

# HOUSE BILL REPORT

## E2SHB 1170

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### As Amended by the Senate

**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.

#### **Brief Summary of Engrossed Second Substitute Bill**

- Requires providers of certain generative artificial intelligence (AI) systems to make a provenance detection tool available to users.
- Requires providers of certain generative AI systems to offer users the option of including disclosures in content created or altered by the systems.
- Requires providers of certain generative AI systems to include latent disclosures in content created by their systems.

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*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.*

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## 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).

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## 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:**

#### Definitions.

Definitions are provided for certain terms, including "covered provider," which refers to a

person who: (1) has used, or intends to use, a certain threshold of computing power to train a foundation model; (2) uses such foundation model to produce a generative AI system that is publicly accessible within Washington; and (3) had annual gross revenues in excess of \$500 million in the preceding calendar year. "Covered provider" does not include public entities, tribal nations, or generative AI systems licensed or sold for business-to-business purposes.

Other terms are defined, including "artificial intelligence," "generative artificial intelligence," and "provenance data," among others.

#### Provenance Detection Tool.

A covered provider is required to make available a provenance detection tool at no cost to the user. The tool must:

- allow a user to assess whether image, video, or audio content was created or altered by the covered provider's generative AI system;
- output any system provenance data that is detected in the content;
- have results that are publicly accessible, with some exceptions;
- allow a user to upload content or provide a uniform resource locator linking to online content; and
- allow a user to invoke the tool without visiting the covered provider's website.

A covered provider is prohibited from:

- collecting or retaining personal information from users of the tool, with certain exceptions;
- retaining any content submitted to the tool for longer than is necessary to comply with applicable requirements; and
- retaining any personal provenance data from content submitted to the tool by a user.

#### Disclosures.

A covered provider is required to offer the user the option to include a manifest disclosure in image, video, or audio content created or altered by the covered provider's generative AI system. The disclosure must:

- identify content as AI-generated or AI-modified content;
- be clear, conspicuous, appropriate for the medium of the content, and understandable to a reasonable person; and
- be difficult to remove, to the extent it is technically feasible.

A covered provider is required to include a latent disclosure in AI-generated image, video, or audio content created by the covered provider's generative AI system. To the extent it is technically feasible and reasonable, the disclosure must convey:

- the name of the covered provider;
- the name and version number of the generative AI system that created or altered the content;
- the time and date that the disclosure was added to the generated or altered content;

- a unique identifier; and
- personal provenance information only to the extent that a user has affirmatively chosen to add such information.

The latent disclosure must also be detectable by the covered provider's provenance detection tool, consistent with widely accepted industry standards, and difficult to remove or recoverable, to the extent it is technically feasible.

If a covered provider licenses its generative AI system to a third party, the covered provider must require that the licensee maintain the system's capability to include required disclosures. If a covered provider knows that a third-party licensee modified a licensed generative AI system such that it is no longer capable of including the required disclosures, the covered provider must revoke the license. A third-party licensee must cease using a licensed generative AI system after the license for the system has been revoked.

The requirements regarding provenance detection tools and disclosures 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.

#### Enforcement.

For actions brought by the Attorney General, violations of requirements relating to provenance detection tools and disclosures 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. Only the Attorney General can bring an action under the Consumer Protection Act pursuant to the bill.

#### **EFFECT OF SENATE AMENDMENT(S):**

##### The Senate amendment:

- removes the intent section;
- redefines "covered provider" to mean a person or entity that produces a generative artificial intelligence (AI) system that has more than 1 million monthly users and is publicly accessible in Washington for consumers' personal use, instead of defining the term in relation to computing power and annual gross revenue;
- redefines "generative artificial intelligence" to refer to technology that uses machine learning to generate images, audio, or video, instead of an AI system that generates novel data or content based on a foundation model;
- defines "materially altered" to mean a significant change that substantially alters the data in content;
- strikes multiple definitions, including latent, manifest, and personal provenance data;
- eliminates requirements associated with making a provenance detection tool available to users;
- eliminates requirements associated with manifest and latent disclosures;

- requires a covered provider to include provenance data in video, image, or audio content created or materially altered by the covered provider’s generative AI system, to the extent commercially and technically reasonable, that allows a user to assess whether content was created or materially altered by the covered provider’s generative AI system;
- requires a covered provider to use commercially and technically reasonable methods to make provenance data difficult to remove or tamper with;
- specifies that a covered provider is not required to include information relating to an identified or reasonably identifiable individual in provenance data;
- specifies that the act’s requirements do not require the disclosure of trade secrets or confidential or proprietary information about the design or use of an AI system;
- requires certain government agencies to disclose to consumers when they are interacting with an AI system; and
- modifies the effective date to February 1, 2027, instead of January 1, 2028.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on March 4, 2026.

**Effective Date:** The bill takes effect on January 1, 2028.

**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.