[SB24-205 Consumer Protections for Artificial Intelligence](#) | Sen. Robert Rodriguez (D)

Committee Hearing: Wednesday, April 24, 2024 @ 1:30PM
Location: Judiciary, old supreme court
Chair: Julie Gonzales
Position: Oppose

Testimony:
- Good afternoon, Madam Chair
- Its great to have the opportunity to be infront of you again this evening.
- Drea Modugno, here on behalf of the Denver Metro Chamber of Commerce which represents over 1,000 businesses within the Denver Metro Area.
- For over 150 years, our organization has been dedicated to the economic empowerment and success of Colorado. As a result, the Denver Metro Chamber focuses our engagement on critical policy issues that stand to influence our community and economy.
- Today, we are testifying in an oppose position to SB205 and appreciate the opportunity to share some of our concerns.
- We are supportive of the intent of the bill and agree that individuals need to be properly protected as new technologies, such as AI, continue to develop and take shape.
- However, it is critical we get this legislation right. AI's impact is far reaching – ranging from agriculture to healthcare – rushed legislation could lead to broad-sweeping consequences.
- We understand this bill has gone through extensive stakeholdering in Connecticut, however, Colorado's unique economy differs from Connecticut in meaningful ways.
- Unlike Connecticut, tech is a major industry within Colorado and our state has consistently ranked in the top 5 for tech talent concentration.
- Powered by our uniquely skilled and highly educated workforce, Colorado has a great history of attracting and retaining innovative businesses and industry leaders.
- And therefore, stands to be far more impacted by this bill.
- Foundational definitions that will set the table for future AI regulation, extensive disclosure requirements and compliance obligations for developers and deployers, and potentially, uneven enforcement will not only discourage Colorado based businesses from future innovation, but it will disallow startups or small businesses from entering the space.
- The resulting impact on innovation, and who owns innovation, will hurt smaller start-ups that do not have the funding or resources to afford to comply with these regulatory requirements.
- We agree with the intent of the bill – and believe we must take a nuanced approach to policymaking in order to thoughtfully balance innovation and safety.
- Introducing new, untested regulations to a developing industry will make Colorado an outlier within this space – stifling innovation and hurting our ability to compete in the global tech marketplace.
- Given the critical importance to get this right, the Denver Metro Chamber recommends we take the time and resources to further study and stakeholder this issue, enabling us to better understand the safeguards and solutions needed to effectively, and intentionally, regulate AI.
- Thank you for the opportunity to share our concerns today, I respectfully ask this committee for a no vote.

FAQS

- General Response:
- How many AI startups are in Colorado?
  - Denver and Boulder together ranked No. 24 in the world for startup ecosystems, rising three spots from 2021, according to a report released Tuesday by Startup Genome.
  - Among startup hubs in the United States, Denver/Boulder, which are grouped together in the report, ranked No. 9, up two spots from last year.
  - This marked the 10th year Startup Genome has released its rankings of global startup ecosystems. This year, the firm analyzed 300 geographical areas and used a weighted average of seven factors to decide its rankings. The factors include startup performance, funding, market reach, connectedness, knowledge and experience and talent.
- What kind of industries will be impacted by this regulation?
  - Agriculture:
    - Apps that can identify soil deficiencies and provide planting recommendations.
    - AI also informs "precision agriculture," whereby farmers use AI to:
      - Analyze weather patterns to predict forecasts and planting schedules
      - Determine the best crops to grow
      - Address pest attacks
      - Measure soil conductivity and pH
  - Healthcare:
    - On the less interesting side, AI helps administrators process data, schedule meetings, organize files and transcribe medical notes.
    - Machine-led surgeries are more precise and less invasive, have a smaller margin for error and can run 24/7.
    - AI can assist in medical diagnoses by tracking health using wearable devices and indicating problems before patients are aware. Some programs have also adopted AI to help interpret body scans (like MRIs) to detect harmful growths with greater speed and accuracy.
    - Pharmaceutical companies even use AIs to analyze historical and modern data to discover new potential drugs.
- Example of unrealistic disclosures?
  - Developers must use "reasonable care" to protect consumers from any knowns or reasonable foreseeable risks of AD
  - There is a rebuttable assumption that developers took reasonable care if they follow a set of requirements - bill goes onto list MANY requirements
  - Again reports at not reporting on if AD happened, but if there are conditions that may contribute to the risk of AD
- Example of broad definitions?
  - Algorithmic Discrimination (AD): hugely impactful, written as any condition with AI materially increases the risk of unlawful differential treatment or impact that disfavors an individual or group of a protect class (bill lists them all).
    - it's not the treatment but the risk of that treatment - very broad, you actually wouldn't need to have discrimination, just the potential.
    - most discrimination laws focus on treatment - while some deal with impact, aka, the action is non-discriminatory but result in differential treatment of a protected class.
  - High-Risk AI Systems: a factor in making a "consequential decision" (some very narrow exceptions).
  - Consequential Decision: decisions that have material effect on consumer's access to industries employing AI.
- Will this contribute to a patch-work of regulation?
  - We are appreciative of this legislation including the National Institute of Standards and Technology's (NIST) AI Risk Management Framework (RMF).

- However, we do believe that pushing through a bill that hasn't been properly vetted by its own residents will contribute to unintended impacts across Colorado industries as well as contribute to a patchwork of state legislation.
- The Feds are focused on this issue - the Senate Task Force on AI, established in 2019, has passed at least 15 bills into law that focus on research and risk assessment.
- On October 30, 2023, President Biden took a substantial step forward, signing an "Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence."
- The Order called on Congress to pass "bipartisan data privacy legislation."
- In June 2023, Representatives Ted Lieu (D-CA), Ken Buck (R-CO), Anna Eshoo (D-CA), and Senator Brian Schatz (D-HI) introduced the National AI Commission Act, which would create a bipartisan, blue-ribbon commission to recommend steps toward AI regulation.
- Similar to what Connecticut did for its own state - we believe we need to study this issue more thoroughly before pushing through legislation.
- Federal Progress
  - The US government is leveraging existing regulatory tools to address AI, including export controls and CFIUS
  - The government is also developing new regulatory authorities to address risks posed by AI, including outbound investment restrictions and regulation of bulk sensitive personal data and government-related data; the need for new authorities is likely to increase
  - The government is also seeking to coordinate a whole-of-government approach by clearly defining roles and responsibilities for the various executive branch agencies
  - Although the executive branch was first to begin regulating AI, Congress is rapidly increasing its own investigative and legislative activities
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