating to venue under section 1391 of title 28, United
16 States Code, to:

17 1. enjoin any such violation by the person;
18 2. enforce compliance with the requirements of this article;
19 3. obtain a permanent, temporary, or preliminary injunction or other
20 appropriate equitable relief;

21 4. obtain civil penalties in the amount of fifteen thousand dollars
22 per violation, or four percent of the defendant's average gross annual
23 revenue over the preceding three years, whichever is greater;

24 5. obtain damages, restitution, or other compensation on behalf of the
25 residents of the state;

26 6. obtain reasonable attorneys' fees and litigation costs; and

27 7. obtain such other relief as the court may consider to be appropri-
28 ate.

29 § 114. Private right of action. 1. Any individual or class of individ-
30 uals alleging a violation of this article, or a regulation promulgated
31 hereunder, may bring a civil action in any court of competent jurisdic-
32 tion.

33 2. In a civil action brought under this section in which the plaintiff
34 prevails, the court may award:

35 (a) treble damages or fifteen thousand dollars per violation, whichev-
36 er is greater;

37 (b) nominal damages;

38 (c) punitive damages;

39 (d) reasonable attorneys' fees and litigation costs; and

40 (e) any other relief, including equitable or declaratory relief, that
41 the court determines appropriate.

42 3.(a) Prior to an individual bringing a civil action under this
43 section, such individual shall notify the division and the attorney
44 general, in writing and including a description of the allegations
45 included in the civil action, that such individual intends to bring a
46 civil action under such paragraph. Not later than sixty days after
47 receiving such notice, the division and the attorney general shall each
48 or jointly make a determination and respond to such individual as to
49 whether they will intervene in such action. The division and the attor-
50 ney general shall have a right to intervene in any civil action under
51 this section, and upon intervening, to be heard on all matters arising
52 in such action and file petitions for appeal of a decision in such
53 action.

54 (b) Paragraph (a) of this subdivision shall not be construed to limit
55 the authority of the division or the attorney general to, at a later
56 date, commence a civil action or intervene by motion if the division or

1 the attorney general does not commence a proceeding or civil action
2 within the sixty-day period described in paragraph (a) of this subdivi-
3 sion.

4 4. (a) Notwithstanding any other provision of law, no pre-dispute
5 arbitration agreement or pre-dispute joint action waiver shall be valid
6 or enforceable with regard to a dispute arising under this article.

7 (b) Any determination as to whether or how this subdivision applies to
8 any dispute shall be made by a court, rather than an arbitrator, without
9 regard to whether such agreement purports to delegate such determination
10 to an arbitrator.

11 (c) For purposes of this subdivision:

12 (i) "pre-dispute arbitration agreement" means any agreement to arbi-
13 trate a dispute that has not arisen at the time of the making of the
14 agreement; and

15 (ii) "pre-dispute joint-action waiver" means an agreement, whether or
16 not part of a pre-dispute arbitration agreement, that would prohibit or
17 waive the right of one of the parties to the agreement to participate in
18 a joint, class, or collective action in a judicial, arbitral, adminis-
19 trative, or other related forum, concerning a dispute that has not yet
20 arisen at the time of the making of the agreement.

21 § 115. Regulations. The division may promulgate such rules and regu-
22 lations as may be necessary to carry out this this article.

23 § 116. Rules of construction. 1. Nothing in this article shall be
24 construed to:

25 (a) waive or otherwise limit any requirement under the National Labor
26 Relations Act (29 U.S.C. 151 et seq.) for an employer (as such term is
27 defined in section 2 of such Act (29 U.S.C. 152)) to bargain collective-
28 ly regarding the deployment or effects of a covered algorithm;

29 (b) absolve an employer of any obligation to ensure a covered algo-
30 rithm and its effects comply with health and safety laws;

31 (c) allow an employer to deploy a covered algorithm that interferes
32 with the rights of employees under any federal, state, or local law; or

33 (d) absolve any other duty or requirement under any other federal,
34 state, or local law.

35 2. No regulation or standard imposed under this article may be
36 construed in a manner that would lessen the stringency of the require-
37 ments of any applicable federal or state agency that are otherwise
38 applicable. This article does not divest any such agency of any authori-
39 ty derived from any other applicable law.

40 § 117. Severability. If any provision of this article, or the applica-
41 tion thereof to any person or circumstance, is held invalid, the remain-
42 der of this article, and the application of such provision to other
43 persons not similarly situated or to other circumstances, shall not be
44 affected by the invalidation.

45 § 2. This act shall take effect on the first of January next succeed-
46 ing the date upon which it shall have become a law.