

HOUSE BILL REPORT

E2SHB 1170

As Passed Legislature

Title: An act relating to informing users when content is developed or modified by artificial intelligence.

Brief Description: Informing users when content is developed or modified by artificial intelligence.

Sponsors: House Committee on Technology, Economic Development, & Veterans (originally sponsored by Representatives Shavers, Taylor, Ryu, Ramel, Fosse, Wylie, Pollet, Ormsby and Hill).

Brief History:

Committee Activity:

Technology, Economic Development, & Veterans: 1/17/25, 1/28/25 [DPS], 1/14/26, 1/16/26 [DP2S];

Appropriations: 1/26/26, 2/2/26 [DP2S(TEDV)].

Floor Activity:

Passed House: 2/13/26, 56-37.

Senate Amended.

Passed Senate: 3/4/26, 46-3.

House Concurred.

Passed House: 3/11/26, 55-38.

Passed Legislature.

Brief Summary of Engrossed Second Substitute Bill

- Requires providers of certain generative artificial intelligence (AI) systems to include provenance data in content created by their systems.
- Requires government agencies to notify consumers when they are interacting with certain AI systems.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON TECHNOLOGY, ECONOMIC DEVELOPMENT, & VETERANS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 7 members: Representatives Ryu, Chair; Cortes, Donaghy, Paul, Shavers, Simmons and Thomas.

Minority Report: Do not pass. Signed by 4 members: Representatives Barnard, Ranking Minority Member; Keaton, Penner and Volz.

Staff: Emily Poole (786-7106).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill by Committee on Technology, Economic Development, & Veterans be substituted therefor and the second substitute bill do pass. Signed by 18 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Bergquist, Callan, Cortes, Doglio, Fitzgibbon, Leavitt, Lekanoff, Peterson, Pollet, Ryu, Springer, Stonier, Street and Thai.

Minority Report: Do not pass. Signed by 9 members: Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett, Dye, Manjarrez, Marshall and Rude.

Staff: Jessica Van Horne (786-7288).

Background:

Artificial intelligence (AI) is defined and understood in different ways. The National Institute of Standards and Technology, in its AI Risk Management Framework, defines an AI system as an engineered or machine-based system that can, for a given set of objectives, generate outputs such as predictions, recommendations, or decisions influencing real or virtual environments.

In 2024 the Legislature established the Artificial Intelligence Task Force, administered by the Office of the Attorney General. The task force is tasked with assessing current uses and trends of AI and making recommendations to the Legislature regarding guidelines and potential legislation for the use of AI systems.

Summary of Engrossed Second Substitute Bill:

Covered Provider Requirements.

A "covered provider" is defined as a person or entity that produces a generative AI system

that has over 1 million monthly users and is publicly accessible within Washington for personal use. "Covered provider" does not include state, local, and tribal governments.

To the extent commercially and technically reasonable, a covered provider is required to include provenance data in video, image, or audio content created or materially altered by the covered provider's generative AI system, and such provenance data must allow a user to assess whether the content was created or materially altered by the covered provider's system. A covered provider must use commercially and technically reasonable methods to make the provenance data difficult to remove or tamper with.

The requirements regarding provenance data do not apply to any product, service, internet website, or application that provides exclusively video game or interactive experiences. The requirements also do not apply to systems used solely for upscaling, noise reduction, or compression.

Only the Attorney General can bring an action under the Consumer Protection Act pursuant to the bill. For actions brought by the Attorney General, violations of requirements relating to provenance data are deemed to affect the public interest and constitute an unfair or deceptive act in trade or commerce for purposes of the Consumer Protection Act.

Government Agency Requirements.

A government agency that makes available an AI system intended to interact with consumers must disclose to each consumer, before or at the time of interaction, that the consumer is interacting with an AI system. The disclosure must: be clear and conspicuously posted; be written in plain language; and not use a dark pattern.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on February 1, 2027.

Staff Summary of Public Testimony (Technology, Economic Development, & Veterans):

(In support) There is an urgent need for AI regulation. Popular social media tools operate as deepfake creators, and they can disseminate disinformation, ruin reputations, and cause emotional harm. This bill is modeled on California legislation, and the proposed substitute mirrors work that has been done on this issue in other states. This bill is not heavy-handed, and it does not affect small businesses. Washingtonians need clear borders between real and AI-generated images, because AI is improving and can produce increasingly realistic images.

(Opposed) This bill raises First Amendment concerns. This bill goes beyond legal

frameworks that apply to commercial speech. There are problems with implementing this bill in practice, given variations in accuracy, consistency, and methods used in watermarking content. The bill is modeled on legislation that is already being reconsidered in California. Companies are moving away from watermarking, because there is currently no reliable way of implementing permanent watermarks across different types of content. Watermarks can be removed or manipulated, so relying on watermarking technology will give users a false sense of security. The bill should include a right to cure alleged violations. This bill may be overbroad in its scope.

(Other) This bill attempts to provide users with an understanding of what content is AI-generated. A free tool can help mitigate risks of misinformation. It is good that the proposed substitute does not include a private right of action. Washington should exercise caution before advancing legislation that is based on a California framework that is being actively examined and revised. The technical assumptions in the bill do not reflect how the technology is evolving. The central challenge is that the watermarking solution contemplated has been overtaken by technological developments, because watermarks can be removed. This bill could have unintended consequences on accessibility. The definition of covered provider may cause challenges for enforcement.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) While some proposed changes to the bill are appreciated, others create new issues. Some of the new definitions in the legislation would create ambiguity. The older terms are preferred. The enforcement mechanism in prior versions of the bill is preferable to the one appearing in the newest version.

Persons Testifying (Technology, Economic Development, & Veterans): (In support) Jai Jaisimha, Transparency Coalition.ai; and Yale Moon.

(Opposed) John Coleman, Foundation for Individual Rights and Expression; Max Martin, Association of Washington Business; and Amy Harris, WA TECHNOLOGY INDUSTRY ASSN.

(Other) Rose Feliciano, TechNet; and Sumayo Hassan, Washington State Attorney General's Office.

Persons Testifying (Appropriations): Amy Harris.

Persons Signed In To Testify But Not Testifying (Technology, Economic Development, & Veterans): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.