Colorado Amends Its Artificial Intelligence Law

On May 14, 2026, Gov. Jared Polis signed Senate Bill 26-189 (SB 26-189), the Colorado Artificial Intelligence Act (CO AI Act), which significantly amends the state's original AI law (SB 24-205) with a streamlined framework centered on transparency, disclosure and targeted consumer protections. SB 26-189 applies to employers doing business in Colorado that use automated decision-making technology to materially influence consequential employment decisions.

The CO AI Act goes into effect on Jan. 1, 2027.

Background

Colorado's AI law, SB 24-205, was signed in May 2024. It imposed broad obligations on businesses that develop or deploy high-risk AI systems used in consequential decisions, including employment, housing, healthcare, insurance, lending, education and essential government services. Under that law, employers were required to:

- Establish formal risk management programs;
- Conduct annual algorithmic impact assessments;
- Maintain detailed privacy policy disclosures about AI use;
- Self-report findings of discriminatory outcomes to the attorney general (AG); and
- Take affirmative steps to avoid algorithmic discrimination.

Polis signed SB 24-205 with publicly stated reservations, directing the legislature to revisit the law before it took effect. The 2025 legislative session extended the effective date to June 30, 2026, but made no substantive changes. A replacement framework was published in March 2026, which became the basis for SB 26-189.

New Rules

The new replacement framework substantially reduces employers' obligations. Employers are no longer required to conduct impact assessments, maintain a formal risk management program aligned with frameworks such as the National Institute of Standards and Technology AI Risk Management Framework, conduct annual reviews of AI tools, self-report discriminatory outcomes to the AG, or post updated privacy policies describing AI use.

Highlights

Jan. 1, 2027

The amended CO AI Act goes into effect, reducing employers' compliance obligations and replacing the prior law's broader risk management and assessment requirements.

Additionally, the AG is required to adopt implementing regulations.

Jan. 1, 2030

The cure framework expires.

In their place, the CO AI Act establishes three core obligations: pre-use notice, an adverse action and human review process, and record retention.

The CO AI Act also imposes obligations on developers of covered automated decision-making technology. Developers must provide deployers with technical documentation describing the technology's intended uses, categories of training data, known limitations, and instructions for appropriate use and human review. Developers must also notify deployers of material updates or modifications and retain records that are reasonably necessary to demonstrate compliance for at least three years.

What Qualifies as Covered Technology

The CO AI Act applies to automated decision-making technology, defined as any technology that processes personal data and uses computation to generate output, including predictions, recommendations, classifications or scores used to guide or assist decisions about individuals. This definition is intentionally broader than AI and covers many computational tools employers have used for years.

The CO AI Act excludes basic infrastructure tools, calculators, spreadsheets requiring human analysis, and tools used solely to organize or present information for human review without generating a score, ranking or prediction. It also excludes natural language processing and similar conversational tools, such as ChatGPT-like applications, as long as they are not intended for use in consequential decisions and are subject to an acceptable use policy prohibiting such use. Fraud prevention activities, identity verification and monitoring controls required by law are also excluded.

The CO AI Act applies only when covered technology materially influences a consequential decision. For employers, that means decisions affecting access to, eligibility for, selection for or compensation in employment. Routine scheduling, administrative routing, workflow management and customer service functions do not qualify as consequential decisions. Independent contractors and employees or applicants who are not Colorado residents are not covered.

Pre-use Notice

Before using covered technology subject to the act, employers must provide clear and conspicuous notice that such technology is being used and how the individual can obtain additional information. The CO AI Act does not specify detailed content requirements beyond that standard, though the Colorado AG implementing regulations may add further requirements. A notice embedded in an online job application process would likely satisfy this standard for hiring decisions. For decisions within the employment relationship, such as performance evaluations, a public posting alone is likely insufficient, and employers should provide notice closer in time to the actual decision.

Adverse Action Process

Within 30 days of making an adverse employment decision that was materially influenced by covered automated decision-making technology, employers must provide written notice to the affected individual. That notice must include:

- A plain language explanation of the decision and the role the technology played;
- Instructions and a simple process for requesting additional information about the system and the inputs used, including the system's name; version number (if applicable); developer; and the types, categories and sources of personal data used; and
- An explanation of the individual's right to correct inaccurate personal data and to request meaningful human review and reconsideration of the decision.

Employers are only required to provide meaningful human review to the extent commercially reasonable, which will be a key compliance question for many employers, particularly those whose automated systems are deeply integrated into the decision-making process.

In addition to the right to seek correction of inaccurate personal data, individuals may request access to personal data used by the covered automated decision-making technology in connection with the consequential decision.

Record Retention

Employers must retain records reasonably necessary to demonstrate compliance for at least three years following a covered decision, or longer if required by another applicable state or federal law. Records include documentation such as covered technology version identifiers, changelogs, records of pre-use notices, adverse action notices provided to individuals, and documentation of the decision-making process.

Liability and Indemnification

The CO AI Act introduces a fault-based framework for allocating discrimination liability between developers and deployers. Both may be held liable under existing state and federal antidiscrimination laws, with liability allocated based on relative fault. If an employer uses covered technology in the way the developer intended, documented, marketed, advertised, configured, or contracted it to be used and a discriminatory outcome results, the developer may be liable to the extent of its relative fault. If the employer uses the technology in a manner not intended or documented by the developer, the employer may be liable to the extent of its relative fault.

Contractual indemnification provisions that attempt to shift a party's liability for its own violations of Colorado's antidiscrimination laws onto the other party are void as against public policy. Developers may avoid this restriction only if the technology was used in an unintended manner and the developer complied with its documentation obligations under the CO AI Act.

Enforcement

Enforcement authority rests exclusively with the AG. Violations of the CO AI Act constitute unfair and deceptive trade practices under the Colorado Consumer Protection Act. The CO AI Act does not create a private right of action, though existing remedies under state and federal antidiscrimination laws remain intact, and violations may result in civil penalties of up to $20,000 per violation as deceptive trade practices under the Colorado Consumer Protection Act. Before initiating an enforcement action, the AG must provide a 60-day notice and opportunity to cure, where a cure is deemed possible. That cure period does not apply where the violation was known or repeated. The cure framework expires on Jan. 1, 2030. The AG is required to adopt implementing regulations by Jan. 1, 2027.

Next Steps for Employers

Employers should assess their use of automated tools to determine whether they are subject to the CO AI Act, review vendor contracts, prepare the notices, and review procedures and record-retention practices necessary for compliance. Employers should also monitor the Colorado AG rulemaking process, as forthcoming regulations may clarify key terms and implementation requirements before the act takes effect.