



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2203

Introduced 2/7/2025, by Sen. Graciela Guzmán

SYNOPSIS AS INTRODUCED:

New Act
815 ILCS 505/2HHHH new

Creates the Preventing Algorithmic Discrimination Act. Provides that, on or before January 1, 2027, and annually thereafter, a deployer of an automated decision tool shall perform an impact assessment for any automated decision tool the deployer uses or designs, codes, or produces that includes specified information. Provides that a deployer shall, at or before the time an automated decision tool is used to make a consequential decision, notify any natural person who is the subject of the consequential decision that an automated decision tool is being used to make, or be a controlling factor in making, the consequential decision and provide specified information. Provides that a deployer shall establish, document, implement, and maintain a governance program that contains reasonable administrative and technical safeguards to map, measure, manage, and govern the reasonably foreseeable risks of algorithmic discrimination associated with the use or intended use of an automated decision tool. Provides that, within 60 days after completing an impact assessment required by the Act, a deployer shall provide the impact assessment to the Attorney General. Amends the Consumer Fraud and Deceptive Business Practices Act to make conforming changes.

LRB104 10978 SPS 21060 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Preventing Algorithmic Discrimination Act.

6 Section 5. Definitions. As used in this Act:

7 "Algorithmic discrimination" means the condition in which
8 an automated decision tool contributes to unjustified
9 differential treatment or impacts disfavoring people based on
10 their actual or perceived race, color, ethnicity, sex,
11 religion, age, national origin, limited English proficiency,
12 disability, veteran status, genetic information, reproductive
13 health, or any other classification protected by State law.

14 "Algorithmic discrimination" does not include:

15 (1) the offer, license, or use of a high-risk
16 artificial intelligence system by a deployer for the sole
17 purpose of:

18 (A) the deployer's self-testing to identify,
19 mitigate, or prevent discrimination or otherwise
20 ensure compliance with state and federal law; or

21 (B) expanding an applicant, customer, or
22 participant pool to increase diversity or redress
23 historical discrimination; or

1 (2) an act or omission by or on behalf of a private
2 club or other establishment that is not in fact open to the
3 public, as set forth in the Civil Rights Act of 1964.

4 "Artificial intelligence system" means a machine-based
5 system that, for explicit or implicit objectives, infers, from
6 the input it receives, how to generate outputs such as
7 predictions, content, recommendations, or decisions that can
8 influence physical or virtual environments. "Artificial
9 intelligence system" includes a generative artificial
10 intelligence system. For the purposes of this definition,
11 "generative artificial intelligence system" means an automated
12 computing system that, when prompted with human prompts,
13 descriptions, or queries, can produce outputs that simulate
14 human-produced content, including, but not limited to:

15 (1) textual outputs, such as short answers, essays,
16 poetry, or longer compositions or answers;

17 (2) image outputs, such as fine art, photographs,
18 conceptual art, diagrams, and other images;

19 (3) multimedia outputs, such as audio or video in the
20 form of compositions, songs, or short-form or long-form
21 audio or video; and

22 (4) other content that would otherwise be produced by
23 human means

24 "Automated decision tool" means a system or service that
25 uses artificial intelligence and has been specifically
26 developed and marketed to, or specifically modified to, make,

1 or be a controlling factor in making, consequential decisions.

2 "Consequential decision" means a decision or judgment that
3 has a legal, material, or similarly significant effect on an
4 individual's life relating to the impact of, access to, or the
5 cost, terms, or availability of, any of the following:

6 (1) employment, worker management, or self-employment,
7 including, but not limited to, all of the following:

8 (A) pay or promotion;

9 (B) hiring or termination; and

10 (C) automated task allocation;

11 (2) education and vocational training, including, but
12 not limited to, all of the following:

13 (A) assessment, including, but not limited to,
14 detecting student cheating or plagiarism;

15 (B) accreditation;

16 (C) certification;

17 (D) admissions; and

18 (E) financial aid or scholarships;

19 (3) housing or lodging, including rental or short-term
20 housing or lodging;

21 (4) essential utilities, including electricity, heat,
22 water, Internet or telecommunications access, or
23 transportation;

24 (5) family planning, including adoption services or
25 reproductive services, as well as assessments related to
26 child protective services;

1 (6) healthcare or health insurance, including mental
2 health care, dental, or vision;

3 (7) financial services, including a financial service
4 provided by a mortgage company, mortgage broker, or
5 creditor;

6 (8) the criminal justice system, including, but not
7 limited to, all of the following:

8 (A) risk assessments for pretrial hearings;

9 (B) sentencing; and

10 (C) parole;

11 (9) legal services, including private arbitration or
12 mediation;

13 (10) voting; and

14 (11) access to benefits or services or assignment of
15 penalties.

16 "Deployer" means a person, partnership, State or local
17 government agency, or corporation that uses an automated
18 decision tool to make a consequential decision.

19 "Impact assessment" means a documented risk-based
20 evaluation of an automated decision tool that meets the
21 criteria of Section 10.

22 "Sex" includes pregnancy, childbirth, and related
23 conditions, gender identity, intersex status, and sexual
24 orientation.

25 "Significant update" means a new version, new release, or
26 other update to an automated decision tool that includes

1 changes to its use case, key functionality, or expected
2 outcomes.

3 Section 10. Impact assessment.

4 (a) On or before January 1, 2027, and annually thereafter,
5 a deployer of an automated decision tool shall perform an
6 impact assessment for any automated decision tool the deployer
7 uses that includes all of the following:

8 (1) a statement of the purpose of the automated
9 decision tool and its intended benefits, uses, and
10 deployment contexts;

11 (2) a description of the automated decision tool's
12 outputs and how they are used to make, or be a controlling
13 factor in making, a consequential decision;

14 (3) a summary of the type of data collected from
15 natural persons and processed by the automated decision
16 tool when it is used to make, or be a controlling factor in
17 making, a consequential decision;

18 (4) an analysis of potential adverse impacts on the
19 basis of sex, race, color, ethnicity, religion, age,
20 national origin, limited English proficiency, disability,
21 veteran status, or genetic information from the deployer's
22 use of the automated decision tool;

23 (5) a description of the safeguards implemented, or
24 that will be implemented, by the deployer to address any
25 reasonably foreseeable risks of algorithmic discrimination

1 arising from the use of the automated decision tool known
2 to the deployer at the time of the impact assessment;

3 (6) a description of how the automated decision tool
4 will be used by a natural person, or monitored when it is
5 used, to make, or be a controlling factor in making, a
6 consequential decision; and

7 (7) a description of how the automated decision tool
8 has been or will be evaluated for validity or relevance.

9 (b) A deployer shall, in addition to the impact assessment
10 required by subsection (a), perform, as soon as feasible, an
11 impact assessment with respect to any significant update.

12 (c) This Section does not apply to a deployer with fewer
13 than 25 employees unless, as of the end of the prior calendar
14 year, the deployer deployed an automated decision tool that
15 impacted more than 999 people per year.

16 Section 15. Notification and accommodations.

17 (a) A deployer shall, at or before the time an automated
18 decision tool is used to make a consequential decision, notify
19 any natural person who is the subject of the consequential
20 decision that an automated decision tool is being used to
21 make, or be a controlling factor in making, the consequential
22 decision. A deployer shall provide to a natural person
23 notified under this subsection all of the following:

24 (1) a statement of the purpose of the automated
25 decision tool;

1 (2) the contact information for the deployer; and

2 (3) a plain language description of the automated
3 decision tool that includes a description of any human
4 components and how any automated component is used to
5 inform a consequential decision.

6 (b) If a consequential decision is made solely based on
7 the output of an automated decision tool, a deployer shall, if
8 technically feasible, accommodate a natural person's request
9 to not be subject to the automated decision tool and to be
10 subject to an alternative selection process or accommodation.
11 After a request is made under this subsection, a deployer may
12 reasonably request, collect, and process information from a
13 natural person for the purposes of identifying the person and
14 the associated consequential decision. If the person does not
15 provide that information, the deployer shall not be obligated
16 to provide an alternative selection process or accommodation.

17 Section 20. Governance program.

18 (a) A deployer shall establish, document, implement, and
19 maintain a governance program that contains reasonable
20 administrative and technical safeguards to map, measure,
21 manage, and govern the reasonably foreseeable risks of
22 algorithmic discrimination associated with the use or intended
23 use of an automated decision tool. The safeguards required by
24 this subsection shall be appropriate to all of the following:

25 (1) the use or intended use of the automated decision

1 tool;

2 (2) the deployer's role as a deployer;

3 (3) the size, complexity, and resources of the
4 deployer;

5 (4) the nature, context, and scope of the activities
6 of the deployer in connection with the automated decision
7 tool; and

8 (5) the technical feasibility and cost of available
9 tools, assessments, and other means used by a deployer to
10 map, measure, manage, and govern the risks associated with
11 an automated decision tool.

12 (b) The governance program required by this Section shall
13 be designed to do all of the following:

14 (1) identify and implement safeguards to address
15 reasonably foreseeable risks of algorithmic discrimination
16 resulting from the use or intended use of an automated
17 decision tool;

18 (2) if established by a deployer, provide for the
19 performance of impact assessments as required by Section
20 10;

21 (3) conduct an annual and comprehensive review of
22 policies, practices, and procedures to ensure compliance
23 with this Act;

24 (4) maintain for 2 years after completion the results
25 of an impact assessment; and

26 (5) evaluate and make reasonable adjustments to

1 administrative and technical safeguards in light of
2 material changes in technology, the risks associated with
3 the automated decision tool, the state of technical
4 standards, and changes in business arrangements or
5 operations of the deployer.

6 (c) A deployer shall designate at least one employee to be
7 responsible for overseeing and maintaining the governance
8 program and compliance with this Act. An employee designated
9 under this subsection shall have the authority to assert to
10 the employee's employer a good faith belief that the design,
11 production, or use of an automated decision tool fails to
12 comply with the requirements of this Act. An employer of an
13 employee designated under this subsection shall conduct a
14 prompt and complete assessment of any compliance issue raised
15 by that employee.

16 (d) This Section does not apply to a deployer with fewer
17 than 25 employees unless, as of the end of the prior calendar
18 year, the deployer deployed an automated decision tool that
19 impacted more than 999 people per year.

20 Section 25. Public statement of policy. A deployer shall
21 make publicly available, in a readily accessible manner, a
22 clear policy that provides a summary of both of the following:

23 (1) the types of automated decision tools currently in
24 use or made available to others by the deployer; and

25 (2) how the deployer manages the reasonably

1 foreseeable risks of algorithmic discrimination that may
2 arise from the use of the automated decision tools it
3 currently uses or makes available to others.

4 Section 30. Algorithmic discrimination.

5 (a) A deployer shall not use an automated decision tool
6 that results in algorithmic discrimination.

7 (b) On and after January 1, 2028, a person may bring a
8 civil action against a deployer for violation of this Section.
9 In an action brought under this subsection, the plaintiff
10 shall have the burden of proof to demonstrate that the
11 deployer's use of the automated decision tool resulted in
12 algorithmic discrimination that caused actual harm to the
13 person bringing the civil action.

14 (c) In addition to any other remedy at law, a deployer that
15 violates this Section shall be liable to a prevailing
16 plaintiff for any of the following:

- 17 (1) compensatory damages;
18 (2) declaratory relief; and
19 (3) reasonable attorney's fees and costs.

20 Section 35. Impact assessment.

21 (a) Within 60 days after completing an impact assessment
22 required by this Act, a deployer shall provide the impact
23 assessment to the Attorney General.

24 (b) A deployer who knowingly violates this Section shall

1 be liable for an administrative fine of not more than \$10,000
2 per violation in an administrative enforcement action brought
3 by the Attorney General. Each day on which an automated
4 decision tool is used for which an impact assessment has not
5 been submitted as required under this Section shall give rise
6 to a distinct violation of this Section.

7 (c) The Attorney General may share impact assessments with
8 other State entities as appropriate.

9 Section 40. Enforcement. A violation of this Act
10 constitutes an unlawful practice under the Consumer Fraud and
11 Deceptive Business Practices Act. All remedies, penalties, and
12 authority granted to the Attorney General by the Consumer
13 Fraud and Deceptive Business Practices Act shall be available
14 to him or her for the enforcement of this Act.

15 Section 95. The Consumer Fraud and Deceptive Business
16 Practices Act is amended by adding Section 2HHHH as follows:

17 (815 ILCS 505/2HHHH new)

18 Sec. 2HHHH. Violations of the Preventing Algorithmic
19 Discrimination Act. A person who violates the Preventing
20 Algorithmic Discrimination Act commits an unlawful practice
21 within the meaning of this Act.