By:  Capriglione H.B. No. 1709

A BILL TO BE ENTITLED

AN ACT

relating to the regulation and reporting on the use of artificial intelligence systems by certain business entities and state agencies; providing civil penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  This Act may be cited as the Texas Responsible Artificial Intelligence Governance Act

SECTION 2.  Title 11, Business & Commerce Code, is amended by adding Subtitle D to read as follows:

SUBTITLE D. ARTIFICIAL INTELLIGENCE PROTECTION

CHAPTER 551. ARTIFICIAL INTELLIGENCE PROTECTION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 551.001.  DEFINITIONS. In this chapter:

(1)  "Algorithmic discrimination" means any condition in which an artificial intelligence system when deployed creates an unlawful discrimination of a protected classification in violation of the laws of this state or federal law.

(A)  "Algorithmic discrimination" does not include the offer, license, or use of a high-risk artificial intelligence system by a developer or deployer for the sole purpose of the developer's or deployer's self-testing, for a non-deployed purpose, to identify, mitigate, or prevent discrimination or otherwise ensure compliance with state and federal law.

(2)  "Artificial intelligence system" means the use of machine learning and related technologies that use data to train statistical models for the purpose of enabling computer systems to perform tasks normally associated with human intelligence or perception, such as computer vision, speech or natural language processing, and content generation.

(3)  "Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry.

(4)  "Council" means the Artificial Intelligence Council established under Chapter 553.

(5)  "Consequential decision" means any decision that has a material, legal, or similarly significant, effect on a consumer's access to, cost of, or terms or conditions of:

(A)  a criminal case assessment, a sentencing or plea agreement analysis, or a pardon, parole, probation, or release decision;

(B)  education enrollment or an education opportunity;

(C)  employment or an employment opportunity;

(D)  a financial service;

(E)  an essential government service;

(F)  residential utility services;

(G)  a health-care service or treatment;

(H)  housing;

(I)  insurance;

(J)  a legal service;

(K)  a transportation service;

(L)  constitutionally protected services or products; or

(M)  elections or voting process.

(6)  "Consumer" means an individual who is a resident of this state acting only in an individual or household context. The term does not include an individual acting in a commercial or employment context.

(7)  "Deploy" means to put into effect or commercialize.

(8)  "Deployer" means a person doing business in this state that deploys a high-risk artificial intelligence system.

(9)  "Developer" means a person doing business in this state that develops a high-risk artificial intelligence system or substantially or intentionally modifies an artificial intelligence system.

(10)  "Digital service" means a website, an application, a program, or software that collects or processes personal identifying information with Internet connectivity.

(11)  "Digital service provider" means a person who:

(A)  owns or operates a digital service;

(B)  determines the purpose of collecting and processing the personal identifying information of users of the digital service; and

(C)  determines the means used to collect and process the personal identifying information of users of the digital service.

(12)  "Distributor" means a person, other than the Developer, that makes an artificial intelligence system available in the market for a commercial purpose.

(13)  "Generative artificial intelligence" means artificial intelligence models that can emulate the structure and characteristics of input data in order to generate derived synthetic content. This can include images, videos, audio, text, and other digital content.

(14)  "High-risk artificial intelligence system" means any artificial intelligence system that is a substantial factor to a consequential decision. The term does not include:

(A)  an artificial intelligence system if the artificial intelligence system is intended to detect decision-making patterns or deviations from prior decision-making patterns and is not intended to replace or influence a previously completed human assessment without sufficient human review;

(B)  an artificial intelligence system that violates a provision of Subchapter B; or

(C)  the following technologies, unless the technologies, when deployed, make, or are a substantial factor in making, a consequential decision:

(i)  anti-malware;

(ii)  anti-virus;

(iii)  calculators;

(iv)  cybersecurity;

(v)  databases;

(vi)  data storage;

(vii)  firewall;

(viii)  fraud detection systems;

(ix)  internet domain registration;

(x)  internet website loading;

(xi)  networking;

(xii)  operational technology;

(xiii)  spam- and robocall-filtering;

(xiv)  spell-checking;

(xv)  spreadsheets;

(xvi)  web caching;

(xvii)  web scraping;

(xviii)  web hosting or any similar technology; or

(xviv)  any technology that solely communicates in natural language for the sole purpose of providing users with information, making referrals or recommendations relating to customer service, and answering questions and is subject to an acceptable use policy that prohibits generating content that is discriminatory or harmful, as long as the system does not violate any provision listed in Subchapter B.

(15)  "Open source artificial intelligence system" means an artificial intelligence system that:

(A)  can be used or modified for any purpose without securing permission from the owner or creator of such an artificial intelligence system;

(B)  can be shared for any use with or without modifications; and

(C)  includes information about the data used to train such system that is sufficiently detailed such that a person skilled in artificial intelligence could create a substantially equivalent system when the following are made available freely or through a non-restrictive license:

(i)  the same or similar data;

(ii)  the source code used to train and run such system; and

(iii)  the model weights and parameters of such system.

(16)  "Operational technology" means hardware and software that detects or causes a change through the direct monitoring or control of physical devices, processes, and events in the enterprise.

(17)  "Personal data" has the meaning assigned to it by Section 541.001, Business and Commerce Code.

(18)  "Risk" means the composite measure of an event's probability of occurring and the magnitude or degree of the consequences of the corresponding event.

(19)  "Sensitive personal attribute" means race, political opinions, religious or philosophical beliefs, ethnic orientation, mental health diagnosis, or sex. The term does not include conduct that would be classified as an offense under Chapter 21, Penal Code.

(20)  "Social media platform" has the meaning assigned by Section 120.001, Business and Commerce Code.

(21)  "Substantial factor" means a factor that is:

(A)  considered when making a consequential decision;

(B)  likely to alter the outcome of a consequential decision; and

(C)  weighed more heavily than any other factor contributing to the consequential decision.

(22)  "Intentional and substantial modification" or "Substantial modification" means a deliberate change made to an artificial intelligence system that reasonably increases the risk of algorithmic discrimination.

Sec. 551.002.  APPLICABILITY OF CHAPTER. This chapter applies only to a person that is not a small business as defined by the United States Small Business Administration, and:

(1)  conducts business, promotes, or advertises in this state or produces a product or service consumed by residents of this state; or

(2)  engages in the development, distribution, or deployment of a high-risk artificial intelligence system in this state.

Sec. 551.003.  DEVELOPER DUTIES. (a) A developer of a high-risk artificial intelligence system shall use reasonable care to protect consumers from any known or reasonably foreseeable risks of algorithmic discrimination arising from the intended and contracted uses of the high-risk artificial intelligence system.

(b)  Prior to providing a high-risk artificial intelligence system to a deployer, a developer shall provide to the deployer, in writing, a High-Risk Report that consists of:

(1)  a statement describing how the high-risk artificial intelligence system should be used or not be used;

(2)  any known limitations of the system that could lead to algorithmic discrimination, the metrics used to measure the system's performance, which shall include at a minimum, metrics related to accuracy, explainability, transparency, reliability, and security set forth in the most recent version of the "Artificial Intelligence Risk Management Framework: Generative Artificial Intelligence Profile" published by the National Institute of Standards and Technology, and how the system performs under those metrics in its intended use contexts;

(3)  any known or reasonably foreseeable risks of algorithmic discrimination, arising from its intended or likely use;

(4)  a high-level summary of the type of data used to program or train the high-risk artificial intelligence system;

(5)  the data governance measures used to cover the training datasets and their collection, and the measures used to examine the suitability of data sources and prevent unlawful discriminatory biases; and

(6)  appropriate principles, processes, and personnel for the deployers' risk management policy.

(c)  If a high-risk artificial intelligence system is intentionally or substantially modified after a developer provides it to a deployer, a developer shall make necessary information in subsection (b) available to deployers within 30 days of the modification.

(d)  If a developer believes or has reason to believe, that it deployed a high-risk artificial intelligence system that does not comply with a requirement of this chapter, the developer shall immediately take the necessary corrective actions to bring that system into compliance, including by withdrawing it, disabling it, and recalling it, as appropriate. Where applicable, the developer shall inform the distributors or deployers of the high-risk artificial intelligence system concerned.

(e)  Where the high-risk artificial intelligence system presents risks of algorithmic discrimination, unlawful use or disclosure of personal data, or deceptive manipulation or coercion of human behavior and the developer knows or should reasonably know of that risk, it shall immediately investigate the causes, in collaboration with the deployer, where applicable, and inform the attorney general in writing of the nature of the non-compliance and of any relevant corrective action taken.

(f)  Developers shall keep detailed records of any generative artificial intelligence training data used to develop a generative artificial intelligence system or service, consistent with the suggested actions under GV-1.2-007 of the "Artificial Intelligence Risk Management Framework: Generative Artificial Intelligence Profile" by the National Institute of Standards and Technology, or any subsequent versions thereof.

Sec. 551.004.  DISTRIBUTOR DUTIES. A distributor of a high-risk artificial intelligence system shall use reasonable care to protect consumers from any known or reasonably foreseeable risks of algorithmic discrimination. If a distributor of a high-risk artificial intelligence system knows or has reason to know that a high-risk artificial intelligence system is not in compliance with any requirement in this chapter, it shall immediately withdraw, disable, or recall as appropriate, the high-risk artificial intelligence system from the market until the system has been brought into compliance with the requirements of this chapter. The distributor shall inform the developers of the high-risk artificial intelligence system concerned and, where applicable, the deployers.

Sec. 551.005.  DEPLOYER DUTIES. A deployer of a high-risk artificial intelligence system shall use reasonable care to protect consumers from any known or reasonably foreseeable risks of algorithmic discrimination. If a deployer of a high-risk artificial intelligence system knows or has reason to know that a high-risk artificial intelligence system is not in compliance with any requirement in this chapter, it shall immediately suspend the use of the high-risk artificial intelligence system from the market until the system has been brought into compliance with the requirements of this chapter. The deployer shall inform the developers of the high-risk artificial intelligence system concerned and, where applicable, the distributors.

Sec. 551.006.  IMPACT ASSESSMENTS. (a) A deployer that deploys a high-risk artificial intelligence system shall complete an impact assessment for the high-risk artificial intelligence system. A deployer, or a third-party contracted by the deployer for such purposes, shall complete an impact assessment annually and within ninety days after any intentional and substantial modification to the high-risk artificial intelligence system is made available. An impact assessment must include, at a minimum, and to the extent reasonably known by or available to the deployer:

(1)  a statement by the deployer disclosing the purpose, intended use cases, and deployment context of, and benefits afforded by, the high-risk artificial intelligence system;

(2)  an analysis of whether the deployment of the high-risk artificial intelligence system poses any known or reasonably foreseeable risks of algorithmic discrimination and, if so, the nature of the algorithmic discrimination and the steps that have been taken to mitigate the risks;

(3)  a description of the categories of data the high-risk artificial intelligence system processes as inputs and the outputs the high-risk artificial intelligence system produces;

(4)  if the deployer used data to customize the high-risk artificial intelligence system, an overview of the categories of data the deployer used to customize the high-risk artificial intelligence system;

(5)  any metrics used to evaluate the performance and known limitations of the high-risk artificial intelligence system;

(6)  a description of any transparency measures taken concerning the high-risk artificial intelligence system, including any measures taken to disclose to a consumer that the high-risk artificial intelligence system will be used;

(7)  a description of the post-deployment monitoring and user safeguards provided concerning the high-risk artificial intelligence system, including the oversight, use, and learning process established by the deployer to address issues arising from the deployment of the high-risk artificial intelligence system; and

(8)  a description of cybersecurity measures and threat modeling conducted on the system.

(b)  Following an intentional and substantial modification to a high-risk artificial intelligence system, a deployer must disclose the extent to which the high-risk artificial intelligence system was used in a manner that was consistent with, or varied from, the developer's intended uses of the high-risk artificial intelligence system.

(c)  A single impact assessment may address a comparable set of high-risk artificial intelligence systems deployed by a deployer.

(d)  A deployer shall maintain the most recently completed impact assessment for a high-risk artificial intelligence system, all records concerning each impact assessment, and all prior impact assessments, if any, for at least three years following the final deployment of the high-risk artificial intelligence system.

(e)  If a deployer, or a third party contracted by the deployer, completes an impact assessment for the purpose of complying with another applicable law or regulation, such impact assessment shall be deemed to satisfy the requirements established in this subsection if such impact assessment is reasonably similar in scope and effect to the impact assessment that would otherwise be completed pursuant to this subsection.

(f)  A deployer may redact any trade secrets as defined by Section 541.001(33), Business & Commerce Code or information protected from disclosure by state or federal law.

(g)  Except as provided in subsection (e) of this section, a developer that makes a high-risk artificial intelligence system available to a deployer shall make available to the deployer the documentation and information necessary for a deployer to complete an impact assessment pursuant to this section.

(h)  A developer that also serves as a deployer for a high-risk artificial intelligence system is not required to generate and store an impact assessment unless the high-risk artificial intelligence system is provided to an unaffiliated deployer.

Sec. 551.007.  DISCLOSURE OF A HIGH-RISK ARTIFICIAL INTELLIGENCE SYSTEM TO CONSUMERS. (a) A deployer or developer that deploys, offers, sells, leases, licenses, gives, or otherwise makes available a high-risk artificial intelligence system that is intended to interact with consumers shall disclose to each consumer, before or at the time of interaction:

(1)  that the consumer is interacting with an artificial intelligence system;

(2)  the purpose of the system;

(3)  that the system may or will make a consequential decision affecting the consumer;

(4)  the nature of any consequential decision in which the system is or may be a substantial factor;

(5)  the factors to be used in making any consequential decisions;

(6)  contact information of the deployer;

(7)  a description of:

(A)  any human components of the system;

(B)  any automated components of the system; and

(C)  how human and automated components are used to inform a consequential decision; and

(8)  a declaration of the consumer's rights under Section 551.108.

(b)  Disclosure is required under subsection (a) of this section regardless of whether it would be obvious to a reasonable person that the person is interacting with an artificial intelligence system.

(c)  All disclosures under subsection (a) shall be clear and conspicuous and written in plain language, and avoid the use of a dark pattern as defined by 541.001, Business & Commerce Code.

(d)  All disclosures under subsection (a) may be linked to a separate webpage of the developer or deployer.

(e)  Any requirement in this section that may conflict with state or federal law may be exempt.

Sec. 551.008.  RISK IDENTIFICATION AND MANAGEMENT POLICY. (a) A developer or deployer of a high-risk artificial intelligence system shall, prior to deployment, assess potential risks of algorithmic discrimination and implement a risk management policy to govern the development or deployment of the high-risk artificial intelligence system. The risk management policy shall:

(1)  specify and incorporate the principles and processes that the developer or deployer uses to identify, document, and mitigate, in the development or deployment of a high-risk artificial intelligence system:

(A)  known or reasonably foreseeable risks of algorithmic discrimination; and

(B)  prohibited uses and unacceptable risks under Subchapter B; and

(2)  be reasonable in size, scope, and breadth, considering:

(A)  guidance and standards set forth in the most recent version of the "Artificial Intelligence Risk Management Framework: Generative Artificial Intelligence Profile" published by the National Institute of Standards and Technology;

(B)  any existing risk management guidance, standards or framework applicable to artificial intelligence systems designated by the Banking Commissioner or Insurance Commissioner, if the developer or deployer is regulated by the Department of Banking or Department of Insurance;

(C)  the size and complexity of the developer or deployer;

(D)  the nature, scope, and intended use of the high-risk artificial intelligence systems developed or deployed; and

(E)  the sensitivity and volume of personal data processed in connection with the high-risk artificial intelligence systems.

(b)  A risk management policy implemented pursuant to this section may apply to more than one high-risk artificial intelligence system developed or deployed, so long as the developer or deployer complies with all of the forgoing requirements and considerations in adopting and implementing the risk management policy with respect to each high-risk artificial intelligence system covered by the policy.

(c)  A developer or deployer may redact or omit any trade secrets as defined by Section 541.001(33), Business & Commerce Code or information protected from disclosure by state or federal law.

Sec. 551.009.  RELATIONSHIPS BETWEEN ARTIFICIAL INTELLIGENCE PARTIES. Any distributor or deployer, shall be considered to be a developer of a high-risk artificial intelligence system for the purposes of this chapter and shall be subject to the obligations and duties of a developer under this chapter in any of the following circumstances:

(1)  they put their name or trademark on a high-risk artificial intelligence system already placed in the market or put into service;

(2)  they intentionally and substantially modify a high-risk artificial intelligence system that has already been placed in the market or has already been put into service in such a way that it remains a high-risk artificial intelligence system under this chapter; or

(3)  they modify the intended purpose of an artificial intelligence system which has not previously been classified as high-risk and has already been placed in the market or put into service in such a way that the artificial intelligence system concerned becomes a high-risk artificial intelligence system in accordance with this chapter of a high-risk artificial intelligence system.

Sec. 551.010.  DIGITAL SERVICE PROVIDER AND SOCIAL MEDIA PLATFORM DUTIES REGARDING ARTIFICIAL INTELLIGENCE SYSTEMS. A digital service provider as defined by Section 509.001(2), Business & Commerce Code or a social media platform as defined by Section 120.001(1), Business & Commerce Code, shall require advertisers on the service or platform to agree to terms preventing the deployment of a high-risk artificial intelligence system on the service or platform that could expose the users of the service or platform to algorithmic discrimination or prohibited uses under Subchapter B.

Sec. 551.011.  REPORTING REQUIREMENTS. (a) A deployer must notify, in writing, the council, the attorney general, or the director of the appropriate state agency that regulates the deployer's industry, and affected consumers as soon as practicable after the date on which the deployer discovers or is made aware that a deployed high-risk artificial intelligence system has caused algorithmic discrimination of an individual or group of individuals.

(b)  If a developer discovers or is made aware that a deployed high-risk artificial intelligence system is using inputs or providing outputs that constitute a violation of Subchapter B, the deployer must cease operation of the offending system as soon as technically feasible and provide notice to the council and the attorney general as soon as practicable and not later than the 10th day after the date on which the developer discovers or is made aware of the unacceptable risk.

Sec. 551.012.  SANDBOX PROGRAM EXCEPTION. (a) Excluding violations of Subchapter B, this chapter does not apply to the development of an artificial intelligence system that is used exclusively for research, training, testing, or other pre-deployment activities performed by active participants of the sandbox program in compliance with Chapter 552.

SUBCHAPTER B. PROHIBITED USES AND UNACCEPTABLE RISK

Sec. 551.051.  MANIPULATION OF HUMAN BEHAVIOR TO CIRCUMVENT INFORMED DECISION-MAKING. An artificial intelligence system shall not be developed or deployed that uses subliminal techniques beyond a person's consciousness, or purposefully manipulative or deceptive techniques, with the objective or the effect of materially distorting the behavior of a person or a group of persons by appreciably impairing their ability to make an informed decision, thereby causing a person to make a decision that the person would not have otherwise made, in a manner that causes or is likely to cause significant harm to that person or another person or group of persons.

Sec. 551.052.  SOCIAL SCORING. An artificial intelligence system shall not be developed or deployed for the evaluation or classification of natural persons or groups of natural persons based on their social behavior or known, inferred, or predicted personal characteristics with the intent to determine a social score or similar categorical estimation or valuation of a person or groups of persons.

Sec. 551.053.  CAPTURE OF BIOMETRIC IDENTIFIERS USING ARTIFICIAL INTELLIGENCE. An artificial intelligence system developed with biometric identifiers of individuals and the targeted or untargeted gathering of images or other media from the internet or any other publicly available source shall not be deployed for the purpose of uniquely identifying a specific individual. An individual is not considered to be informed nor to have provided consent for such purpose pursuant to Section 503.001, Business and Commerce Code, based solely upon the existence on the internet, or other publicly available source, of an image or other media containing one or more biometric identifiers.

Sec. 551.054.  CATEGORIZATION BASED ON SENSITIVE ATTRIBUTES. An artificial intelligence system shall not be developed or deployed with the specific purpose of inferring or interpreting, sensitive personal attributes of a person or group of persons using biometric identifiers, except for the labeling or filtering of lawfully acquired biometric identifier data.

Sec. 551.055.  UTILIZATION OF PERSONAL ATTRIBUTES FOR HARM. An artificial intelligence system shall not utilize characteristics of a person or a specific group of persons based on their race, color, disability, religion, sex, national origin, age, or a specific social or economic situation, with the objective, or the effect, of materially distorting the behavior of that person or a person belonging to that group in a manner that causes or is reasonably likely to cause that person or another person harm.

Sec. 551.056.  CERTAIN SEXUALLY EXPLICIT VIDEOS, IMAGES, AND CHILD PORNOGRAPHY. An artificial intelligence system shall not be developed or deployed that produces, assists, or aids in producing, or is capable of producing unlawful visual material in violation of Section 43.26, Penal Code or an unlawful deep fake video or image in violation of Section 21.165, Penal Code.

SUBCHAPTER C. ENFORCEMENT AND CONSUMER PROTECTIONS

Sec. 551.101.  CONSTRUCTION AND APPLICATION. (a) This chapter shall be broadly construed and applied to promote its underlying purposes, which are:

(1)  to facilitate and advance the responsible development and use of artificial intelligence systems;

(2)  to protect individuals and groups of individuals from known, and unknown but reasonably foreseeable, risks, including unlawful algorithmic discrimination;

(3)  to provide transparency regarding those risks in the development, deployment, or use of artificial intelligence systems; and

(4)  to provide reasonable notice regarding the use or considered use of artificial intelligence systems by state agencies.

(b)  this chapter does not apply to the developer of an open source artificial intelligence system, provided that:

(1)  the system is not deployed as a high-risk artificial intelligence system and the developer has taken reasonable steps to ensure that the system cannot be used as a high-risk artificial intelligence system without substantial modifications; and

(2)  the weights and technical architecture of the system are made publicly available.

Sec. 551.102.  ENFORCEMENT AUTHORITY. The attorney general has authority to enforce this chapter. Excluding violations of Subchapter B, researching, training, testing, or the conducting of other pre-deployment activities by active participants of the sandbox program, in compliance with Chapter 552, does not subject a developer or deployer to penalties or actions.

Sec. 551.103.  INTERNET WEBSITE AND COMPLAINT MECHANISM. The attorney general shall post on the attorney general's Internet website:

(1)  information relating to:

(A)  the responsibilities of a developer, distributor, and deployer under Subchapter A; and

(B)  an online mechanism through which a consumer may submit a complaint under this chapter to the attorney general.

Sec. 551.104.  INVESTIGATIVE AUTHORITY. (a) If the attorney general has reasonable cause to believe that a person has engaged in or is engaging in a violation of this chapter, the attorney general may issue a civil investigative demand. The attorney general shall issue such demands in accordance with and under the procedures established under Section 15.10.

(b)  The attorney general may request, pursuant to a civil investigative demand issued under Subsection (a), that a developer or deployer of a high-risk artificial intelligence system disclose their risk management policy and impact assessments required under Subchapter A. The attorney general may evaluate the risk management policy and impact assessments for compliance with the requirements set forth in Subchapter A.

(c)  The attorney general may not institute an action for a civil penalty against a developer or deployer for artificial intelligence systems that remain isolated from customer interaction in a pre-deployment environment.

Sec. 551.105.  NOTICE OF VIOLATION OF CHAPTER; OPPORTUNITY TO CURE. Before bringing an action under Section 551.106, the attorney general shall notify a developer, distributor, or deployer in writing, not later than the 30th day before bringing the action, identifying the specific provisions of this chapter the attorney general alleges have been or are being violated. The attorney general may not bring an action against the developer or deployer if:

(1)  within the 30-day period, the developer or deployer cures the identified violation; and

(2)  the developer or deployer provides the attorney general a written statement that the developer or deployer:

(A)  cured the alleged violation;

(B)  notified the consumer, if technically feasible, and the council that the developer or deployer's violation was addressed, if the consumer's contact information has been made available to the developer or deployer and the attorney general;

(C)  provided supportive documentation to show how the violation was cured; and

(D)  made changes to internal policies, if necessary, to reasonably ensure that no such further violations are likely to occur.

Sec. 551.106.  CIVIL PENALTY; INJUNCTION. (a) The attorney general may bring an action in the name of this state to restrain or enjoin the person from violating this chapter and seek injunctive relief.

(b)  The attorney general may recover reasonable attorney's fees and other reasonable expenses incurred in investigating and bringing an action under this section.

(c)  The attorney general may assess and collect an administrative fine against a developer or deployer who fails to timely cure a violation or who breaches a written statement provided to the attorney general, other than those for a prohibited use, of not less than $50,000 and not more than $100,000 per uncured violation.

(d)  The attorney general may assess and collect an administrative fine against a developer or deployer who fails to timely cure a violation of a prohibited use, or whose violation is determined to be uncurable, of not less than $80,000 and not more than $200,000 per violation.

(e)  A developer or deployer who was found in violation of and continues to operate with the provisions of this chapter shall be assessed an administrative fine of not less than $2,000 and not more than $40,000 per day.

(f)  There is a rebuttable presumption that a developer, distributor, or deployer used reasonable care as required under this chapter if the developer, distributor, or deployer complied with their duties under Subchapter A.

Sec. 551.107.  ENFORCEMENT ACTIONS BY STATE AGENCIES. A state agency may sanction an individual licensed, registered, or certified by that agency for violations of Subchapter B, including:

(1)  the suspension, probation, or revocation of a license, registration, certificate, or other form of permission to engage in an activity; and

(2)  monetary penalties up to $100,000.

Sec. 551.108.  CONSUMER RIGHTS AND REMEDIES. A consumer may appeal a consequential decision made by a high-risk artificial intelligence system which has an adverse impact on their health, safety, or fundamental rights, and shall have the right to obtain from the deployer clear and meaningful explanations of the role of the high-risk artificial intelligence system in the decision-making procedure and the main elements of the decision taken.

SUBCHAPTER D. CONSTRUCTION OF CHAPTER; LOCAL PREEMPTION

Sec. 551.151.  CONSTRUCTION OF CHAPTER. This chapter may not be construed as imposing a requirement on a developer, a deployer, or other person that adversely affects the rights or freedoms of any person, including the right of free speech.

Sec. 551.152.  LOCAL PREEMPTION. This chapter supersedes and preempts any ordinance, resolution, rule, or other regulation adopted by a political subdivision regarding the use of high-risk artificial intelligence systems.

CHAPTER 552. ARTIFICIAL INTELLIGENCE REGULATORY SANDBOX PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 552.001.  DEFINITIONS. In this chapter:

(1)  "Applicable agency" means a state agency responsible for regulating a specific sector impacted by an artificial intelligence system.

(2)  "Consumer" means a person who engages in transactions involving an artificial intelligence system or is directly affected by the use of such a system.

(3)  "Council" means the Artificial Intelligence Council established by Chapter 553.

(4)  "Department" means the Texas Department of Information Resources.

(5)  "Program participant" means a person or business entity approved to participate in the sandbox program.

(6)  "Sandbox program" means the regulatory framework established under this chapter that allows temporary testing of artificial intelligence systems in a controlled, limited manner without full regulatory compliance.

SUBCHAPTER B. SANDBOX PROGRAM FRAMEWORK

Sec. 552.051.  ESTABLISHMENT OF SANDBOX PROGRAM. (a) The department, in coordination with the council, shall administer the Artificial Intelligence Regulatory Sandbox Program to facilitate the development, testing, and deployment of innovative artificial intelligence systems in Texas.

(b)  The sandbox program is designed to:

(1)  promote the safe and innovative use of artificial intelligence across various sectors including healthcare, finance, education, and public services;

(2)  encourage the responsible deployment of artificial intelligence systems while balancing the need for consumer protection, privacy, and public safety; and

(3)  provide clear guidelines for artificial intelligence developers to test systems while temporarily exempt from certain regulatory requirements.

Sec. 552.052.  APPLICATION PROCESS. (a) A person or business entity seeking to participate in the sandbox program must submit an application to the council.

(b)  The application must include:

(1)  a detailed description of the artificial intelligence system and its intended use;

(2)  a risk assessment that addresses potential impacts on consumers, privacy, and public safety;

(3)  a plan for mitigating any adverse consequences during the testing phase; and

(4)  proof of compliance with federal artificial intelligence laws and regulations, where applicable.

Sec. 552.053.  DURATION AND SCOPE OF PARTICIPATION. A participant may test an artificial intelligence system under the sandbox program for a period of up to 36 months, unless extended by the department for good cause.

SUBCHAPTER C. OVERSIGHT AND COMPLIANCE

Sec. 552.101.  AGENCY COORDINATION. (a) The department shall coordinate with all relevant state regulatory agencies to oversee the operations of the sandbox participants.

(b)  A relevant agency may recommend to the department that a participant's sandbox privileges be revoked if the artificial intelligence system:

(1)  poses undue risk to public safety or welfare;

(2)  violates any federal or state laws that the sandbox program cannot override.

Sec. 552.102.  REPORTING REQUIREMENTS. (a) Each sandbox participant must submit quarterly reports to the department, which shall include:

(1)  system performance metrics;

(2)  updates on how the system mitigates any risks associated with its operation; and

(3)  feedback from consumers and affected stakeholders that are using a product that has been deployed from this section.

(b)  The department must submit an annual report to the legislature detailing:

(1)  the number of participants in the sandbox program;

(2)  the overall performance and impact of artificial intelligence systems tested within the program; and

(3)  recommendations for future legislative or regulatory reforms.

CHAPTER 553. TEXAS ARTIFICIAL INTELLIGENCE COUNCIL

SUBCHAPTER A. CREATION AND ORGANIZATION OF COUNCIL

Sec. 553.001.  CREATION OF COUNCIL. (a) The Artificial Intelligence Council is administratively attached to the office of the governor, and the office of the governor shall provide administrative support to the council as provided by this section.

(b)  The office of the governor and the council shall enter into a memorandum of understanding detailing:

(1)  the administrative support the council requires from the office of the governor to fulfill the purposes of this chapter;

(2)  the reimbursement of administrative expenses to the office of the governor; and

(3)  any other provisions available by law to ensure the efficient operation of the council as attached to the office of the governor.

(c)  The purpose of the council is to:

(1)  ensure artificial intelligence systems are ethical and in the public's best interest and do not harm public safety or undermine individual freedoms by finding gaps in the Penal Code and Chapter 82, Civil Practice and Remedies Code and making recommendations to the Legislature.

(2)  identify existing laws and regulations that impede innovation in artificial intelligence development and recommend appropriate reforms;

(3)  analyze opportunities to improve the efficiency and effectiveness of state government operations through the use of artificial intelligence systems;

(4)  investigate and evaluate potential instances of regulatory capture, including undue influence by technology companies or disproportionate burdens on smaller innovators;

(5)  investigate and evaluate the influence of technology companies on other companies and determine the existence or use of tools or processes designed to censor competitors or users; and

(6)  offer guidance and recommendations to state agencies including advisory opinions on the ethical and legal use of artificial intelligence;

Sec. 553.002.  COUNCIL MEMBERSHIP. (a) The council is composed of 10 members as follows:

(1)  four members of the public appointed by the governor;

(2)  two members of the public appointed by the lieutenant governor;

(3)  two members of the public appointed by the speaker of the house of representatives;

(4)  one senator appointed by the lieutenant governor as a nonvoting member; and

(5)  one member of the house of representatives appointed by the speaker of the house of representatives as a nonvoting member.

(b)  Voting members of the council serve staggered four-year terms, with the terms of four members expiring every two years.

(c)  The governor shall appoint a chair from among the members, and the council shall elect a vice chair from its membership.

(d)  The council may establish an advisory board composed of individuals from the public who possess expertise directly related to the council's functions, including technical, ethical, regulatory, and other relevant areas.

Sec. 553.003.  QUALIFICATIONS. (a) Members of the council must be Texas residents and have knowledge or expertise in one or more of the following areas:

(1)  artificial intelligence technologies;

(2)  data privacy and security;

(3)  ethics in technology or law;

(4)  public policy and regulation; or

(5)  risk management or safety related to artificial intelligence systems.

(b)  Members must not hold an office or profit under the state or federal government at the time of appointment.

Sec. 553.004.  STAFF AND ADMINISTRATION. The council may employ an executive director and other personnel as necessary to perform its duties.

SUBCHAPTER B. POWERS AND DUTIES OF THE COUNCIL

Sec. 553.101.  ISSUANCE OF ADVISORY OPINIONS. (a) A state agency may request a written advisory opinion from the council regarding the use of artificial intelligence systems in the state.

(b)  The council may issue advisory opinions on state use of artificial intelligence systems regarding:

(1)  the compliance of artificial intelligence systems with Texas law;

(2)  the ethical implications of artificial intelligence deployments in the state;

(3)  data privacy and security concerns related to artificial intelligence systems; or

(4)  potential liability or legal risks associated with the use of AI.

Sec. 553.102.  RULEMAKING AUTHORITY. (a) The council may adopt rules necessary to administer its duties under this chapter, including:

(1)  procedures for requesting advisory opinions;

(2)  standards for ethical artificial intelligence development and deployment;

(3)  guidelines for evaluating the safety, privacy, and fairness of artificial intelligence systems.

(b)  The council's rules shall align with state laws on artificial intelligence, technology, data security, and consumer protection.

Sec. 553.103.  TRAINING AND EDUCATIONAL OUTREACH. The council shall conduct training programs for state agencies and local governments on the ethical use of artificial intelligence systems.

SECTION 3.  Section 503.001, Business & Commerce Code is amended by adding Subsection (c-3) to read as follows:

(c-3)  This section does not apply to the training, processing, or storage of biometric identifiers involved in machine learning or artificial intelligence systems, unless performed for the purpose of uniquely identifying a specific individual. If a biometric identifier captured for the purpose of training an artificial intelligence system is subsequently used for a commercial purpose, the person possessing the biometric identifier is subject to this section's provisions for the possession and destruction of a biometric identifier and the associated penalties.

SECTION 4.  Sections 541.051(b), 541.101(a), 541.102(a), and Sec.541.104(a), Business & Commerce Code, are amended to read as follows:

Sec. 541.051.  CONSUMER'S PERSONAL DATA RIGHTS; REQUEST TO EXERCISE RIGHTS. (a) A consumer is entitled to exercise the consumer rights authorized by this section at any time by submitting a request to a controller specifying the consumer rights the consumer wishes to exercise. With respect to the processing of personal data belonging to a known child, a parent or legal guardian of the child may exercise the consumer rights on behalf of the child.

(b)  A controller shall comply with an authenticated consumer request to exercise the right to:

(1)  confirm whether a controller is processing the consumer's personal data and to access the personal data;

(2)  correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

(3)  delete personal data provided by or obtained about the consumer;

(4)  if the data is available in a digital format, obtain a copy of the consumer's personal data that the consumer previously provided to the controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance; [~~or~~]

(5)  know if the consumer's personal data is or will be used in any artificial intelligence system and for what purposes; or

([~~5~~]6)  opt out of the processing of the personal data for purposes of:

(A)  targeted advertising;

(B)  the sale of personal data; [~~or~~]

(C)  the sale of personal data for use in artificial intelligence systems prior to being collected; or

([~~C~~]D)  profiling in furtherance of a decision that produces a legal or similarly significant effect concerning the consumer.

Sec. 541.101.  CONTROLLER DUTIES; TRANSPARENCY. (a) A controller:

(1)  shall limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which that personal data is processed, as disclosed to the consumer; [~~and~~]

(2)  for purposes of protecting the confidentiality, integrity, and accessibility of personal data, shall establish, implement, and maintain reasonable administrative, technical, and physical data security practices that are appropriate to the volume and nature of the personal data at issue~~.~~; and

(3)  for purposes of protecting the unauthorized access, disclosure, alteration, or destruction of data collected, stored, and processed by artificial intelligence systems, shall establish, implement, and maintain, reasonable administrative, technical, and physical data security practices that are appropriate to the volume and nature of the data collected, stored, and processed by artificial intelligence systems.

Sec.541.102.  PRIVACY NOTICE. (a) A controller shall provide consumers with a reasonably accessible and clear privacy notice that includes:

(1)  the categories of personal data processed by the controller, including, if applicable, any sensitive data processed by the controller;

(2)  the purpose for processing personal data;

(3)  how consumers may exercise their consumer rights under Subchapter B, including the process by which a consumer may appeal a controller's decision with regard to the consumer's request;

(4)  if applicable, the categories of personal data that the controller shares with third parties;

(5)  if applicable, the categories of third parties with whom the controller shares personal data; [~~and~~]

(6)  if applicable, an acknowledgement of the collection, use, and sharing of personal data for artificial intelligence purposes; and

([~~6~~]7)  a description of the methods required under Section 541.055 through which consumers can submit requests to exercise their consumer rights under this chapter.

Sec. 541.104.  DUTIES OF PROCESSOR. (a) A processor shall adhere to the instructions of a controller and shall assist the controller in meeting or complying with the controller's duties or requirements under this chapter, including:

(1)  assisting the controller in responding to consumer rights requests submitted under Section 541.051 by using appropriate technical and organizational measures, as reasonably practicable, taking into account the nature of processing and the information available to the processor;

(2)  assisting the controller with regard to complying with the [~~requirement~~]requirements relating to the security of processing personal data, and if applicable, the data collected, stored, and processed by artificial intelligence systems and to the notification of a breach of security of the processor's system under Chapter 521, taking into account the nature of processing and the information available to the processor; and

(3)  providing necessary information to enable the controller to conduct and document data protection assessments under Section 541.105.

SECTION 5.  Subtitle E, Title 4, Labor Code, is amended by adding Chapter 319 to read as follows:

CHAPTER 319. TEXAS ARTIFICIAL INTELLIGENCE WORKFORCE DEVELOPMENT GRANT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 319.001.  DEFINITIONS. In this chapter:

(1)  "Artificial intelligence industry" means businesses, research organizations, governmental entities, and educational institutions engaged in the development, deployment, or use of artificial intelligence technologies in Texas.

(2)  "Commission" means the Texas Workforce Commission.

(3)  "Eligible entity" means Texas-based businesses in the artificial intelligence industry, public school districts, community colleges, public technical institutes, and workforce development organizations.

(4)  "Program" means the Texas Artificial Intelligence Workforce Development Grant Program established under this chapter.

SUBCHAPTER B. ARTIFICIAL INTELLIGENCE WORKFORCE DEVELOPMENT GRANT PROGRAM

Sec. 319.051.  ESTABLISHMENT OF GRANT PROGRAM. (a) The commission shall establish the Texas Artificial Intelligence Workforce Development Grant Program to:

(1)  support and assist Texas-based artificial intelligence companies in developing a skilled workforce;

(2)  provide grants to local community colleges and public high schools to implement or expand career and technical education programs focused on artificial intelligence readiness and skill development; and

(3)  offer opportunities to retrain and reskill workers through partnerships with the artificial intelligence industry and workforce development programs.

(b)  The program is intended to:

(1)  prepare Texas workers and students for employment in the rapidly growing artificial intelligence industry;

(2)  support the creation of postsecondary programs and certifications relevant to current artificial intelligence opportunities;

(3)  ensure that Texas maintains a competitive edge in artificial intelligence innovation and workforce development; and

(4)  address workforce gaps in artificial intelligence-related fields, including data science, cybersecurity, machine learning, robotics, and automation.

(c)  The commission shall adopt rules necessary to implement this subchapter.

Sec. 319.052.  FEDERAL FUNDS AND GIFTS, GRANTS, AND DONATIONS.

In addition to other money appropriated by the legislature, for the purpose of providing artificial intelligence workforce opportunities under the program established under this subchapter the commission may:

(1)  seek and apply for any available federal funds; and

(2)  solicit and accept gifts, grants, and donations from any other source, public or private, as necessary to ensure effective implementation of the program.

Sec. 319.053.  ELIGIBILITY FOR GRANTS. (a) The following entities are eligible to apply for grants under this program:

(1)  Texas-based businesses engaged in the development or deployment of artificial intelligence technologies;

(2)  public school districts and charter schools offering or seeking to offer career and technical education programs in artificial intelligence-related fields or to update existing curricula to address these fields;

(3)  public community colleges and technical institutes that develop artificial intelligence-related curricula or training programs or update existing curricula or training programs to incorporate artificial intelligence training; and

(4)  workforce development organizations in partnership with artificial intelligence companies to reskill and retrain workers in artificial intelligence competencies.

(b)  To be eligible, the entity must:

(1)  submit an application to the commission in the form and manner prescribed by the commission; and

(2)  demonstrate the capacity to develop and implement training, educational, or workforce development programs that align with the needs of the artificial intelligence industry in Texas and lead to knowledge, skills, and work-based experiences that are transferable to similar employment opportunities in the artificial intelligence industry.

Sec. 319.054.  USE OF GRANTS. (a) Grants awarded under the program may be used for:

(1)  developing or expanding workforce training programs for artificial intelligence-related skills, including but not limited to machine learning, data analysis, software development, and robotics;

(2)  creating or enhancing career and technical education programs in artificial intelligence for high school students, with a focus on preparing them for careers in artificial intelligence or related fields;

(3)  providing financial support for instructors, equipment, and technology necessary for artificial intelligence-related workforce training;

(4)  partnering with local businesses to develop internship programs, on-the-job training opportunities, instructor externships, and apprenticeships in the artificial intelligence industry;

(5)  funding scholarships or stipends for students, instructors, and workers participating in artificial intelligence training programs, particularly for individuals from underserved or underrepresented communities; or

(6)  reskilling and retraining workers displaced by technological changes or job automation, with an emphasis on artificial intelligence-related job roles.

(b)  The commission shall prioritize funding for:

(1)  initiatives that partner with rural and underserved communities to promote artificial intelligence education and career pathways;

(2)  programs that lead to credentials of value in artificial intelligence or related fields; and

(3)  proposals that include partnerships between the artificial intelligence industry, a public or private institution of higher education in this state, and workforce development organizations.

SECTION 6.  Section 325.011, Government Code, is amended to read as follows:

Sec. 325.011.  CRITERIA FOR REVIEW. The commission and its staff shall consider the following criteria in determining whether a public need exists for the continuation of a state agency or its advisory committees or for the performance of the functions of the agency or its advisory committees:

(1)  the efficiency and effectiveness with which the agency or the advisory committee operates;

(2)(A)  an identification of the mission, goals, and objectives intended for the agency or advisory committee and of the problem or need that the agency or advisory committee was intended to address; and

(B)  the extent to which the mission, goals, and objectives have been achieved and the problem or need has been addressed;

(3)(A)  an identification of any activities of the agency in addition to those granted by statute and of the authority for those activities; and

(B)  the extent to which those activities are needed;

(4)  an assessment of authority of the agency relating to fees, inspections, enforcement, and penalties;

(5)  whether less restrictive or alternative methods of performing any function that the agency performs could adequately protect or provide service to the public;

(6)  the extent to which the jurisdiction of the agency and the programs administered by the agency overlap or duplicate those of other agencies, the extent to which the agency coordinates with those agencies, and the extent to which the programs administered by the agency can be consolidated with the programs of other state agencies;

(7)  the promptness and effectiveness with which the agency addresses complaints concerning entities or other persons affected by the agency, including an assessment of the agency's administrative hearings process;

(8)  an assessment of the agency's rulemaking process and the extent to which the agency has encouraged participation by the public in making its rules and decisions and the extent to which the public participation has resulted in rules that benefit the public;

(9)  the extent to which the agency has complied with:

(A)  federal and state laws and applicable rules regarding equality of employment opportunity and the rights and privacy of individuals; and

(B)  state law and applicable rules of any state agency regarding purchasing guidelines and programs for historically underutilized businesses;

(10)  the extent to which the agency issues and enforces rules relating to potential conflicts of interest of its employees;

(11)  the extent to which the agency complies with Chapters 551 and 552 and follows records management practices that enable the agency to respond efficiently to requests for public information;

(12)  the effect of federal intervention or loss of federal funds if the agency is abolished;

(13)  the extent to which the purpose and effectiveness of reporting requirements imposed on the agency justifies the continuation of the requirement; [~~and~~]

(14)  an assessment of the agency's cybersecurity practices using confidential information available from the Department of Information Resources or any other appropriate state agency; and

(15)  an assessment, using information available from the Department of Information Resources, the Attorney General, or any other appropriate state agency, of the agency's use of artificial intelligence systems, high-risk artificial intelligence systems, in its operations and its oversight of the use of artificial intelligence systems by entities or persons under the agency's jurisdiction, and any related impact on the agency's ability to achieve its mission, goals, and objectives.

SECTION 7.  Section 2054.068(b), Government Code, is amended to read as follows:

(b)  The department shall collect from each state agency information on the status and condition of the agency's information technology infrastructure, including information regarding:

(1)  the agency's information security program;

(2)  an inventory of the agency's servers, mainframes, cloud services, and other information technology equipment;

(3)  identification of vendors that operate and manage the agency's information technology infrastructure; [~~and~~]

(4)  any additional related information requested by the department; and

(5)  an evaluation of the use, or considered use, of artificial intelligence systems and high-risk artificial intelligence systems by each state agency.

SECTION 8.  Section 2054.0965(b), Government Code, is amended to read as follows:

Sec. 2054.0965.  INFORMATION RESOURCES DEPLOYMENT REVIEW.

(b)  Except as otherwise modified by rules adopted by the department, the review must include:

(1)  an inventory of the agency's major information systems, as defined by Section 2054.008, and other operational or logistical components related to deployment of information resources as prescribed by the department;

(2)  an inventory of the agency's major databases, artificial intelligence systems, and applications;

(3)  a description of the agency's existing and planned telecommunications network configuration;

(4)  an analysis of how information systems, components, databases, applications, and other information resources have been deployed by the agency in support of:

(A)  applicable achievement goals established under Section 2056.006 and the state strategic plan adopted under Section 2056.009;

(B)  the state strategic plan for information resources; and

(C)  the agency's business objectives, mission, and goals;

(5)  agency information necessary to support the state goals for interoperability and reuse; and

(6)  confirmation by the agency of compliance with state statutes, rules, and standards relating to information resources.

SECTION 9.  Not later than September 1, 2025, the attorney general shall post on the attorney general's Internet website the information and online mechanism required by Section 551.041, Business & Commerce Code, as added by this Act.

SECTION 10.  This Act takes effect September 1, 2025.