

119TH CONGRESS  
1ST SESSION

# S. 3308

To establish protections for individual rights with respect to computational algorithms, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 2, 2025

Mr. MARKEY (for himself, Mr. BOOKER, Mr. MERKLEY, Ms. WARREN, and Ms. HIRONO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To establish protections for individual rights with respect to computational algorithms, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Artificial Intelligence Civil Rights Act of 2025”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for  
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

### TITLE I—CIVIL RIGHTS

Sec. 101. Discrimination.

Sec. 102. Pre-deployment evaluations and post-deployment impact assessments.

TITLE II—COVERED ALGORITHM AND CONTRACT STANDARDS

Sec. 201. Covered algorithm standards.

Sec. 202. Relationships between developers and deployers.

Sec. 203. Human alternatives and other protections.

Sec. 204. Prohibition on retaliation; whistleblower protections.

TITLE III—TRANSPARENCY

Sec. 301. Notice and disclosure.

Sec. 302. Study on explanations regarding the use of covered algorithms.

Sec. 303. Consumer awareness.

TITLE IV—ENFORCEMENT

Sec. 401. Enforcement by the Commission.

Sec. 402. Enforcement by States.

Sec. 403. Private right of action.

Sec. 404. Severability.

Sec. 405. Rules of construction.

TITLE V—FEDERAL RESOURCES

Sec. 501. Occupational series relating to algorithm auditing.

Sec. 502. Additional Federal resources.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) COLLECT; COLLECTION.—The terms “col-  
4 lect” and “collection”, with respect to personal data,  
5 mean buying, renting, gathering, obtaining, receiv-  
6 ing, accessing, or otherwise acquiring such data by  
7 any means.

8 (2) COMMERCIAL ACT.—The term “commercial  
9 act”, with respect to a covered algorithm, means an  
10 act conducted for monetary or other valuable consid-  
11 eration, including conducting an activity in further-  
12 ance of obtaining such consideration.

13 (3) COMMISSION.—The term “Commission”  
14 means the Federal Trade Commission.

1           (4) CONSEQUENTIAL ACTION.—The term “con-  
2           sequential action” means an act that is likely to  
3           have a material effect on, or to materially contribute  
4           to, access to, security and authentication relating to,  
5           eligibility for, cost of, terms of, or conditions related  
6           to any of the following:

7                   (A) Employment, including hiring, pay,  
8                   independent contracting, worker management,  
9                   promotion, and termination.

10                   (B) Education and career and technical  
11                   education, including assessment, proctoring,  
12                   promotion of academic integrity, accreditation,  
13                   certification, admissions, enrollment, discipli-  
14                   nary actions including suspension, expulsion, or  
15                   referral to law enforcement, eligibility for grad-  
16                   uation, grade promotion or degree conferral,  
17                   academic performance evaluation, and provision  
18                   of financial aid and scholarships.

19                   (C) Housing and lodging, including rental  
20                   and short-term housing and lodging, home ap-  
21                   praisals, rental subsidies, publicly supported  
22                   housing, and mortgage lending.

23                   (D) Essential utilities, including electricity,  
24                   heat, water, municipal trash or sewage services,

1 internet and telecommunications service, and  
2 public transportation.

3 (E) Health care, including mental health  
4 care, and dental, vision, and adoption services,  
5 and other health care-related services, treat-  
6 ment options, trials, and studies.

7 (F) Credit, banking, and other financial  
8 services.

9 (G) Insurance, including insurance claim  
10 determinations.

11 (H) Actions of the criminal justice system,  
12 law enforcement or intelligence operations, im-  
13 migration determinations or enforcement, bor-  
14 der control (vetting, screening, and inspection),  
15 child protective services, child welfare, and fam-  
16 ily services, including risk and threat assess-  
17 ments, situational awareness and threat detec-  
18 tion, investigations, watchlisting, bail deter-  
19 minations, sentencing, administration of parole,  
20 surveillance, use of unmanned vehicles and ma-  
21 chines, and predictive policing.

22 (I) Justice and determinations concerning  
23 guilt or liability, including assignment of cases  
24 or counsel, bail determinations, pre-detention  
25 risk assessments, case intake, sequencing, and

1 processing, awards of actual or punitive dam-  
2 ages, and binding and nonbinding determina-  
3 tions in arbitration, mediation, or other alter-  
4 native dispute resolution.

5 (J) Elections, including voting, require-  
6 ments for documentation or proof of identity to  
7 vote or register to vote (and determinations  
8 about whether an individual meets those re-  
9 quirements), redistricting, polling place re-  
10 sources, reduction or alteration of multilingual  
11 or English language voting materials, alteration  
12 of the manner in which voting materials are  
13 provided or distributed, reduction, consolida-  
14 tion, or relocation of voting locations in elec-  
15 tions for Federal, State, or local office (includ-  
16 ing early, absentee, and election-day voting lo-  
17 cations), reduction in days or hours of in-person  
18 voting during a period occurring prior to the  
19 date of an election for Federal, State, or local  
20 office during which voters may cast ballots in  
21 such election, election security, and election ad-  
22 ministration, including maintenance processes  
23 for voter registration lists that add a new basis  
24 for removal from the list of active voters reg-  
25 istered to vote in elections for Federal, State, or

1 local office, or that incorporate a new source of  
2 information in determining a voter’s eligibility  
3 to vote in elections for Federal, State, or local  
4 office.

5 (K) Government benefits and services, as  
6 well as verification of identity, citizenship, and  
7 immigration status, fraud prevention, and as-  
8 signment of penalties.

9 (L) A public accommodation.

10 (M) Any other service, program, product,  
11 or opportunity which has a comparable legal,  
12 material, or similarly significant effect on an in-  
13 dividual’s life as determined by the Commission  
14 through rules promulgated pursuant to section  
15 553 of title 5, United States Code.

16 (5) COVERED ALGORITHM.—The term “covered  
17 algorithm” means—

18 (A) a computational process derived from  
19 machine learning, natural language processing,  
20 artificial intelligence techniques, or other com-  
21 putational processing techniques of similar or  
22 greater complexity, that, with respect to a con-  
23 sequential action—

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

4 (ii) promotes, recommends, ranks, or  
5 otherwise affects the display or delivery of  
6 information that is used as an integral  
7 part of the consequential action;

8 (iii) makes a decision; or

9 (iv) facilitates human decision mak-  
10 ing; or

11 (B) any other computational process  
12 deemed appropriate by the Commission through  
13 rules promulgated pursuant to section 553 of  
14 title 5, United States Code.

15 (6) COVERED LANGUAGE.—The term “covered  
16 language” means the 10 languages with the most  
17 speakers in the United States, according to the most  
18 recent data collected by the United States Census  
19 Bureau.

20 (7) DE-IDENTIFIED DATA.—The term “de-iden-  
21 tified data” means information—

22 (A) that does not identify and is not linked  
23 or reasonably linkable to an individual or a de-  
24 vice, regardless of whether the information is  
25 aggregated; and

1 (B) with respect to which any developer or  
2 deployer using such information—

3 (i) takes reasonable technical meas-  
4 ures to ensure that the information cannot,  
5 at any point, be used to re-identify any in-  
6 dividual or device that identifies or is  
7 linked or reasonably linkable to an indi-  
8 vidual;

9 (ii) publicly commits in a clear and  
10 conspicuous manner—

11 (I) to process and transfer the  
12 information solely in a de-identified  
13 form without any reasonable means  
14 for re-identification; and

15 (II) to not attempt to re-identify  
16 the information with any individual or  
17 device that identifies or is linked or  
18 reasonably linkable to an individual;  
19 and

20 (iii) contractually obligates any person  
21 that receives the information from the de-  
22 veloper or deployer—

23 (I) to comply with all of the pro-  
24 visions of this paragraph with respect  
25 to such information; and

1 (II) to require that such contrac-  
2 tual obligations be included in all sub-  
3 sequent instances for which the infor-  
4 mation may be received.

5 (8) DEPLOYER.—

6 (A) IN GENERAL.—The term “deployer”  
7 means any person that uses a covered algorithm  
8 for a commercial act.

9 (B) RULE OF CONSTRUCTION.—The terms  
10 “deployer” and “developer” shall not be inter-  
11 preted to be mutually exclusive.

12 (9) DEVELOPER.—

13 (A) IN GENERAL.—The term “developer”  
14 means any person that designs, codes, cus-  
15 tomizes, produces, or substantially modifies an  
16 algorithm that is intended or reasonably likely  
17 to be used as a covered algorithm—

18 (i) for such person’s own use, or use  
19 by a third party, in connection with a com-  
20 mercial act; or

21 (ii) for use by a government entity.

22 (B) ASSUMPTION OF DEVELOPER RESPON-  
23 SIBILITIES.—In the event that a deployer uses  
24 an algorithm as a covered algorithm, and no  
25 person is considered the developer of the algo-

1 rithm for purposes of subparagraph (A), the  
2 deployer shall be considered the developer of the  
3 covered algorithm for the purposes of this Act.

4 (C) RULE OF CONSTRUCTION.—The terms  
5 “developer” and “deployer” shall not be inter-  
6 preted to be mutually exclusive.

7 (10) DISPARATE IMPACT.—

8 (A) IN GENERAL.—The term “disparate  
9 impact” means an unjustified differential effect  
10 on an individual or group of individuals on the  
11 basis of an actual or perceived protected char-  
12 acteristic.

13 (B) UNJUSTIFIED DIFFERENTIAL EF-  
14 FECT.—For purposes of subparagraph (A), with  
15 respect to the action, policy, or practice of a de-  
16 veloper or deployer, a differential effect is un-  
17 justified if—

18 (i) the developer or deployer fails to  
19 demonstrate that such action, policy, or  
20 practice causing the differential effect is  
21 necessary to achieve a substantial, legiti-  
22 mate, and nondiscriminatory interest; or

23 (ii) in the event the developer or  
24 deployer demonstrates such interest, an al-  
25 ternative action, policy, or practice could

1           serve such interest with less differential ef-  
2           fect.

3           (C) APPLICATION TO COVERED ALGO-  
4           RITHMS.—With respect to demonstrating that a  
5           covered algorithm causes or contributes to a  
6           differential effect, the covered algorithm is pre-  
7           sumed to be not separable for analysis and may  
8           be analyzed holistically as a single action, pol-  
9           icy, or practice, unless the developer or deployer  
10          proves that the covered algorithm is separable  
11          by a preponderance of the evidence.

12          (11) HARM.—The term “harm”, with respect to  
13          a consequential action, means a non-de minimis ad-  
14          verse effect on an individual or group of individ-  
15          uals—

16                 (A) on the basis of a protected char-  
17                 acteristic;

18                 (B) that involves the use of force, coercion,  
19                 harassment, intimidation, or detention; or

20                 (C) that involves the infringement of a  
21                 right protected under the Constitution of the  
22                 United States.

23          (12) INDEPENDENT AUDITOR.—

24                 (A) IN GENERAL.—The term “independent  
25                 auditor” means an individual that conducts a

1 pre-deployment evaluation or impact assessment  
2 of a covered algorithm in a manner that exer-  
3 cises objective and impartial judgment on all  
4 issues within the scope of such evaluation or as-  
5 sessment.

6 (B) EXCLUSION.—An individual is not an  
7 independent auditor of a covered algorithm if  
8 such individual—

9 (i) is or was involved in using, devel-  
10 oping, offering, licensing, or deploying the  
11 covered algorithm for a commercial act;

12 (ii) at any point during the pre-de-  
13 ployment evaluation or impact assessment,  
14 has an employment relationship (including  
15 a contractor relationship, but not including  
16 a contractor relationship for the auditing  
17 service described in subparagraph (A))  
18 with a developer or deployer that uses, of-  
19 fers, or licenses the covered algorithm; or

20 (iii) at any point during the pre-de-  
21 ployment evaluation or impact assessment,  
22 has a direct financial interest, a reasonably  
23 foreseeable future financial interest, or a  
24 material indirect financial interest in a de-  
25 veloper or deployer that uses, offers, or li-

1           censes a covered algorithm, not including  
2           routine payment for the auditing services  
3           described in subparagraph (A).

4           (13) INDIVIDUAL.—The term “individual”  
5           means a natural person in the United States.

6           (14) PERSONAL DATA.—

7           (A) IN GENERAL.—The term “personal  
8           data”—

9           (i) means information that identifies  
10           or is linked or reasonably linkable, alone or  
11           in combination with other information, to  
12           an individual or an individual’s device; and

13           (ii) shall include derived data and  
14           unique persistent identifiers.

15           (B) EXCLUSION.—The term “personal  
16           data” does not include de-identified data.

17           (15) PROCESS.—The term “process”, with re-  
18           spect to personal data, means to conduct or direct  
19           any operation or set of operations performed on such  
20           data, including analyzing, organizing, structuring,  
21           retaining, storing, using, or otherwise handling such  
22           data.

23           (16) PROTECTED CHARACTERISTIC.—The term  
24           “protected characteristic” means any of the fol-

1       lowing actual or perceived traits of an individual or  
2       group of individuals:

3               (A) Race.

4               (B) Color.

5               (C) Ethnicity.

6               (D) National origin, nationality, or immi-  
7       gration status.

8               (E) Religion.

9               (F) Sex (including a sex stereotype, preg-  
10       nancy, childbirth, or a related medical condi-  
11       tion, sexual orientation or gender identity, and  
12       sex characteristics, including intersex traits).

13              (G) Disability.

14              (H) Limited English proficiency.

15              (I) Biometric information.

16              (J) Familial or marital status.

17              (K) Source of income.

18              (L) Income level (not including the ability  
19       to pay for a specific good or service being of-  
20       fered).

21              (M) Age.

22              (N) Veteran status.

23              (O) Genetic information or medical condi-  
24       tions.

1 (P) Any other classification protected by  
2 Federal law.

3 (17) PUBLIC ACCOMMODATION.—

4 (A) IN GENERAL.—The term “public ac-  
5 commodation” means—

6 (i) a business that offers goods or  
7 services to the general public, regardless of  
8 whether the business is operated for profit  
9 or operates from a physical facility;

10 (ii) a park, road, or pedestrian path-  
11 way open to the general public;

12 (iii) a means of public transportation;

13 or

14 (iv) a publicly owned or operated facil-  
15 ity open to the general public.

16 (B) EXCLUSIONS.—The term “public ac-  
17 commodation” does not include a private club  
18 or establishment described in section 101(b)(2).

19 (18) STATE.—The term “State” means each of  
20 the 50 States, the District of Columbia, Puerto Rico,  
21 the United States Virgin Islands, Guam, American  
22 Samoa, and the Commonwealth of the Northern  
23 Mariana Islands.

24 (19) STATE DATA PROTECTION AUTHORITY.—

25 The term “State data protection authority” means

1 an independent public authority of a State that su-  
 2 pervises, investigates, and regulates data protection  
 3 and security law in the State, including handling  
 4 complaints lodged against persons for violations of  
 5 State and relevant Federal laws.

6 (20) TRANSFER.—The term “transfer”, with  
 7 respect to personal data, means to disclose, release,  
 8 disseminate, make available, license, rent, or share  
 9 such data orally, in writing, electronically, or by any  
 10 other means.

## 11 **TITLE I—CIVIL RIGHTS**

### 12 **SEC. 101. DISCRIMINATION.**

13 (a) IN GENERAL.—A developer or deployer shall not  
 14 offer, license, promote, sell, or use a covered algorithm in  
 15 a manner that—

16 (1) causes or contributes to a disparate impact  
 17 in a manner that prevents;

18 (2) otherwise discriminates in a manner that  
 19 prevents; or

20 (3) otherwise makes unavailable,  
 21 the equal enjoyment of goods, services, or other activities  
 22 or opportunities, related to a consequential action, on the  
 23 basis of a protected characteristic.

24 (b) EXCEPTIONS.—This section shall not apply to—

1 (1) the offer, licensing, or use of a covered algo-  
2 rithm for the sole purpose of—

3 (A) a developer’s or deployer’s self-testing  
4 (or auditing by an independent auditor at a de-  
5 veloper’s or deployer’s request) to identify, pre-  
6 vent, or mitigate discrimination, or otherwise to  
7 ensure compliance with obligations, under Fed-  
8 eral law;

9 (B) expanding an applicant, participant, or  
10 customer pool to raise the likelihood of increas-  
11 ing diversity or redressing historic discrimina-  
12 tion; or

13 (C) conducting—

14 (i) good faith security research; or

15 (ii) other research, if conducting the  
16 research is not part or all of a commercial  
17 act; or

18 (2) any private club or other establishment not  
19 in fact open to the public, as described in section  
20 201(e) of the Civil Rights Act of 1964 (42 U.S.C.  
21 2000a(e)).

22 **SEC. 102. PRE-DEPLOYMENT EVALUATIONS AND POST-DE-**  
23 **PLOYMENT IMPACT ASSESSMENTS.**

24 (a) **PRE-DEPLOYMENT EVALUATIONS.**—Prior to de-  
25 ploying, licensing, or offering a covered algorithm (includ-

1 ing deploying a material change to a previously deployed  
2 covered algorithm or a material change made prior to de-  
3 ployment) for a consequential action, a developer or  
4 deployer shall conduct a pre-deployment evaluation in ac-  
5 cordance with the following:

6 (1) PRELIMINARY EVALUATION.—

7 (A) PLAUSIBILITY OF HARM.—

8 (i) DEVELOPERS.—The developer  
9 shall conduct a preliminary evaluation of  
10 the plausibility that any expected use of  
11 the covered algorithm may result in a  
12 harm.

13 (ii) DEPLOYERS.—The deployer shall  
14 conduct a preliminary evaluation of the  
15 plausibility that any intended use of the  
16 covered algorithm may result in a harm.

17 (B) RESULTS.—Based on the results of  
18 the preliminary evaluation, the developer or  
19 deployer shall—

20 (i) in the event that a harm is not  
21 plausible, record a finding of no plausible  
22 harm, including a description of the devel-  
23 oper's expected use or the deployer's in-  
24 tended use of the covered algorithm, how  
25 the preliminary evaluation was conducted,

1 and an explanation for the finding, and  
2 submit such record to the Commission; and

3 (ii) in the event that a harm is plau-  
4 sible, conduct a full pre-deployment evalua-  
5 tion as described in paragraph (2).

6 (C) PREVIOUSLY DEPLOYED COVERED AL-  
7 GORITHMS.—When conducting a preliminary  
8 evaluation of a material change to, or new use  
9 of, a previously deployed covered algorithm, the  
10 developer or deployer may limit the scope of the  
11 evaluation to whether use of the covered algo-  
12 rithm may result in a harm as a result of the  
13 material change or new use.

14 (2) FULL PRE-DEPLOYMENT EVALUATION.—

15 (A) FOR DEVELOPERS.—

16 (i) INDEPENDENT AUDITOR EVALUA-  
17 TION.—If a developer determines a harm is  
18 plausible during the preliminary evaluation  
19 described in paragraph (1), the developer  
20 shall engage an independent auditor to  
21 conduct a pre-deployment evaluation.

22 (ii) PRE-DEPLOYMENT EVALUATION  
23 REQUIREMENTS.—The evaluation required  
24 under clause (i) shall include a detailed re-  
25 view and description, sufficient for an indi-

1           vidual having ordinary skill in the art to  
2           understand the functioning, risks, uses,  
3           benefits, limitations, and other pertinent  
4           attributes of the covered algorithm, includ-  
5           ing—

6                           (I) the covered algorithm’s design  
7                           and methodology, including the inputs  
8                           the covered algorithm is designed to  
9                           use to produce an output and the out-  
10                          puts the covered algorithm is designed  
11                          to produce;

12                         (II) how the covered algorithm  
13                         was created, trained, and tested, in-  
14                         cluding—

15                                 (aa) any metric used to test  
16                                 the performance of the covered  
17                                 algorithm;

18                                 (bb) defined benchmarks  
19                                 and goals that correspond to  
20                                 such metrics, including whether  
21                                 there was sufficient representa-  
22                                 tion of demographic groups that  
23                                 are reasonably likely to use or be  
24                                 affected by the covered algorithm  
25                                 in the data used to create or

1 train the algorithm, and whether  
2 there was reasonable testing, if  
3 any, across such demographic  
4 groups;

5 (cc) the outputs the covered  
6 algorithm actually produces in  
7 testing;

8 (dd) a description of any  
9 consultation with relevant stake-  
10 holders, including any commu-  
11 nities that will be impacted by  
12 the covered algorithm, regarding  
13 the development of the covered  
14 algorithm, or a disclosure that no  
15 such consultation occurred;

16 (ee) a description of which  
17 protected characteristics, if any,  
18 were used for testing and evalua-  
19 tion, and how and why such  
20 characteristics were used, includ-  
21 ing—

22 (AA) whether the test-  
23 ing occurred in comparable  
24 contextual conditions to the  
25 conditions in which the cov-

1                   ered algorithm is expected to  
2                   be used; and

3                   (BB) if protected char-  
4                   acteristics were not available  
5                   to conduct such testing, a  
6                   description of alternative  
7                   methods the developer used  
8                   to conduct the required as-  
9                   sessment;

10                  (ff) any other computational  
11                  algorithm incorporated into the  
12                  development of the covered algo-  
13                  rithm, regardless of whether such  
14                  precursor computational algo-  
15                  rithm involves a consequential ac-  
16                  tion;

17                  (gg) a description of the  
18                  data and information used to de-  
19                  velop, test, maintain, or update  
20                  the covered algorithm, includ-  
21                  ing—

22                  (AA) each type of per-  
23                  sonal data used, each source  
24                  from which the personal  
25                  data was collected, and how

1 each type of personal data  
2 was inferred and processed;  
3 (BB) the legal author-  
4 ization for collecting and  
5 processing the personal  
6 data; and  
7 (CC) an explanation of  
8 how the data (including per-  
9 sonal data) used is rep-  
10 resentative, proportional,  
11 and appropriate to the devel-  
12 opment and intended uses of  
13 the covered algorithm; and  
14 (hh) a description of the  
15 training process for the covered  
16 algorithm which includes the  
17 training, validation, and test data  
18 utilized to confirm the intended  
19 outputs;  
20 (III) the potential for the covered  
21 algorithm to produce a harm or to  
22 have a disparate impact in the equal  
23 enjoyment of goods, services, or other  
24 activities or opportunities, and a de-

1           description of such potential harm or  
2           disparate impact;

3                   (IV) alternative practices and  
4           recommendations to prevent or miti-  
5           gate harm and recommendations for  
6           how the developer could monitor for  
7           harm after offering, licensing, or de-  
8           ploying the covered algorithm; and

9                   (V) any other information the  
10          Commission deems pertinent to pre-  
11          vent the covered algorithm from caus-  
12          ing harm or having a disparate impact  
13          in the equal enjoyment of goods, serv-  
14          ices, or other activities or opportuni-  
15          ties, as prescribed by rules promul-  
16          gated by the Commission pursuant to  
17          section 553 of title 5, United States  
18          Code.

19                   (iii) REPORT.—The independent audi-  
20          tor shall submit to the developer a report  
21          on the evaluation conducted under this  
22          subparagraph, including the findings and  
23          recommendations of such independent  
24          auditor.

25                   (B) FOR DEPLOYERS.—

1 (i) INDEPENDENT AUDITOR EVALUA-  
2 TION.—If a deployer determines a harm is  
3 plausible during the preliminary evaluation  
4 described in paragraph (1), the deployer  
5 shall engage an independent auditor to  
6 conduct a pre-deployment evaluation.

7 (ii) PRE-DEPLOYMENT EVALUATION  
8 REQUIREMENTS.—The evaluation required  
9 under clause (i) shall include a detailed re-  
10 view and description, sufficient for an indi-  
11 vidual having ordinary skill in the art to  
12 understand the functioning, risks, uses,  
13 benefits, limitations, and other pertinent  
14 attributes of the covered algorithm, includ-  
15 ing—

16 (I) the manner in which the cov-  
17 ered algorithm makes or contributes  
18 to a consequential action and the pur-  
19 pose for which the covered algorithm  
20 will be deployed;

21 (II) the necessity and proportion-  
22 ality of the covered algorithm in rela-  
23 tion to its planned use, including the  
24 intended benefits and limitations of  
25 the covered algorithm and a descrip-

1                   tion of the baseline process being en-  
2                   hanced or replaced by the covered al-  
3                   gorithm, if applicable;

4                   (III) the inputs that the deployer  
5                   plans to use to produce an output, in-  
6                   cluding—

7                   (aa) the type of personal  
8                   data and information used and  
9                   how the personal data and infor-  
10                  mation will be collected, inferred,  
11                  and processed;

12                  (bb) the legal authorization  
13                  for collecting and processing the  
14                  personal data; and

15                  (cc) an explanation of how  
16                  the data used is representative,  
17                  proportional, and appropriate to  
18                  the deployment of the covered al-  
19                  gorithm;

20                  (IV) the outputs the covered al-  
21                  gorithm is expected to produce and  
22                  the outputs the covered algorithm ac-  
23                  tually produces in testing;

24                  (V) a description of any addi-  
25                  tional testing or training completed by

1 the deployer for the context in which  
2 the covered algorithm will be de-  
3 ployed;

4 (VI) a description of any con-  
5 sultation with relevant stakeholders,  
6 including any communities that will  
7 be impacted by the covered algorithm,  
8 regarding the deployment of the cov-  
9 ered algorithm;

10 (VII) the potential for the cov-  
11 ered algorithm to produce a harm or  
12 to have a disparate impact in the  
13 equal enjoyment of goods, services, or  
14 other activities or opportunities in the  
15 context in which the covered algo-  
16 rithm will be deployed and a descrip-  
17 tion of such potential harm or dis-  
18 parate impact;

19 (VIII) alternative practices and  
20 recommendations to prevent or miti-  
21 gate harm in the context in which the  
22 covered algorithm will be deployed and  
23 recommendations for how the deployer  
24 could monitor for harm after offering,

1                   licensing, or deploying the covered al-  
2                   gorithm; and

3                   (IX) any other information the  
4                   Commission deems pertinent to pre-  
5                   vent the covered algorithm from caus-  
6                   ing harm or having a disparate impact  
7                   in the equal enjoyment of goods, serv-  
8                   ices, or other activities or opportuni-  
9                   ties as prescribed by rules promul-  
10                  gated by the Commission pursuant to  
11                  section 553 of title 5, United States  
12                  Code.

13                  (iii) REPORT.—The independent audi-  
14                  tor shall submit to the deployer a report on  
15                  the evaluation conducted under this sub-  
16                  paragraph, including the findings and rec-  
17                  ommendations of such independent audi-  
18                  tor.

19                  (b) DEPLOYER ANNUAL IMPACT ASSESSMENT.—  
20                  After the deployment of a covered algorithm, a deployer  
21                  shall, on an annual basis, conduct an impact assessment  
22                  in accordance with the following:

23                  (1) PRELIMINARY IMPACT ASSESSMENT.—The  
24                  deployer shall conduct a preliminary impact assess-  
25                  ment of the covered algorithm to identify any harm

1 that resulted from the covered algorithm during the  
2 reporting period and—

3 (A) if no resulting harm is identified by  
4 such assessment, shall record a finding of no  
5 harm, including a description of the developer’s  
6 expected use or the deployer’s intended use of  
7 the covered algorithm, how the preliminary  
8 evaluation was conducted, and an explanation  
9 for such finding, and submit such finding to the  
10 Commission; and

11 (B) if a resulting harm is identified by  
12 such assessment, shall conduct a full impact as-  
13 sessment as described in paragraph (2).

14 (2) FULL IMPACT ASSESSMENT.—In the event  
15 that the covered algorithm resulted in harm during  
16 the reporting period, the deployer shall engage an  
17 independent auditor to conduct a full impact assess-  
18 ment with respect to the reporting period, includ-  
19 ing—

20 (A) an assessment of the harm that re-  
21 sulted or was reasonably likely to have been  
22 produced during the reporting period;

23 (B) a description of the extent to which  
24 the covered algorithm produced a disparate im-  
25 pact in the equal enjoyment of goods, services,

1 or other activities or opportunities, including  
2 the methodology for such evaluation, of how the  
3 covered algorithm produced or likely produced  
4 such disparity;

5 (C) a description of the types of data input  
6 into the covered algorithm during the reporting  
7 period to produce an output, including—

8 (i) documentation of how data input  
9 into the covered algorithm to produce an  
10 output is represented and complete de-  
11 scriptions of each field of data; and

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

16 (D) whether and to what extent the cov-  
17 ered algorithm produced the outputs it was ex-  
18 pected to produce;

19 (E) a detailed description of how the cov-  
20 ered algorithm was used to make a consequen-  
21 tial action;

22 (F) any action taken to prevent or mitigate  
23 harms, including how relevant staff are in-  
24 formed of, trained about, and implement harm  
25 mitigation policies and practices, and rec-

1           ommendations for how the deployer could mon-  
2           itor for and prevent harm after offering, licens-  
3           ing, or deploying the covered algorithm; and

4           (G) any other information the Commission  
5           deems pertinent to prevent the covered algo-  
6           rithm from causing harm or having a disparate  
7           impact in the equal enjoyment of goods, serv-  
8           ices, or other activities or opportunities as pre-  
9           scribed by rules promulgated by the Commis-  
10          sion pursuant to section 553 of title 5, United  
11          States Code.

12          (3) REPORTS.—

13           (A) TO THE DEPLOYER.—After the en-  
14           gagement of the independent auditor, the inde-  
15           pendent auditor shall submit to the deployer a  
16           report on the impact assessment conducted  
17           under paragraph (2), including the findings and  
18           recommendations of such independent auditor.

19           (B) TO THE DEVELOPER.—Not later than  
20           30 days after the submission of a report on an  
21           impact assessment under subparagraph (A), a  
22           deployer shall submit to the developer of the  
23           covered algorithm a summary of such report,  
24           subject to the trade secret and privacy protec-  
25           tions described in subsection (e)(3).

1 (c) DEVELOPER ANNUAL REVIEW OF ASSESS-  
2 MENTS.—A developer shall, on an annual basis, review  
3 each impact assessment summary submitted by a deployer  
4 of its covered algorithm under subsection (b)(3)(B) for the  
5 following purposes:

6 (1) To assess how the deployer is using the cov-  
7 ered algorithm, including the methodology for as-  
8 sessing such use.

9 (2) To assess the type of data the deployer is  
10 inputting into the covered algorithm to produce an  
11 output and the types of outputs the covered algo-  
12 rithm is producing.

13 (3) To assess whether the deployer is complying  
14 with any relevant contractual agreement with the de-  
15 veloper and whether any remedial action is nec-  
16 essary.

17 (4) To compare the covered algorithm's per-  
18 formance in real-world conditions versus pre-deploy-  
19 ment testing, including the methodology used to  
20 evaluate such performance.

21 (5) To assess whether the covered algorithm is  
22 causing harm or is reasonably likely to be causing  
23 harm.

24 (6) To assess whether the covered algorithm is  
25 causing, or is reasonably likely to be causing, a dis-

1       parate impact in the equal enjoyment of goods, serv-  
2       ices, or other activities or opportunities, and, if so,  
3       how and with respect to which protected char-  
4       acteristic.

5           (7) To determine whether the covered algorithm  
6       needs modification.

7           (8) To determine whether any other action is  
8       appropriate to ensure that the covered algorithm re-  
9       mains safe and effective.

10          (9) To undertake any other assessment or re-  
11       sponsive action the Commission deems pertinent to  
12       prevent the covered algorithm from causing harm or  
13       having a disparate impact in the equal enjoyment of  
14       goods, services, or other activities or opportunities,  
15       as prescribed by rules promulgated by the Commis-  
16       sion pursuant to section 553 of title 5, United  
17       States Code.

18       (d) JOINT DEVELOPER AND DEPLOYER OBLIGA-  
19       TIONS.—If a person is both the developer and deployer  
20       of a covered algorithm, the person may conduct combined  
21       pre-deployment evaluations and annual assessments, pro-  
22       vided that each combined evaluation or assessment satis-  
23       fies all requirements for both developers and deployers.

24       (e) REPORTING AND RETENTION REQUIREMENTS.—

1           (1) REPORTING.—A developer or deployer that  
2           conducts a full pre-deployment evaluation, full im-  
3           pact assessment, or developer annual review of as-  
4           sessments shall—

5                   (A) not later than 30 days after comple-  
6                   tion, submit the evaluation, assessment, or re-  
7                   view to the Commission;

8                   (B) upon request, make the evaluation, as-  
9                   sessment, or review available to Congress; and

10                   (C) not later than 30 days after comple-  
11                   tion—

12                           (i) publish a summary of the evalua-  
13                           tion, assessment, or review on the website  
14                           of the developer or deployer in a manner  
15                           that is easily accessible to individuals; and

16                           (ii) submit such summary to the Com-  
17                           mission.

18           (2) RETENTION.—A developer or deployer shall  
19           retain all evaluations, assessments, and reviews de-  
20           scribed in this section for a period of not fewer than  
21           10 years.

22           (3) TRADE SECRETS AND PRIVACY.—A devel-  
23           oper or deployer—

24                   (A) may redact and segregate any trade  
25                   secret (as defined in section 1839 of title 18,

1 United States Code) from public disclosure  
2 under this subsection; and

3 (B) shall redact and segregate personal  
4 data from public disclosure under this sub-  
5 section.

6 (f) RULEMAKING.—

7 (1) AUTHORITY.—The Commission may, in ac-  
8 cordance with section 553 of title 5, United States  
9 Code, promulgate such rules as may be necessary to  
10 carry out this section.

11 (2) ADDITIONAL REGULATIONS.—Not later  
12 than 2 years after the date of enactment of this Act,  
13 the Commission shall—

14 (A) promulgate rules, pursuant to section  
15 553 of title 5, United States Code, specifying—

16 (i) what information and factors a de-  
17 veloper or deployer shall consider in mak-  
18 ing the preliminary evaluation or prelimi-  
19 nary impact assessment described in sub-  
20 sections (a)(1) and (b)(1), respectively;

21 (ii) what information a developer or  
22 deployer shall include in a summary of an  
23 evaluation, assessment, or developer review  
24 described in subsection (e)(1)(C); and

1 (iii) the extent to and process by  
2 which a developer may request additional  
3 information from a deployer, including the  
4 purposes for which a developer is per-  
5 mitted to use such additional information;  
6 and

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

## 12 **TITLE II—COVERED ALGORITHM** 13 **AND CONTRACT STANDARDS**

### 14 **SEC. 201. COVERED ALGORITHM STANDARDS.**

15 (a) COVERED ALGORITHM USE.—A developer or  
16 deployer shall do the following:

17 (1) Take reasonable measures to prevent and  
18 mitigate any harm identified by a pre-deployment  
19 evaluation described in section 102(a) or an impact  
20 assessment described in section 102(b).

21 (2) Take reasonable measures to ensure that an  
22 independent auditor has all necessary information to  
23 complete an accurate and effective pre-deployment  
24 evaluation described in section 102(a) or an impact  
25 assessment described in section 102(b).

1           (3) With respect to a covered algorithm, consult  
2 stakeholders, including any communities that will be  
3 impacted by the covered algorithm, regarding the de-  
4 velopment or deployment of the covered algorithm  
5 prior to the deploying, licensing, or offering the cov-  
6 ered algorithm.

7           (4) With respect to a covered algorithm, certify  
8 that, based on the results of a pre-deployment eval-  
9 uation described in section 102(a) or an impact as-  
10 sessment described in section 102(b)—

11           (A) use of the covered algorithm is not  
12 likely to result in harm or disparate impact in  
13 the equal enjoyment of goods, services, or other  
14 activities or opportunities;

15           (B) the benefits from the use of the cov-  
16 ered algorithm to individuals affected by the  
17 covered algorithm likely outweigh the harms  
18 from the use of the covered algorithm to such  
19 individuals; and

20           (C) use of the covered algorithm is not  
21 likely to result in a deceptive act or practice.

22           (5) Ensure that any covered algorithm of the  
23 developer or deployer functions—

1 (A) at a level that would be considered rea-  
2 sonable performance by an individual with ordi-  
3 nary skill in the art; and

4 (B) in a manner that is consistent with its  
5 expected and publicly advertised performance,  
6 purpose, or use.

7 (6) Ensure any data used in the design, devel-  
8 opment, deployment, or use of the covered algorithm  
9 is relevant and appropriate to the deployment con-  
10 text and the publicly advertised purpose or use.

11 (7) Ensure use of the covered algorithm as in-  
12 tended is not likely to result in a violation of this  
13 Act.

14 (b) DECEPTIVE MARKETING OF A PRODUCT OR  
15 SERVICE.—It shall be unlawful for a developer or deployer  
16 to engage in false, deceptive, or misleading advertising,  
17 marketing, or publicizing of a covered algorithm of the de-  
18 veloper or deployer.

19 (c) OFF-LABEL USE.—

20 (1) DEVELOPERS.—It shall be unlawful for a  
21 developer to knowingly offer or license a covered al-  
22 gorithm for any consequential action other than  
23 those evaluated in the pre-deployment evaluation de-  
24 scribed in section 102(a).

1           (2) DEPLOYERS.—It shall be unlawful for a  
2           deployer to knowingly use a covered algorithm for  
3           any consequential action other than a use evaluated  
4           in the pre-deployment evaluation described in section  
5           102(a), unless the deployer agrees to assume the re-  
6           sponsibilities of a developer required by this Act.

7 **SEC. 202. RELATIONSHIPS BETWEEN DEVELOPERS AND**  
8           **DEPLOYERS.**

9           (a) DEVELOPER RESPONSIBILITIES.—A developer  
10          shall do the following:

11           (1) Upon the reasonable request of the  
12          deployer, make available to the deployer information  
13          necessary to demonstrate the compliance of the  
14          deployer with the requirements of this Act, includ-  
15          ing—

16                   (A) making available a report of the pre-  
17                   deployment evaluation described in section  
18                   102(a) or the annual review of assessments con-  
19                   ducted by the developer under section 102(c);  
20                   and

21                   (B) providing information necessary to en-  
22                   able the deployer to conduct and document a  
23                   pre-deployment evaluation under section 102  
24                   (a) or an impact assessment under section  
25                   102(b).

1 (2) Either—

2 (A) allow and cooperate with reasonable  
3 assessments conducted by the deployer or the  
4 deployer’s designated independent auditor; or

5 (B) arrange for an independent auditor to  
6 conduct an assessment of the developer’s poli-  
7 cies and practices in support of the obligations  
8 under this Act using an appropriate and accept-  
9 ed control standard or framework and assess-  
10 ment procedure for such assessments, and pro-  
11 vide a report of such assessment to the deployer  
12 upon request.

13 (b) CONTRACTS BETWEEN DEVELOPERS AND  
14 DEPLOYERS.—

15 (1) REQUIREMENTS.—A developer may offer or  
16 license a covered algorithm to a deployer pursuant  
17 to a written contract between the developer and  
18 deployer, provided that the contract—

19 (A) clearly sets forth the data processing  
20 procedures of the developer with respect to any  
21 collection, processing, or transfer of data per-  
22 formed on behalf of the deployer;

23 (B) clearly sets forth—

24 (i) instructions for collecting, proc-  
25 essing, transferring, or disposing of data

1 by the developer or deployer in the context  
2 of the use of the covered algorithm;

3 (ii) instructions for deploying the cov-  
4 ered algorithm as intended;

5 (iii) the nature and purpose of any  
6 collection, processing, or transferring of  
7 data;

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

10 (v) the duration of such processing of  
11 data; and

12 (vi) the rights and obligations of both  
13 parties, including a method by which the  
14 developer shall notify the deployer of mate-  
15 rial changes to its covered algorithm;

16 (C) shall not relieve a developer or  
17 deployer of any requirement or liability imposed  
18 on such developer or deployer under this Act;

19 (D) prohibits both the developer and  
20 deployer from combining data received from or  
21 collected on behalf of the other party with data  
22 the developer or deployer received from or col-  
23 lected on behalf of another party; and

24 (E) shall not prohibit a developer or  
25 deployer from raising concerns to any relevant

1 enforcement agency with respect to the other  
2 party.

3 (2) RETENTION OF CONTRACT.—Each devel-  
4 oper shall retain for a period of 10 years a copy of  
5 each contract entered into with a deployer to which  
6 it provides requested products or services.

7 (c) RULE OF CONSTRUCTION.—For purposes of this  
8 section, any requirement for a developer to contract with,  
9 assist, and follow the instructions of a deployer shall be  
10 read to include a requirement to contract with, assist, and  
11 follow the instructions of a government entity if the devel-  
12 oper is providing a service to a government entity.

13 **SEC. 203. HUMAN ALTERNATIVES AND OTHER PROTEC-**  
14 **TIONS.**

15 (a) RIGHT TO HUMAN ALTERNATIVES.—

16 (1) RULEMAKING.—Not later than 2 years after  
17 the date of enactment of this Act, the Commission  
18 shall promulgate regulations in accordance with sec-  
19 tion 553 of title 5, United States Code, specifying  
20 the circumstances and manner in which a deployer  
21 shall provide to an individual a means to opt-out of  
22 the use of a covered algorithm for a consequential  
23 action and to elect to have the consequential action  
24 concerning the individual undertaken by a human  
25 without the use of a covered algorithm.

1           (2) CONSIDERATIONS.—In promulgating the  
2 regulations under paragraph (1), the Commission  
3 shall consider the following:

4           (A) How to ensure that any notice or re-  
5 quest from a deployer regarding the right to a  
6 human alternative is clear and conspicuous, in  
7 plain language, easy to execute, and at no cost  
8 to an individual.

9           (B) How to ensure that any such notice to  
10 individuals is effective, timely, and useful.

11           (C) The specific types of consequential ac-  
12 tions for which a human alternative is appro-  
13 priate, considering the magnitude of the action  
14 and risk of harm.

15           (D) The extent to which a human alter-  
16 native would be beneficial to individuals and the  
17 public interest.

18           (E) The extent to which a human alter-  
19 native can prevent or mitigate harm.

20           (F) The risk of harm to individuals beyond  
21 the requestor if a human alternative is available  
22 or not available.

23           (G) The feasibility of providing a human  
24 alternative in different circumstances.

1           (H) Any other considerations the Commis-  
2           sion deems appropriate to balance the need to  
3           give an individual control over a consequential  
4           action related to such individual with the prac-  
5           tical feasibility and effectiveness of granting  
6           such control.

7           (b) INDIVIDUAL AUTONOMY.—A developer or  
8           deployer may not condition, effectively condition, attempt  
9           to condition, or attempt to effectively condition the exer-  
10          cise of any individual right under this Act or individual  
11          choice through—

12           (1) the use of any false, fictitious, fraudulent,  
13           or materially misleading statement or representa-  
14           tion; or

15           (2) the design, modification, or manipulation of  
16           any user interface with the purpose or substantial  
17           effect of obscuring, subverting, or impairing a rea-  
18           sonable individual's autonomy, decision making, or  
19           choice to exercise any such right.

20          (c) RIGHT TO APPEAL.—

21           (1) RULEMAKING.—Not later than 2 years after  
22           the date of enactment of this Act, the Commission  
23           shall promulgate regulations in accordance with sec-  
24           tion 553 of title 5, United States Code, specifying  
25           the circumstances and manner in which a deployer

1 shall provide to an individual a mechanism to appeal  
2 to a human a consequential action resulting from  
3 the deployer's use of a covered algorithm.

4 (2) CONSIDERATIONS.—In promulgating the  
5 regulations under paragraph (1), the Commission  
6 shall do the following:

7 (A) Ensure that the appeal mechanism is  
8 clear and conspicuous, in plain language, easy-  
9 to-execute, and at no cost to individuals.

10 (B) Ensure that the appeal mechanism is  
11 proportionate to the consequential action.

12 (C) Ensure that the appeal mechanism is  
13 reasonably accessible to individuals with disabil-  
14 ities, timely, usable, effective, and non-discrimi-  
15 natory.

16 (D) Require, where appropriate, a mecha-  
17 nism for individuals to identify and correct any  
18 personal data used by the covered algorithm.

19 (E) Specify training requirements for  
20 human reviewers with respect to a consequen-  
21 tial action.

22 (F) Consider any other circumstances, pro-  
23 cedures, or matters the Commission deems ap-  
24 propriate to balance the need to give an indi-  
25 vidual a right to appeal a consequential action

1 related to such individual with the practical fea-  
2 sibility and effectiveness of granting such right.

3 **SEC. 204. PROHIBITION ON RETALIATION; WHISTLE-**  
4 **BLOWER PROTECTIONS.**

5 (a) PROHIBITION ON RETALIATION.—

6 (1) IN GENERAL.—A developer or deployer may  
7 not discriminate or retaliate against an individual  
8 (including by denying or threatening to deny the  
9 equal enjoyment of goods, services, or other activi-  
10 ties or opportunities in relation to a consequential  
11 action) because the individual exercised any right,  
12 refused to waive any such right, raised a concern  
13 about a consequential action under this Act, or as-  
14 sisted in any investigation or proceeding under this  
15 Act.

16 (2) RULES OF CONSTRUCTION.—

17 (A) DIFFERENTIAL IN SERVICE OR  
18 GOODS.—Nothing in this Act shall prohibit a  
19 developer or deployer from denying service to  
20 an individual, charging an individual a different  
21 price or rate, or providing a different level or  
22 quality of goods or services to an individual if  
23 the differential in service is necessary and di-  
24 rectly related to the value provided to the devel-  
25 oper or deployer by the covered algorithm.

1 (B) LOYALTY PROGRAMS.—Nothing in this  
2 Act shall prohibit a developer or deployer from  
3 offering loyalty, rewards, premium features, dis-  
4 counts, or club card programs that provide ben-  
5 efits or rewards based on frequency of patron-  
6 izing, or the amount of money spent at, a busi-  
7 ness consistent with this Act.

8 (b) WHISTLEBLOWER PROTECTION.—A developer or  
9 deployer may not, directly or indirectly, discharge, demote,  
10 suspend, threaten, harass, or otherwise discriminate or re-  
11 taliate against an individual for raising a concern, report-  
12 ing or attempting to report a violation of this Act, or co-  
13 operating in any investigation or proceeding under this  
14 Act.

## 15 **TITLE III—TRANSPARENCY**

### 16 **SEC. 301. NOTICE AND DISCLOSURE.**

17 (a) IN GENERAL.—Each developer or deployer shall  
18 make publicly available, in plain language and in a clear,  
19 conspicuous, not misleading, easy-to-read, and readily ac-  
20 cessible manner, a disclosure that provides a detailed and  
21 accurate representation of the developer or deployer’s  
22 practices regarding the requirements under this Act.

23 (b) CONTENT OF DISCLOSURE.—The disclosure re-  
24 quired under subsection (a) shall include, at a minimum,  
25 the following:

1           (1) The identity and the contact information  
2 of—

3                   (A) the developer or deployer to which the  
4 disclosure applies (including the developer or  
5 deployer’s point of contact and electronic and  
6 physical mail address, as applicable for any in-  
7 quiry concerning a covered algorithm or indi-  
8 vidual rights under this Act); and

9                   (B) any other entity within the same cor-  
10 porate structure as the developer or deployer to  
11 which personal data is transferred by the devel-  
12 oper or deployer.

13           (2) A link to the website containing the devel-  
14 oper or deployer’s summaries of pre-deployment  
15 evaluations, impact assessments, and annual review  
16 of assessments, as applicable.

17           (3) The categories of personal data the devel-  
18 oper or deployer collects or processes in the develop-  
19 ment or deployment of a covered algorithm and the  
20 processing purpose for each such category.

21           (4) Whether the developer or deployer transfers  
22 personal data, and, if so, each third party to which  
23 the developer or deployer transfers such data and  
24 the purpose for which such data is transferred, ex-  
25 cept with respect to a transfer to a governmental en-

1       tity pursuant to a court order or law that prohibits  
2       the developer or deployer from disclosing such trans-  
3       fer.

4           (5) A prominent description of how an indi-  
5       vidual can exercise the rights described in this Act.

6           (6) A general description of the developer or  
7       deployer’s practices for compliance with the require-  
8       ments described in sections 102 and 201.

9           (7) The following disclosure:

10          “The audit of this algorithm was conducted to  
11       comply with the Artificial Intelligence Civil Rights  
12       Act of 2025, which seeks to avoid the use of any al-  
13       gorithm that has a disparate impact on certain pro-  
14       tected classes of individuals. The audit does not  
15       guarantee that this algorithm is safe or in compli-  
16       ance with all applicable laws.”.

17          (8) The effective date of the disclosure.

18       (c) LANGUAGES.—The disclosure required under sub-  
19       section (a) shall be made available in each covered lan-  
20       guage in which the developer or deployer operates or pro-  
21       vides a good or service.

22       (d) ACCESSIBILITY.—Any disclosure provided under  
23       this section shall be made available in a manner that is  
24       reasonably accessible to and usable by individuals with dis-  
25       abilities.

1 (e) MATERIAL CHANGES.—

2 (1) NOTIFICATION.—If a developer or deployer  
3 makes a material change to the disclosure required  
4 under subsection (a), the developer or deployer shall  
5 notify each individual affected by such material  
6 change prior to implementing the material change.

7 (2) REQUIREMENTS.—Each developer or  
8 deployer shall take all reasonable measures to pro-  
9 vide to each affected individual a direct electronic  
10 notification regarding any material change to the  
11 disclosure, in each covered language in which the  
12 disclosure is made available, and taking into account  
13 available technology and the nature of the relation-  
14 ship with such individual.

15 (3) LOG OF MATERIAL CHANGES.—

16 (A) RETENTION PERIOD.—Beginning after  
17 the date of enactment of this Act, each devel-  
18 oper or deployer shall retain a copy of each pre-  
19 vious version of the disclosure required under  
20 subsection (a) for a period of at least 10 years  
21 after the last day on which such version was ef-  
22 fective and publish each such version on its  
23 website.

24 (B) LOG OF MATERIAL CHANGES.—Each  
25 developer or deployer shall make publicly avail-

1           able, in a clear, conspicuous, and readily acces-  
2           sible manner, a log describing the date and na-  
3           ture of each material change to its disclosure  
4           during the retention period described in sub-  
5           paragraph (A), and such descriptions shall be  
6           sufficient for a reasonable individual to under-  
7           stand the material effect of each material  
8           change.

9           (C) CLARIFICATION.—The obligations de-  
10          scribed in this paragraph shall not apply to any  
11          previous version of a developer or deployer’s  
12          disclosure of practices regarding the collection,  
13          processing, and transfer of personal data, or  
14          any material change to such disclosure, that  
15          precedes the date of enactment of this Act.

16       (f) SHORT-FORM NOTICE.—

17           (1) IN GENERAL.—A deployer shall provide a  
18          short-form notice regarding a covered algorithm it  
19          develops, offers, licenses, or uses in a manner that—

20                   (A) is concise, clear, conspicuous, in plain  
21                   language, and not misleading;

22                   (B) is readily accessible to individuals with  
23                   disabilities;

1 (C) is based on what is reasonably antici-  
2 pated within the context of the relationship be-  
3 tween the individual and the deployer;

4 (D) includes an overview of each applicable  
5 individual right and disclosure in a manner that  
6 draws attention to any practice that may be un-  
7 expected to a reasonable individual or that in-  
8 volves a consequential action;

9 (E) is not more than 500 words in length;  
10 and

11 (F) is available to the public at no cost.

12 (2) TIMING OF NOTICE.—

13 (A) EXISTING RELATIONSHIP.—If a  
14 deployer has a relationship with an individual,  
15 the deployer shall provide an electronic version  
16 of the short-form notice directly to the indi-  
17 vidual upon the individual's first interaction  
18 with the covered algorithm.

19 (B) NO RELATIONSHIP.—If a deployer  
20 does not have a relationship with an individual,  
21 the deployer shall provide the short-form notice  
22 in a clear, conspicuous, accessible, and not mis-  
23 leading manner on their website.

24 (3) RULEMAKING.—The Commission shall pro-  
25 mulgate regulations in accordance with section 553

1 of title 5, United States Code, specifying the min-  
2 imum content required to be included in the short-  
3 form notice described in paragraph (1), which—

4 (A) shall not exceed the content require-  
5 ments described in subsection (b); and

6 (B) shall include a template or model for  
7 such short-form notice.

8 (g) REPORTING MECHANISM.—Each developer or  
9 deployer shall make publicly available, in a clear, con-  
10 spicuous, and readily accessible manner, a mechanism for  
11 an individual impacted by a covered algorithm to report  
12 to the developer or deployer potential violations of this  
13 Act.

14 **SEC. 302. STUDY ON EXPLANATIONS REGARDING THE USE**  
15 **OF COVERED ALGORITHMS.**

16 (a) STUDY.—

17 (1) IN GENERAL.—The Commission shall con-  
18 duct a study, with notice and public comment, on  
19 the feasibility of requiring deployers to provide a  
20 clear, conspicuous, easy-to-use, no-cost mechanism  
21 that is accessible for individuals with disabilities and  
22 allows an individual to receive an explanation as to  
23 whether and how a covered algorithm used by the  
24 deployer affects or affected an individual.

1           (2) REQUIREMENTS.—The study required  
2 under paragraph (1) shall include the following:

3           (A) An overview of the purposes for which  
4 an explanation would be provided to an indi-  
5 vidual and the extent to which an explanation  
6 would feasibly serve such purposes.

7           (B) How explanations can be provided in a  
8 manner that is clear, conspicuous, easy-to-use,  
9 no-cost, accessible to individuals with disabil-  
10 ities, effective for individuals with limited  
11 English language proficiency, and calibrated to  
12 the level of risk based on the covered algorithm.

13           (C) An assessment of the feasibility of a  
14 requirement for deployers to provide a mecha-  
15 nism for individuals who may be affected or  
16 were affected by a covered algorithm to request  
17 an explanation that—

18                   (i) includes information—

19                           (I) regarding why the covered al-  
20 gorithm produced the result it pro-  
21 duced with respect to the individual  
22 making the request; and

23                           (II) that is truthful, accurate,  
24 and scientifically valid;

1 (ii) identifies at least the most signifi-  
2 cant factors used to inform the covered al-  
3 gorithm's outputs; and

4 (iii) includes any other information  
5 deemed relevant by the Commission to pro-  
6 vide an explanation for an individual who  
7 may be affected or was affected by a cov-  
8 ered algorithm.

9 (D) An assessment of what information a  
10 developer must provide a deployer in order to  
11 ensure explanations can be provided to individ-  
12 uals upon request.

13 (E) The extent to which current technical  
14 capabilities of covered algorithms impacts the  
15 feasibility of providing explanations.

16 (F) How a deployer can take reasonable  
17 measures to verify the identity of an individual  
18 making a request for an explanation to ensure  
19 that the deployer provides an explanation only  
20 to the affected individual, including steps a  
21 deployer should take to ensure the safe and se-  
22 cure storage, collection, and deletion of personal  
23 information.

1 (G) Recommendations for Congress on how  
2 to implement regulations around mechanisms  
3 for explanations.

4 (3) CONSULTATION.—In conducting the study  
5 required under this subsection, the Commission shall  
6 consult with the National Institute of Science of  
7 Technology, the National Telecommunications and  
8 Information Administration, the Office of Science  
9 and Technology Policy, and any other agency  
10 deemed relevant by the Commission.

11 (b) REPORT.—Not later than 18 months after the  
12 date of enactment of this Act, the Commission shall sub-  
13 mit to the Committee on Commerce, Science, and Trans-  
14 portation of the Senate and the Committee on Energy and  
15 Commerce of the House of Representatives a report that  
16 includes the findings of the study conducted under sub-  
17 section (a), together with recommendations for such legis-  
18 lation and administrative action as the Commission deter-  
19 mines appropriate.

20 **SEC. 303. CONSUMER AWARENESS.**

21 (a) NOTICE OF CONSUMER RIGHTS.—

22 (1) IN GENERAL.—Not later than 90 days after  
23 the date of enactment of this Act, the Commission  
24 shall publish, on the internet website of the Commis-  
25 sion, a web page that describes each provision, right,

1 obligation, and requirement of this Act (categorized  
2 with respect to individuals, deployers, and devel-  
3 opers) and the remedies, exemptions, and protections  
4 associated with this Act, in plain and concise lan-  
5 guage, in each covered language, and in an easy-to-  
6 understand, accessible manner.

7 (2) UPDATES.—The Commission shall update  
8 the information published under paragraph (1) as  
9 necessitated by any change in law, regulation, guid-  
10 ance, or judicial decision. Any such update shall be  
11 published in plain and concise language, in each cov-  
12 ered language, and in an easy-to-understand, acces-  
13 sible manner.

14 (b) ANNUAL REPORT.—Not later than 2 years after  
15 the date of enactment of this Act, and annually thereafter,  
16 the Commission shall publish on the internet website of  
17 the Commission a report that—

18 (1) describes and summarizes the information  
19 contained in any pre-deployment evaluation, impact  
20 assessment, and developer review submitted to the  
21 Commission in accordance with this Act;

22 (2) describes broad trends, aggregated statis-  
23 tics, and anonymized information about performing  
24 impact assessments of covered algorithms, for the  
25 purposes of updating guidance related to impact as-

1        assessments and summary reporting, oversight, and  
2        making recommendations to other regulatory agen-  
3        cies; and

4            (3) is accessible and machine readable in ac-  
5        cordance with the 21st Century Integrated Digital  
6        Experience Act (44 U.S.C. 3501 note).

7        (c) PUBLICLY ACCESSIBLE REPOSITORY.—

8            (1) ESTABLISHMENT.—

9            (A) IN GENERAL.—Not later than 180  
10        days after the Commission publishes the first  
11        annual report under subsection (b), the Com-  
12        mission shall develop a publicly accessible repos-  
13        itory to publish each pre-deployment evaluation,  
14        impact assessment, and developer review sub-  
15        mitted to the Commission in accordance with  
16        section 102.

17            (B) REQUIREMENTS.—The Commission  
18        shall design the repository established under  
19        subparagraph (A) to—

20            (i) be publicly available and easily dis-  
21        coverable on the internet website of the  
22        Commission;

23            (ii) allow users to sort and search the  
24        repository by multiple characteristics (such

1 as by developer or deployer and date re-  
2 ported) simultaneously;

3 (iii) allow users to make a copy of or  
4 download the information obtained from  
5 the repository, including any subsets of in-  
6 formation obtained by sorting or searching  
7 as described in clause (ii), in accordance  
8 with current guidance from the Office of  
9 Management and Budget, such as the  
10 Open, Public, Electronic, and Necessary  
11 Government Data Act (44 U.S.C. 101  
12 note);

13 (iv) be in accordance with user experi-  
14 ence and accessibility best practices, such  
15 as those described in the 21st Century In-  
16 tegrated Digital Experience Act (44 U.S.C.  
17 3501 note); and

18 (v) include information about the de-  
19 sign, use, and maintenance of the reposi-  
20 tory, including any other information de-  
21 termined appropriate by the Commission.

22 (2) PUBLICATION OF ADDITIONAL SUM-  
23 MARIES.—The Commission shall publish in the re-  
24 pository any pre-deployment evaluation, impact as-  
25 sessment, and developer review not later than 30

1 days after receiving such evaluation, assessment, or  
2 review, except if the Commission has good cause to  
3 delay such publication.

4 (3) TRADE SECRETS AND PRIVACY.—The Com-  
5 mission—

6 (A) may redact and segregate any trade  
7 secret (as defined in section 1839 of title 18,  
8 United States Code) from public disclosure  
9 under this subsection;

10 (B) shall redact and segregate personal  
11 data from public disclosure under this sub-  
12 section; and

13 (C) may withhold information as permitted  
14 under section 552 of title 5, United States  
15 Code.

## 16 **TITLE IV—ENFORCEMENT**

### 17 **SEC. 401. ENFORCEMENT BY THE COMMISSION.**

18 (a) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—  
19 A violation of title I, II, or III or a regulation promulgated  
20 thereunder shall be treated as a violation of a rule defining  
21 an unfair or deceptive act or practice under section  
22 18(a)(1)(B) of the Federal Trade Commission Act (15  
23 U.S.C. 57a(a)(1)(B)).

24 (b) POWERS OF THE COMMISSION.—

1           (1) IN GENERAL.—Except as provided in sub-  
2           section (c), the Commission shall enforce this Act  
3           and the regulations promulgated under this Act in  
4           the same manner, by the same means, and with the  
5           same jurisdiction, powers, and duties as though all  
6           applicable terms and provisions of the Federal Trade  
7           Commission Act (15 U.S.C. 41 et seq.) were incor-  
8           porated into and made a part of this Act.

9           (2) PRIVILEGES AND IMMUNITIES.—Any person  
10          who violates title I, II, or III or a regulation promul-  
11          gated thereunder shall be subject to the penalties  
12          and entitled to the privileges and immunities pro-  
13          vided in the Federal Trade Commission Act (15  
14          U.S.C. 41 et seq.).

15          (3) AUTHORITY PRESERVED.—Nothing in this  
16          Act shall be construed to limit the authority of the  
17          Commission under any other provision of law.

18          (4) RULEMAKING.—The Commission may pro-  
19          mulgate in accordance with section 553 of title 5,  
20          United States Code, such rules as may be necessary  
21          to carry out this Act.

22          (c) JURISDICTION.—Notwithstanding section 4,  
23          5(a)(2), or 6 of the Federal Trade Commission Act (15  
24          U.S.C. 44, 45(a)(2), 46) or any jurisdictional limitation  
25          of the Commission, the Commission shall also enforce this

1 Act and the regulations promulgated under this Act, in  
2 the same manner provided in subsections (a) and (b), with  
3 respect to—

4 (1) organizations not organized to carry on  
5 business for their own profit or that of their mem-  
6 bers;

7 (2) common carriers subject to the Communica-  
8 tions Act of 1934 (47 U.S.C. 151 et seq.) and all  
9 Acts amendatory thereof and supplementary thereto;

10 (3) a bank, savings and loan institution de-  
11 scribed in section 18(f)(3) of the Federal Trade  
12 Commission Act (15 U.S.C. 57a(f)(3)), or Federal  
13 credit union described in section 18(f)(4) of such  
14 Act;

15 (4) an air carrier or foreign air carrier subject  
16 to the Federal Aviation Act of 1958 (49 U.S.C. App.  
17 1301 et seq.); or

18 (5) a person, partnership, or corporation sub-  
19 ject to the Packers and Stockyards Act, 1921 (7  
20 U.S.C. 181 et seq.), as amended.

21 **SEC. 402. ENFORCEMENT BY STATES.**

22 (a) IN GENERAL.—In any case in which the attorney  
23 general of a State or a State data protection authority  
24 has reason to believe that an interest of the residents of  
25 the State has been or is threatened or adversely affected

1 by the engagement of a person in a practice that violates  
2 title I, II, or III, or a regulation promulgated thereunder,  
3 the attorney general may, as *parens patriae*, bring a civil  
4 action on behalf of the residents of the State in an appro-  
5 priate Federal district court of the United States that  
6 meets applicable requirements relating to venue under sec-  
7 tion 1391 of title 28, United States Code, to—

8 (1) enjoin any such violation by the person;

9 (2) enforce compliance with the requirements of  
10 this Act;

11 (3) obtain a permanent, temporary, or prelimi-  
12 nary injunction or other appropriate equitable relief;

13 (4) obtain civil penalties in the amount of  
14 \$15,000 per violation, or 4 percent of the defend-  
15 ant's average gross annual revenue over the pre-  
16 ceding 3 years, whichever is greater;

17 (5) obtain damages, restitution, or other com-  
18 pensation on behalf of the residents of such State;

19 (6) obtain reasonable attorneys' fees and litiga-  
20 tion costs; and

21 (7) obtain such other relief as the court may  
22 consider to be appropriate.

23 (b) RIGHTS OF THE COMMISSION.—

24 (1) NOTICE TO THE COMMISSION.—

1           (A) IN GENERAL.—Subject to subpara-  
2 graph (C), the attorney general of a State shall  
3 notify the Commission in writing that the attor-  
4 ney general intends to bring a civil action under  
5 subsection (a) before the filing of the civil ac-  
6 tion.

7           (B) CONTENTS.—The notification required  
8 under subparagraph (A) with respect to a civil  
9 action shall include a copy of the complaint to  
10 be filed to initiate the civil action.

11           (C) EXCEPTION.—The notification de-  
12 scribed in subparagraph (A) shall not be re-  
13 quired if the attorney general of the State de-  
14 termines that it is not feasible to provide such  
15 notice before filing the action.

16           (2) INTERVENTION BY THE COMMISSION.—Not  
17 later than 180 days after receiving notice under  
18 paragraph (1), the Commission shall have the right  
19 to intervene in the action that is the subject of the  
20 notice.

21           (3) EFFECT OF INTERVENTION.—If the Com-  
22 mission intervenes in an action under subsection (a),  
23 it shall have the right—

24                   (A) to be heard with respect to any matter  
25                   that arises in that action; and

1 (B) file a petition for appeal.

2 (c) INVESTIGATORY POWERS.—Nothing in this sec-  
3 tion may be construed to prevent the attorney general of  
4 a State from exercising the powers conferred on the attor-  
5 ney general by the laws of the State to—

6 (1) conduct investigations;

7 (2) administer oaths or affirmations; or

8 (3) compel the attendance of witnesses or the  
9 production of documentary or other evidence.

10 (d) COORDINATION WITH RELEVANT AGENCIES.—

11 (1) CONSULTATION.—The Commission may  
12 consult with any relevant Federal agencies as nec-  
13 essary to carry out this Act.

14 (2) MEMORANDUM OF UNDERSTANDING.—Not  
15 later than 180 days after the date of enactment of  
16 this Act, the Commission, in coordination with any  
17 relevant Federal agencies, shall establish, through a  
18 memorandum of understanding—

19 (A) procedures for coordinating investiga-  
20 tions and enforcement actions;

21 (B) protocols for information sharing and  
22 technical assistance;

23 (C) standards for determining the division  
24 of enforcement authority between the Commis-  
25 sion and such Federal agencies; and

1 (D) processes for referral of complaints be-  
2 tween agencies.

3 **SEC. 403. PRIVATE RIGHT OF ACTION.**

4 (a) ENFORCEMENT BY INDIVIDUALS.—

5 (1) IN GENERAL.—Any individual or class of in-  
6 dividuals alleging a violation of title I, II, or III, or  
7 a regulation promulgated thereunder, may bring a  
8 civil action in any court of competent jurisdiction.

9 (2) RELIEF.—In a civil action brought under  
10 paragraph (1) in which the plaintiff prevails, the  
11 court may award—

12 (A) treble damages or \$15,000 per viola-  
13 tion, whichever is greater;

14 (B) nominal damages;

15 (C) punitive damages;

16 (D) reasonable attorney's fees and litiga-  
17 tion costs; and

18 (E) any other relief, including equitable or  
19 declaratory relief, that the court determines ap-  
20 propriate.

21 (3) RIGHTS OF THE COMMISSION AND STATE  
22 ATTORNEYS GENERAL.—

23 (A) IN GENERAL.—Prior to an individual  
24 bringing a civil action under paragraph (1),  
25 such individual shall notify the Commission and

1 the attorney general of the State where such in-  
2 dividual resides, in writing and including a de-  
3 scription of the allegations included in the civil  
4 action, that such individual intends to bring a  
5 civil action under such paragraph. Not later  
6 than 60 days after receiving such notice, the  
7 Commission and State attorney general shall  
8 each or jointly make a determination and re-  
9 spond to such individual as to whether they will  
10 intervene in such action. The Commission and  
11 State attorney general shall have a right to in-  
12 tervene in any civil action under paragraph (1),  
13 and upon intervening, to be heard on all mat-  
14 ters arising in such action and file petitions for  
15 appeal of a decision in such action. If a State  
16 attorney general does intervene, they shall only  
17 be heard with respect to the interests of the  
18 residents of their State.

19 (B) RETAINED AUTHORITY.—Subpara-  
20 graph (A) shall not be construed to limit the  
21 authority of the Commission or any applicable  
22 State attorney general to, at a later date, com-  
23 mence a civil action or intervene by motion if  
24 the Commission or State attorney general does  
25 not commence a proceeding or civil action with-

1           in the 60-day period described in such subpara-  
2           graph.

3           (b) INVALIDITY OF PRE-DISPUTE ARBITRATION  
4 AGREEMENTS AND PRE-DISPUTE JOINT ACTION WAIV-  
5 ERS.—

6           (1) IN GENERAL.—Notwithstanding any other  
7           provision of law, no pre-dispute arbitration agree-  
8           ment or pre-dispute joint action waiver shall be valid  
9           or enforceable with regard to a dispute arising under  
10          this Act.

11          (2) APPLICABILITY.—Any determination as to  
12          whether or how this subsection applies to any dis-  
13          pute shall be made by a court, rather than an arbi-  
14          trator, without regard to whether such agreement  
15          purports to delegate such determination to an arbi-  
16          trator.

17          (3) DEFINITIONS.—For purposes of this sub-  
18          section:

19                  (A) PRE-DISPUTE ARBITRATION AGREE-  
20                  MENT.—The term “pre-dispute arbitration  
21                  agreement” means any agreement to arbitrate a  
22                  dispute that has not arisen at the time of the  
23                  making of the agreement.

24                  (B) PRE-DISPUTE JOINT-ACTION WAIV-  
25                  ER.—The term “pre-dispute joint-action waiv-

1 er” means an agreement, whether or not part  
2 of a pre-dispute arbitration agreement, that  
3 would prohibit or waive the right of 1 of the  
4 parties to the agreement to participate in a  
5 joint, class, or collective action in a judicial, ar-  
6 bitral, administrative, or other related forum,  
7 concerning a dispute that has not yet arisen at  
8 the time of the making of the agreement.

9 **SEC. 404. SEVERABILITY.**

10 If any provision of this Act, or the application thereof  
11 to any person or circumstance, is held invalid, the remain-  
12 der of this Act, and the application of such provision to  
13 other persons not similarly situated or to other cir-  
14 cumstances, shall not be affected by the invalidation.

15 **SEC. 405. RULES OF CONSTRUCTION.**

16 (a) IN GENERAL.—Nothing in this Act shall be con-  
17 strued to—

18 (1) waive or otherwise limit any requirement  
19 under the National Labor Relations Act (29 U.S.C.  
20 151 et seq.) for an employer (as such term is de-  
21 fined in section 2 of such Act (29 U.S.C. 152)) to  
22 bargain collectively regarding the deployment or ef-  
23 fects of a covered algorithm;



1 countability Office entitled “Artificial Intelligence: An Ac-  
2 countability Framework for Federal Agencies and Other  
3 Entities” (GAO–21–519SP), dated June 30, 2021), which  
4 shall include algorithm auditing practices, platform audit-  
5 ing, evaluation and assessment of artificial intelligence  
6 systems, computer security, independent evaluation and  
7 audits of computer systems, data science, statistics, audit-  
8 ing of anticompetitive practices, and related fields.

9 **SEC. 502. ADDITIONAL FEDERAL RESOURCES.**

10 (a) AUTHORIZATION OF APPROPRIATIONS.—There is  
11 authorized to be appropriated to the Commission and  
12 other Federal agencies enumerated in this Act such sums  
13 as may be necessary to carry out this Act.

14 (b) COMMISSION PERSONNEL.—Notwithstanding any  
15 other provision of law, the Commission may hire not more  
16 than 500 additional personnel to accomplish the work of  
17 the Commission with respect to unfair or deceptive acts  
18 or practices relating to the development or deployment of  
19 covered algorithms in accordance with this Act.

○