

## **SB 189: Revisions to the Colorado AI Act**

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**Background:**

Enacted in 2024, Colorado [SB 205](#) (Colorado AI Act) (CAIA) aimed to mitigate risks of discriminatory outcomes from AI-driven decisions in consequential domains by regulating how such systems are developed and deployed. Upon signature, Governor Polis expressed reservations about its potential impact on innovation. After contentious legislative negotiations failed in 2025 (but nonetheless delayed the law’s effective date to June 2026), Polis convened a working group that published [proposed revisions](#) intended to balance consumer protection with reduced business obligations. Weeks later, Senator Rodriguez, the sponsor of the original Colorado AI Act, introduced [SB 189](#) to incorporate most of the working group’s proposed revisions.

**Overview:** This chart compares and analyzes SB 189’s proposed revisions to the CAIA. Key takeaways for FPF members include:

- **Scope:** SB 189 raises the threshold for when AI systems qualify as making “consequential decisions,” however, subtle language changes may expand certain categories of consequential decisions. The bill also revises several exemptions.
- **Developer and Deployer Obligations:** SB 189 removes the CAIA’s substantive governance measures, instead focusing on developer to deployer disclosures, deployer to consumer disclosures, and deployers’ provision of consumer rights.
- **Consumer Rights:** SB 189 narrows consumer rights by limiting them to situations where adverse decisions are made.
- **Enforcement and Liability:** SB 189 maintains exclusive AG enforcement but removes the CAIA’s rebuttable presumption, affirmative defenses, and small deployer exemption. Instead, it establishes a 60-day cure period and reallocates liability between developers and deployers under existing anti-discrimination law.
- **Effective Date:** SB 189 would delay the effective date of the CAIA until January 1, 2027; however, the AG has recently [stated](#) that it would not enforce the law until it has concluded rulemaking.

**Comparative Analysis:** *Maroon italicized and underlined* = distinctions in approach

	Colorado AI Act ( <a href="#">SB 205</a> )	Proposed Revisions ( <a href="#">SB 189</a> )	FPF Overview of Changes and Analysis
<b>Scope</b>			
<b>Covered Entities &amp; Systems</b>	<p><b>Applies to:</b> Developers and Deployers of High-Risk AI Systems ***</p> <p><b>High-Risk AI System:</b> Any artificial intelligence system that when deployed, makes, or is a <i>substantial factor</i> in making, a consequential decision. (Sec. 6-1-1701(9)(a)).</p> <p><b>Substantial Factor:</b> A factor generated by an AI system that is used to <i>assist in making</i>, and is <i>capable of altering the outcome of</i>, a consequential decision. (6-1-1701(11)).</p>	<p><b>Applies to:</b> Developers and Deployers of Covered Automated Decision-Making Technology ***</p> <p><b>Covered Automated Decision-Making Technology (ADMT):</b> A technology <i>that processes personal data</i> and generates an output that is used to <i>materially influence</i> a consequential decision. (Sec. 6-1-1701(2)(a), (5)).</p> <p><b>Materially Influence:</b> An output that is a <i>non-de minimis</i> factor <i>that is used</i> in making a consequential decision.</p>	<p><b>SB 189 has a similar but narrowed scope.</b></p> <p>SB 189 narrows the Act’s applicability through two key modifications: (1) it adds a data processing requirement; and (2) it raises the threshold for covered systems from those “capable of altering the outcome of a consequential decision” (substantial factor) to those “used for making” (materially influence) such decisions.</p>
<b>Covered</b>	<b>Consequential Decision:</b> Any	<b>Consequential Decision:</b> A decision	<b>SB 189 has a potentially broader</b>

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<b>Decisions/ Domains</b>	decision that has a <u>material, legal or similarly significant effect</u> on the provision or denial to any consumer of, or the cost or terms of: (Sec. 6-1-1701(3)). (A) Education enrollment or education opportunity; (B) Employment or employment opportunity; (C) Financial or lending services; (D) Essential government services; (E) Healthcare service; (F) Housing, (G) Insurance, or (H) Legal services.	about a consumer that <u>relates to</u> (I) the provision of or a consumer’s eligibility for, selection for, or compensation for a covered domain; OR (II) <u>a differentiated price</u> or other material terms that is reasonably likely to <u>materially limit, delay, effectively deny, or otherwise fundamentally alter</u> the consumer’s access, eligibility, or opportunity for a covered domain. (Sec. 6-1-1701(3)(a)).  <b>Covered Domain:</b> Means: (A) Education enrollment or education opportunity; (B) Employment or employment opportunity <u>that creates or may create an employer-employee relationship</u> ; (C) Financial or lending services; (D) Essential government services; (E) Healthcare service; (F) Housing, (G) Insurance, or (H) Legal services.	<b>scope of covered decisions.</b>  Both versions cover the same domains of consequential decisions, though SB 189 more explicitly appears to apply to data-driven pricing.  SB 189 <u>may</u> be broader in two respects. First, the bill defines “consequential decisions” as decisions that “ <u>relate to</u> ” provision or denial of a covered domain rather than CAIA’s current text that such decisions have a “material, legal, or similarly significant effect.” Second, SB 189’s definition of consequential decision covers a broader scope of decision-types beyond the CAIA’s current definition—“provision or denial of, or cost or terms of”—by including delay and alteration.  However, SB 189 does appear to limit the scope of employment ADMT to solely hiring decisions.
<b>Exemptions</b> <i>(not exhaustive for brevity)</i>	<b>Exempted Technologies:</b> (Sec. 6-1-1701(9)(b)) <ul style="list-style-type: none"> <li>Those intended to perform a narrow procedural task <u>or detect decisionmaking patterns</u>;</li> <li>“Low risk” technologies, including, e.g., anti-fraud (<u>non-FRT</u>), anti-virus, calculators, cybersecurity, <u>AI-enabled video games</u>, spam filtering, and chatbots used for providing information subject to an acceptable use policy</li> </ul> <b>Exempted Activities:</b> (Sec. 6-1-1705(1)) <ul style="list-style-type: none"> <li><u>Compliance with other laws and investigations</u>;</li> </ul>	<b>Exempted Technologies:</b> (Sec. 6-1-1701(2)(b)) <ul style="list-style-type: none"> <li>“Low risk” technologies, including those listed in the CAIA (<u>sans AI-enabled video games</u>)</li> <li><u>Tools intended to summarize or present information for administrative processing</u></li> <li>Chatbots used for providing information subject to an acceptable use policy</li> </ul> <b>Exempted Decisions:</b> (Sec. 6-1-1701(3)(b)) <ul style="list-style-type: none"> <li><u>Low stakes or routine decisions</u>;</li> <li><u>Advertising</u>;</li> <li><u>Tools intended to summarize or present information for</u></li> </ul>	<b>SB 189 contains fewer exemptions.</b>  SB 189 retains many of the same exemptions as the original law but reorganizes them into different sections. It also introduces new exemptions, removes others, and adopts distinct regulatory approaches in several areas. It <u>adds</u> notable new exemptions for summarization tools, advertising, and academic administrations.  Notable <u>omissions</u> include: AI-enabled video games, public and peer-reviewed research in the public interest, and entities subject to federal standards and contracts.

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	<ul style="list-style-type: none"> <li>Preventing fraud and illegal activity;</li> <li><a href="#">Protecting consumer life and safety</a>;</li> <li><a href="#">Engaging in public and peer-reviewed research in the public interest</a>;</li> <li>Pre-market research and testing</li> </ul> <p><b>Exempted Entities:</b> (Sec. 6-1-1705(4)) Entities that developed or deployed high-risk AI systems that:</p> <ul style="list-style-type: none"> <li><a href="#">Have been approved or authorized by a federal agency</a>;</li> <li><a href="#">Is in compliance with standards established by a federal agency</a>;</li> <li><a href="#">Is performing work under contract with a federal agency (unless such use is related to employment or housing)</a>;</li> </ul> <p>Entities that are:</p> <ul style="list-style-type: none"> <li>Are a HIPAA-covered entity and a healthcare provider implements the AI recommendation;</li> <li>Are a Colorado-regulated;</li> <li><a href="#">Are a Colorado bank subject to examination under published AI-related guidance</a></li> </ul>	<p><a href="#">human review that does not produce a score or ranking</a></p> <ul style="list-style-type: none"> <li>Performing a narrow procedural task;</li> <li>Activities relating to cybersecurity, fraud prevention, and identity verification;</li> <li>Activities relating to economic sanctions compliance;</li> <li><a href="#">Routine academic administrations and student support processes</a></li> </ul> <p><b>Exempted Entities:</b> (Sec. 6-1-1708)</p> <ul style="list-style-type: none"> <li>Entities that develop an ADMT solely for research or internal purposes (6-1-1702(8)(b));</li> <li>Insurers subject to the Colorado insurance regulations;</li> <li>Covered entities under HIPAA, <a href="#">however such entities must provide patients with notice of ADMT use and additional information and rights if ADMT is used to determine eligibility for financial assistance</a>;</li> <li>Medical devices subject to oversight by the FDA</li> </ul>	<p>SB 189 also diverges from CAIA in key exemption areas. Where CAIA broadly exempted activities required for legal compliance and investigations, SB 189 narrows this to anti-terrorism and money laundering compliance specifically. Similarly, SB 189 limits the medical device exemption to FDA-regulated devices rather than applying to all federally approved or authorized products.</p> <p><b>HIPAA covered entities</b> remain largely exempt under both versions, but the exemption requirements differ. SB 189 requires covered entities to provide notice and information to patients subject to ADMT, whereas the CAIA only required that healthcare providers implement the AI recommendation.</p>
<b>Business Obligations</b>			
<b>Developer Obligations</b>	<p><a href="#">Duty of Care: Use reasonable care to protect consumers from risks of algorithmic discrimination. (Sec. 6-1-1702(1)).</a></p> <p><b>Deployer Disclosure:</b> Provide disclosures and documentation to deployers regarding intended use, known <a href="#">or foreseeable</a> risks, a summary of data used to train the</p>	<p><b>Deployer Disclosure:</b> Provide <a href="#">a general statement</a> to deployers regarding intended use, known risks, a summary of data used to train the system, <a href="#">known limitations</a>, and instructions on monitoring and human review. (Sec. 6-1-1702(1)).</p> <p><b>Recordkeeping:</b> <a href="#">Retain records necessary to demonstrate</a></p>	<p><b>SB 189 pares down developer requirements to limited transparency.</b></p> <p>SB 189 removes the substantive governance requirements of the CAIA, including the duty of care, public disclosures, and incident reporting.</p>

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	<p>system, known limitations, <u>possible biases, risk mitigation measures, and performance</u>, amongst other items. (Sec. 6-1-1602(2)-(3)).</p> <p><b><u>Publicly Available Statement:</u></b> <u>Maintain a public summary of high-risk systems made available and risk management.</u> (Sec. 6-1-1702(4)).</p> <p><b><u>Incident Reporting:</u></b> <u>Must report to the AG when algorithmic discrimination is discovered.</u> Sec. 6-1-1702(5))</p>	<p><u>compliance for at least three years.</u> (Sec. 6-1-1702(4)).</p>	<p>The remaining disclosure requirement to deployers has been narrowed from “disclosures and documentation” to a general statement regarding the ADMT’s use, limitations, and monitoring.</p> <p>SB 189 also added an explicit data retention requirement for documents demonstrating compliance.</p>
<p><b>Deployer Obligations</b> (CAIA provisions omitted from SB 189 are reduced for brevity)</p>	<p><b><u>Duty of Care:</u></b> <u>Use reasonable care to protect consumers from algorithmic discrimination.</u> (Sec. 6-1-1703(1)).</p> <p><b><u>Risk Management Policy:</u></b> <u>Maintain a risk management policy</u> (Sec. 6-1-1703(2)).</p> <p><b><u>Impact Assessment:</u></b> <u>Annually conduct an impact assessment.</u> (Sec. 6-1-1703(3)(a)-(b)).</p> <p><b>Pre-Deployment Statement of Use:</b> Provide consumers subject to a high-risk system with a statement disclosing information about the high-risk AI system in use, <u>including purpose, nature of the consequential decision, description of how the system assesses information to reach a decision, and sources of personal data processed, among other details.</u> (Sec. 6-1-1703(4)(a)).</p> <p><b>Provide Consumer Rights:</b> Must inform consumers of their rights under the Act and the Colorado Privacy Act. <u>Must respond to consumer rights requests within 45 days.</u> (Sec. 6-1-1703(4)(a)(III), (b)).</p>	<p><b>Recordkeeping:</b> <u>Retain records necessary to demonstrate compliance for at least three years.</u> (Sec. 6-1-1703).</p> <p><b>Pre-Deployment Statement of Use:</b> Provide consumers subject to a covered ADMT with a statement disclosing use of the covered ADMT and instructions on how the consumer may obtain additional information. (Sec. 6-1-1704(1)).</p> <p><b>Adverse Decision Notice:</b> <u>If an adverse decision is reached,</u> must inform consumers of use of covered ADMT, the role the ADMT played in the decision, and instructions on how to request additional information, including the name of the covered ADMT, the inputs used, and the categories and sources of personal information used. (Sec. 6-1-1704(3)).</p> <p><b>Provide Consumer Rights:</b> <u>If an adverse decision is reached,</u> must inform consumers of their rights under the Act and the Colorado Privacy Act and provide the means for the consumer to exercise such rights. (Sec. 6-1-1704(3)).</p>	<p><b>SB 189 pares down deployer requirements to limited transparency.</b></p> <p>SB 189 removes the substantive governance requirements of the CAIA, including the duty of care, risk management policies, impact assessments, and incident reporting. It also omits CAIA’s general requirement for disclosures for any consumer-facing AI system.</p> <p>While SB 189 retains pre-use notice requirements, it reduces the information that must be disclosed upfront. Additional details about the system’s purpose and the nature of the decision are now provided only when the ADMT produces an adverse outcome.</p> <p>Similarly, deployers would only need to inform consumers of their existing rights under the Colorado Privacy Act when an adverse decision is reached (despite the Colorado Privacy Act (CPA) not containing such limitation). Unlike the CAIA, it does not appear that</p>

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	<p><b>Publicly Available Statement:</b> Must make a public statement regarding the use of a high-risk AI system. (Sec. 6-1-1703(5)).</p> <p><b><u>Incident Reporting:</u></b> <i>Must report to the AG when algorithmic discrimination is discovered. (Sec. 6-1-1703(7)).</i></p> <p><b><u>AI Interaction Disclosure:</u></b> <i>Any entity that deploys a consumer-facing AI system must disclose to the consumer that they are engaging with an AI system. (Sec. 6-1-1704)</i></p>		<p>deployers must respond to consumer requests in a specific time period.</p> <p>Additionally, while not detailed here, SB 189 includes sections regarding when notices under other laws, such as FERPA, satisfy these requirements.</p>
<b>Consumer Rights</b>			
<b>Consumer Rights</b>	<p><b>Right to Pre-Use Notice:</b> Must be informed of any high-risk AI system used to make a consequential decision about the consumer, <u>and a statement disclosing the purpose and nature of the system.</u> (Sec. 6-1-1703(4)(a)).</p> <p><b>Right to Exercise Data Privacy Rights:</b> Must be informed of the right to opt-out of profiling under the Colorado Privacy Act, and have the means to exercise those rights, if the deployer is a controller under the CPA. (Sec. 6-1-1703(4)(a)(III)).</p> <p><b><u>Adverse Decision Rights</u></b></p> <p><b>Right to Explanation:</b> Must be provided a statement explaining the principal reason for the decision, the degree in which the high-risk AI system contributed to the decision, the type of data used in the decision, and the data source. (Sec. 6-1-1703(4)(b)(I)).</p> <p><b>Right to Correct:</b> Must be provided the opportunity to correct any inaccurate personal data used by</p>	<p><b>Right to Pre-Use Notice:</b> Must be informed of covered ADMT use and instructions on how the consumer may obtain additional information. (Sec. 6-1-1704(1)).</p> <p><b><u>Adverse Decision Rights</u></b></p> <p><b>Right to Explanation:</b> Must be provided notice of use of covered ADMT, the role the ADMT played in the decision, and instructions on how to request additional information, including the name of the covered ADMT, the inputs used, and the categories and sources of personal information used. (Sec. 6-1-1704(3)).</p> <p><b>Right to Correct:</b> Must be provided the opportunity to correct any inaccurate personal data used by the covered ADMT pursuant to the Colorado Privacy Act. (Sec. 6-1-1705(1)(a)(I)).</p> <p><b>Right to Appeal:</b> Must be provided an opportunity for meaningful human review and reconsideration, <u>to the extent commercially reasonable.</u> (Sec. 6-1-1705(1)(a)(II)).</p>	<p><b><i>SB 189 narrows the scope of consumer rights.</i></b></p> <p>SB 189 would largely maintain the CAIA's consumer rights but largely limit them only to instances of adverse decisions, including right to explanation, correction, and appeal. Additionally, SB 189 would explicitly tie the consumer correction right to the data correction right under the Colorado Privacy Act (CPA).</p> <p>Between the working group's proposed revisions and SB 189, Senator Rodriguez added language clarifying that entities exempt from the Colorado Privacy Act (CPA) but subject to the AI Act must still provide correction rights, even though the AI Act references CPA correction provisions.</p> <p>Consumers' right to appeal is also narrowed from "if technically feasible" to "to the extent commercially reasonable."</p>

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	<p>the high-risk AI system. (Sec. 6-1-1703(4)(b)(II)).</p> <p><b>Right to Appeal:</b> The consumer must be provided an opportunity to appeal for human review, <i>if technically feasible</i>. (Sec. 6-1-1703(4)(b)(III)).</p>		
<b>Enforcement and Liability</b>			
<b>AG Rulemaking</b>	<p>The AG “may” promulgate rules as necessary including: (Sec. 6-1-1707)</p> <ul style="list-style-type: none"> <li>● <i><a href="#">Developer documentation</a></i>;</li> <li>● Notice;</li> <li>● <i><a href="#">Risk management</a></i>;</li> <li>● <i><a href="#">Impact assessment</a></i>;</li> <li>● <i><a href="#">Rebuttable presumptions</a></i>;</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>● <i><a href="#">Affirmative defenses</a></i></li> </ul>	<p>AG rulemaking limited to:</p> <ul style="list-style-type: none"> <li>● Post-adverse outcome disclosures, which may include sector-specific guidance (Sec. 6-1-1704(4));</li> <li>● Consumer rights (Sec. 6-1-1705(3));</li> <li>● Scope of “materially influence” (Sec. 6-1-1706(5)(b)).</li> </ul>	<p><b>SB 189 includes less AG rulemaking.</b></p> <p>In line with SB 189’s removal of governance provisions, the AG does not maintain rulemaking authority beyond consumer rights and transparency.</p>
<b>Enforcement (CAIA provisions omitted from SB 189 are reduced for brevity)</b>	<p>The Attorney General shall have the sole exclusive authority to enforce. (Sec. 6-1-1706(1))</p> <p><b>Rebuttable Presumption:</b> <i>Entities are entitled to a rebuttable presumption of using reasonable care if they are compliant with the Act. (Secs. 6-1-1702(a), 6-1-1703(a)).</i></p> <p><b>Small Business:</b> <i>If a small deployer (employing 50 or fewer full-time employees) meets certain requirements, they do not need to fulfill certain requirements of the Act. (Sec. 6-1-1703(6)).</i></p> <p><b>Affirmative Defense:</b> <i>Entities are entitled to an affirmative defense if they (1) discover and cure a violation, and (2) comply with the NIST AI RMF or another recognized risk management framework. (Sec. 6-1-1706(3)).</i></p>	<p>The Attorney General shall have the sole exclusive authority to enforce. (Sec. 6-1-1706(1)).</p> <p><b>Cure:</b> <i>Prior to any action, the AG must provide a 60-day right to cure. (Sec. 6-1-1706(3)).</i></p>	<p><b>SB 189 contains fewer safe harbors.</b></p> <p>Both versions grant enforcement authority exclusively to the Attorney General, but they differ in compliance safe harbors. SB 189 establishes an explicit 60-day right to cure but eliminates the CAIA’s affirmative defenses, which allow entities to limit liability by remedying violations and adopting recognized AI risk management frameworks. SB 189 also removes the CAIA’s rebuttable presumption and small deployer exemption.</p>
<b>Liability</b>	Not included.	<i>A developer or deployer may be</i>	<b>SB 189 includes novel provisions</b>

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<b>Under Existing Law</b>		<p><u>held liable in an action alleging unlawful discrimination arising from a covered ADMT.</u> (Sec. 6-1-1707(1)).</p> <p><u>A developer is only liable in these actions when the developer's covered ADMT was used by the deployer in the intended fashion and the covered ADMT materially influenced a consequential decision that gave rise to the violation.</u> (Sec. 6-1-1707(5)).</p> <p><u>Prohibits contracts between developers and deployers with indemnification provisions.</u> (Sec. 6-1-1707(7)).</p>	<p><b>regarding developer and deployer liability under existing anti-discrimination law.</b></p> <p>SB 189 omits the CAIA's algorithmic discrimination controls, instead applying existing anti-discrimination laws and apportioning liability based on intended use. Developers are liable when ADMTs function as designed; deployers cannot require indemnification except in limited cases.</p>