
SECOND SUBSTITUTE SENATE BILL 5838

State of Washington

68th Legislature

2024 Regular Session

By Senate Ways & Means (originally sponsored by Senators Nguyen, Conway, Dhingra, Frame, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Lovick, Muzzall, Nobles, Saldaña, Salomon, Stanford, Torres, Valdez, and Wellman; by request of Attorney General)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to establishing an artificial intelligence task
2 force; creating new sections; providing an expiration date; and
3 declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that artificial
6 intelligence is a fast-evolving technology that holds extraordinary
7 potential and has a myriad of uses for both the public and private
8 sectors. Advances in artificial intelligence technology have led to
9 programs that are capable of creating text, audio, and media that are
10 difficult to distinguish from media created by a human. This
11 technology has the potential to provide great benefits to people if
12 used well and to cause great harm if used irresponsibly.

13 The legislature further finds that generative artificial
14 intelligence has become widely available to consumers and has great
15 potential to become a versatile tool for a wide audience. It can
16 streamline tasks, save time and money for users, and facilitate
17 further innovation. Artificial intelligence has the potential to help
18 solve urgent challenges, while making our world more prosperous,
19 productive, innovative, and secure when used responsibly.

20 Washington state is in a unique position to become a center for
21 artificial intelligence and machine learning. When used

1 irresponsibly, artificial intelligence has the potential to further
2 perpetuate bias and harm to historically excluded groups. It is vital
3 that the fundamental rights to privacy and freedom from
4 discrimination are properly safeguarded as society explores this
5 emerging technology.

6 The federal government has not yet enacted binding regulations,
7 however in July 2023, the federal government announced voluntary
8 commitments by seven leading artificial intelligence companies,
9 including three companies headquartered in Washington, to move toward
10 safe, secure, and transparent development of artificial intelligence
11 technology. The October 2023 executive order on the safe, secure, and
12 trustworthy development and use of artificial intelligence builds on
13 this work by directing developers of artificial intelligence systems
14 to share their safety test results for certain highly capable models
15 with the United States government.

16 Numerous businesses and agencies have developed principles for
17 artificial intelligence. In Washington, Washington technology
18 solutions (WaTech) developed guiding principles for artificial
19 intelligence use by state agencies. These principles share common
20 themes: Accountability, transparency, human control, privacy and
21 security, advancing equity, and promoting innovation and economic
22 development.

23 The legislature finds that the possible impacts of advancements
24 in generative artificial intelligence for Washingtonians requires
25 careful consideration in order to mitigate risks and potential harms,
26 while promoting transparency, accountability, equity, and innovation
27 that drives technological breakthroughs.

28 NEW SECTION. **Sec. 2.** (1) Subject to the availability of amounts
29 appropriated for this specific purpose, a task force to assess
30 current uses and trends and make recommendations to the legislature
31 regarding guidelines and potential legislation for the use of
32 artificial intelligence systems is established.

33 (2) The task force is composed of an executive committee
34 consisting of members as provided in this subsection.

35 (a) The president of the senate shall appoint one member from
36 each of the two largest caucuses of the senate.

37 (b) The speaker of the house of representatives shall appoint one
38 member from each of the two largest caucuses of the house of
39 representatives.

1 (c) The attorney general shall appoint the following members,
2 selecting only individuals with experience in technology policy:

3 (i) One member from the office of the governor;

4 (ii) One member from the office of the attorney general;

5 (iii) One member from Washington technology solutions;

6 (iv) One member from the Washington state auditor;

7 (v) One member representing universities or research institutions
8 that are experts in the design and effect of an algorithmic system;

9 (vi) One member representing private technology industry groups
10 or business associations;

11 (vii) One member representing community advocate organizations
12 that represent communities that are disproportionately vulnerable to
13 being harmed by algorithmic bias;

14 (viii) One member representing statewide labor organizations; and

15 (ix) One member representing law enforcement.

16 (d) The task force may meet in person or by telephone conference
17 call, videoconference, or other similar telecommunications method, or
18 a combination of such methods.

19 (e) The executive committee may convene subcommittees to advise
20 the task force on the recommendations and findings set out in
21 subsection (4) of this section.

22 (i) The executive committee shall define the scope of activity
23 and subject matter focus required of the subcommittees including, but
24 not limited to: Education and workforce development; public safety
25 and ethics; health care and accessibility; labor; government and
26 public sector efficiency; state security and cybersecurity; consumer
27 protection and privacy; and industry and innovation.

28 (ii) Subcommittees and their members may be invited to
29 participate on an ongoing, recurring, or one-time basis.

30 (iii) The executive committee in collaboration with the attorney
31 general shall appoint members to the subcommittees that must be
32 comprised of industry participants, subject matter experts,
33 representatives of federally recognized tribes, or other relevant
34 stakeholders.

35 (iv) Each subcommittee must contain at least one member
36 possessing relevant industry expertise and at least one member from
37 an advocacy organization that represents communities that are
38 disproportionately vulnerable to being harmed by algorithmic bias
39 including, but not limited to: African American; Hispanic American;
40 Native American; Asian American; Native Hawaiian and Pacific Islander

1 communities; religious minorities; individuals with disabilities; and
2 other vulnerable communities.

3 (v) Meeting summaries and reports delivered by the subcommittees
4 to the executive committee must be made available on the attorney
5 general's website within 30 days of delivery.

6 (3) The office of the attorney general, in consultation with the
7 office of the chief information officer, must administer and provide
8 staff support for the task force. The office of the attorney general
9 may, when deemed necessary by the task force, retain consultants to
10 provide data analysis, research, recommendations, training, and other
11 services to the task force for the purposes provided in subsection
12 (4) of this section. The office of the attorney general may work with
13 the task force to determine appropriate subcommittees as needed.

14 (4) The executive committee and subcommittees of the task force
15 shall examine the development and use of artificial intelligence by
16 private and public sector entities and make recommendations to the
17 legislature regarding guidelines and potential legislation for the
18 use and regulation of artificial intelligence systems to protect
19 Washingtonians' safety, privacy, and civil and intellectual property
20 rights. The task force findings and recommendations must include:

21 (a) A literature review of public policy issues with artificial
22 intelligence, including benefits and risks to the public broadly,
23 historically excluded communities, and other identifiable groups,
24 racial equity considerations, workforce impacts, and ethical
25 concerns;

26 (b) A review of existing protections under state and federal law
27 for individual data and privacy rights, safety, civil rights, and
28 intellectual property rights, and how federal, state, and local laws
29 relating to artificial intelligence align, differ, conflict, and
30 interact across levels of government;

31 (c) A recommended set of guiding principles for artificial
32 intelligence use informed by standards established by relevant
33 bodies;

34 (d) Identification of high-risk uses of artificial intelligence,
35 including those that may negatively affect safety or fundamental
36 rights;

37 (e) Opportunities to support and promote the innovation of
38 artificial intelligence technologies through grants and incentives;

1 (f) Recommendations on appropriate uses of and limitations on the
2 use of artificial intelligence by state and local governments and the
3 private sector;

4 (g) Racial equity issues posed by artificial intelligence systems
5 and ways to mitigate the concerns to build equity into the systems;

6 (h) Civil liberties issues posed by artificial intelligence
7 systems and civil rights and civil liberties protections to be
8 incorporated into artificial intelligence systems;

9 (i) Recommendations as to how the state should educate the public
10 on the development and use of artificial intelligence;

11 (j) A review of protections of personhood, including replicas of
12 voice or likeness, in typical contract structures, and a review of
13 artificial intelligence tools used to support employment decisions;
14 and

15 (k) Proposed state guidelines for the use of artificial
16 intelligence to inform the development, deployment, and use of
17 artificial intelligence systems to:

18 (i) Retain appropriate human agency and oversight;

19 (ii) Be subject to internal and external security testing of
20 systems before public release for high-risk artificial intelligence
21 systems;

22 (iii) Protect data privacy and security;

23 (iv) Promote appropriate transparency for consumers when they
24 interact with artificial intelligence systems or products created by
25 artificial intelligence; and

26 (v) Ensure accountability, considering oversight, impact
27 assessment, auditability, and due diligence mechanisms.

28 (5) The executive committee of the task force must hold its first
29 meeting within 45 days of final appointments to the task force and
30 must meet at least twice each year thereafter. The task force must
31 submit reports to the governor and the appropriate committees of the
32 legislature detailing its findings and recommendations. A preliminary
33 report must be delivered by December 31, 2024, an interim report by
34 December 1, 2025, and a final report by July 1, 2026. Meeting
35 summaries must be posted to the website of the attorney general's
36 office within 30 days of any meeting by the task force.

37 (6) Legislative members of the task force shall be reimbursed for
38 travel expenses in accordance with RCW 44.04.120. Nonlegislative
39 members are not entitled to be reimbursed for travel expenses if they
40 are elected officials or are participating on behalf of an employer,

1 governmental entity, or other organization. Any reimbursement for
2 other nonlegislative members is subject to chapter 43.03 RCW.

3 (7) To ensure that the task force has diverse and inclusive
4 representation of those affected by its work, task force members,
5 including subcommittee members, whose participation in the task force
6 may be hampered by financial hardship and may be compensated as
7 provided in RCW 43.03.220.

8 (8) The definitions in this subsection apply throughout this
9 section unless the context clearly requires otherwise.

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

16 (b) "Generative artificial intelligence" means an artificial
17 intelligence system that generates novel data or content based on a
18 foundation model.

19 (c) "Machine learning" means the process by which artificial
20 intelligence is developed using data and algorithms to draw
21 inferences therefrom to automatically adapt or improve its accuracy
22 without explicit programming.

23 (9) This section expires June 30, 2027.

24 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of
26 the state government and its existing public institutions, and takes
27 effect immediately.

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