Fiscal Note

Legislative Council Staff

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SB 25-318: ARTIFICIAL INTELLIGENCE CONSUMER PROTECTIONS

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Fiscal note status: The fiscal note reflects the introduced bill. Due to time constraints, this analysis is preliminary and will be updated following further review and any additional information received.

Summary Information

Overview. The bill updates consumer protections related to artificial intelligence.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Workload
- Local Government

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	$0	$0
State Expenditures	$0	$0
Transferred Funds	$0	$0
Change in TABOR Refunds	$0	$0
Change in State FTE	0.0 FTE	0.0 FTE

Summary of Legislation

The bill modifies the consumer protections established by Senate Bill 24-205, which created requirements for developers and deployers of artificial intelligence systems. It prohibits algorithmic discrimination from using artificial intelligence systems to make consequential decisions, such as educational, employment, or financial opportunities, or for health care, insurance, legal, or government services. Changes under SB 25-318 are outlined below.

Definition of Algorithmic Discrimination

The bill updates the definition of algorithmic discrimination. Instead of specifying what constitutes this type of discrimination, it applies to violations of applicable local, state, or federal anti-discrimination laws, including:

- the Colorado Anti-Discrimination Act;
- the Civil Rights Act of 1964;
- the Americans with Disabilities Act of 1990;
- the Age Discrimination in Employment Act of 1967;
- the Genetic Information Nondiscrimination Act of 2008; and
- the Pregnant Workers Fairness Act.

Regulatory and Disclosure Requirements

The bill delays most regulatory requirements by about a year, to January 1, 2027. Under current law, a developer must publish certain information about the types of systems it developed and how it manages risk. The bill reduces developers' disclosure requirements, and documentation and disclosure requirements are postponed further for some small systems, depending on how many consequential decisions they make in a calendar year. In addition, the bill repeals the requirement that a deployer who discovers that their system has caused algorithmic discrimination report it the Department of Law.

Exemptions and Liability

The bill exempts certain uses of artificial intelligence from the regulatory framework of SB 24-205, including document sorting, spellchecking, and cybersecurity measures. Developers can also be exempt from liability if their systems are offered in the public domain or on certain public licenses. If a developer states that the artificial intelligence system is not designed to enable consequential decisions, deployers cannot use it to make consequential decisions. Any liability for making consequential decisions falls on the deployer, and any modifications to the system may override the liability exemption.

Impact Assessments

Under current law, impact assessments must be completed before deployment, at least annually, and within 90 days of a substantial modification. The bill repeals the 90-day assessment requirement. The bill expands the assessment requirements to include the risk of limiting accessibility for individuals who are pregnant, breastfeeding, disabled; the risk of committing an unfair trade practice; and the risk of a violation of state or federal labor laws or the Colorado Privacy Act.

Disclosures to Consumers

The bill expands the information that must be disclosed to a consumer who is the subject of a consequential decision and delays the disclosure requirements from February 1, 2026, to May 1, 2026. Disclosures to the consumer must include information on whether and how the consumer can exercise their rights to correct any incorrect personal data involved. The disclosure and appeal requirements are postponed further for some small deployers, depending on how many employees they have, and the bill increases the minimum employee threshold for ongoing exemption. This does not apply to uses of artificial intelligence in hiring for some companies.

Violations

Under current law, violations are a deceptive trade practice. The bill limits affirmative defenses to cases where the violation was inadvertent, affected fewer than 1,000 customers, and was not due to the developer's or deployer's negligence. The bill specifies that these regulations neither create a new private right of action nor restrict any existing rights or remedies of consumers.

State Expenditures

Workload will be minimally reduced in the Department of Law from delaying the implementation schedule in FY 2025-26 only. On an ongoing basis, limiting discrimination reporting requirements and modifying the applicability of the deceptive trade practice will also minimally reduce the departments' workload.

By clarifying that the bill does not create a private right of action, workload may minimally decrease for the trial courts in the Judicial Department.

The bill may minimally impact workload for state agencies that develop or deploy artificial information systems for making consequential decisions. Overall, the changes to the regulatory requirements will be adopted into the workflow of the Office of Information Technology and other state agencies, and any changes to state expenditures will be addressed through the annual budget process.

Local Government

Similar to the state, workload may be minimally reduced for district attorneys regarding enforcement of deceptive trade practices. Local government agencies that develop or deploy information systems for making consequential decisions will have increased workload to ensure compliance with the bill.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

All State Agencies

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the General Assembly website.