



G U N D E R S O N D E T T M E R

AI REGULATORY LANDSCAPE
UNDER THE NEW TRUMP ADMINISTRATION

April 2, 2025

We represent *what's next.*

Presenters



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Agenda

- Status of key AI initiatives under the Biden administration (*as of April 2, 2025*)
- New AI initiatives under the Trump administration and role of federal agencies and executive picks (*as of April 2, 2025*)
- Overview of state AI law trends
- Summary of comprehensive state AI laws and EU AI Act
- Key takeaways
- Actionable steps for AI developers and deployers

Status of Biden-Era AI Initiatives

Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence (October 30, 2023)	Revoked (January 20, 2025)
CHIPS & Science Act (August 9, 2022)	Continues In Effect
Bipartisan House Task Force on AI (February 2024)	Continues to Exist
Regulatory Framework for the Responsible Diffusion of Advanced Artificial Intelligence Technology	Continues in Effect
Executive Order on Advancing U.S. Leadership in Artificial Intelligence Infrastructure	Continues in Effect

New AI Policy Under Trump Administration

“It is the policy of the United States to sustain and enhance America’s global AI dominance in order to promote human flourishing, economic competitiveness, and national security.”

- **EXECUTIVE ORDER: REMOVING BARRIERS TO AMERICAN LEADERSHIP IN ARTIFICIAL INTELLIGENCE (JANUARY 23, 2025)**
 - Directs administration officials to devise an AI Action Plan and review all Biden-era policies to determine consistency with the goal of U.S. AI dominance. In case of inconsistency, such policies and actions are suspended, revised or rescinded.
 - White House OSTP sought and received input on AI Action Plan (overview to come), scheduled to be announced by July 2025.
- **REMOVAL OF AI GUIDANCE BY FEDERAL AGENCIES**
 - The U.S. Equal Employment Opportunity Commission (EEOC) removed guidance related to the intersection of AI and federal anti-discrimination laws.
 - The Office of Federal Contract Compliance (OFCCP) removed guidance addressing federal contractors’ compliance obligations with the use of AI.
- **STARGATE AI INFRASTRUCTURE PARTNERSHIP**

Role of Key Executive Picks and Agencies

AI & CRYPTO CZAR

David Sacks is tasked with crafting a legal framework that minimizes AI regulation. He has advocated for:

- Unrestrained use of data for training AI models;
- Use of AI for national security;
- Tighter protections for U.S. models from alleged Chinese theft.

DOGE

Tasked with reducing government waste.

- Elon Musk has indicated he would take an “AI-First” approach and use AI for government functions.
- Agencies that may impact AI use, such as CFPB, may continue to be challenged.

FCC

Commissioner Brendan Carr plans to focus on:

- Supporting free speech and unimpeded innovation by voting against AI disclosure requirements for political ads;
- Rolling back the interpretation of Section 230 protections for big tech companies and advancing spectrum auctions

FTC

Dismissal of two remaining Democratic commissioners may signal an increasingly pro-business shift. Commissioner Andrew Ferguson plans to:

- Scale back AI enforcement and challenge prior commission’s actions;
- Focus on consumer protection side of AI given voting history;
- Likely continue to allow antitrust investigations from last commission to continue.

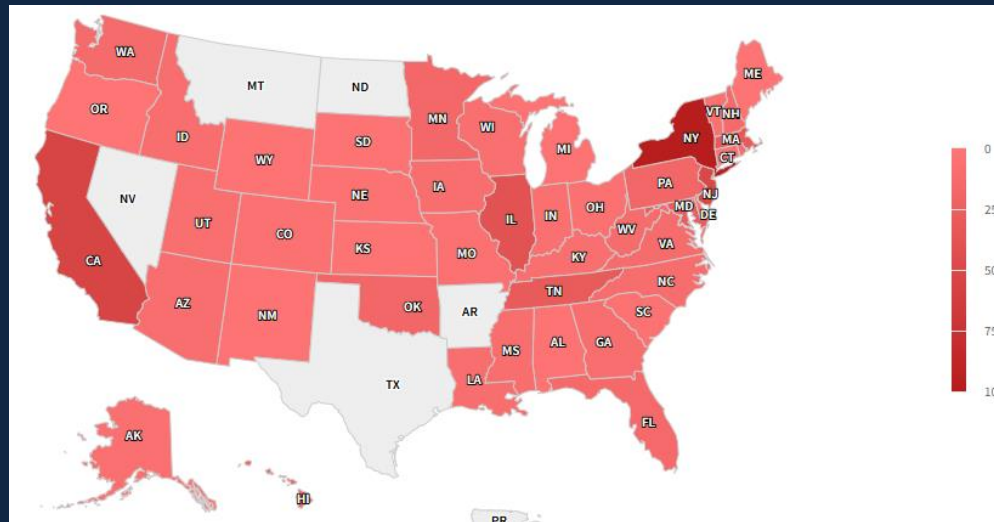
Comments to the AI Action Plan

- More than 8,000 comments received.
- **Respondents include** OpenAI, Anthropic, Google, Center for Data Innovation, Center for Democracy & Technology, Center for a New American Security.
- **Core themes in submissions:**
 - Strengthen U.S. infrastructure and national security
 - Support for federal preemption of state AI laws
 - Defining clear copyright and licensing frameworks for AI training data
 - Strict export controls to maintain U.S. chip and AI innovation
 - Promoting domestic AI adoption
- **Notable positions:**
 - **OpenAI:** Advocates (i) use of copyrighted online content to train AI models under U.S. copyright fair use exemptions and (ii) federal law permitting AI companies to exchange industry knowledge and model access for protections from state laws.
 - Note SDNY recently rejected OpenAI's request to dismiss NYT's copyright lawsuit.
 - **Google:** Any new rules should avoid imposing disproportionate burdens on U.S. cloud providers.
 - **Anthropic**, Google, and OpenAI emphasize that effective export controls should avoid inadvertently accelerating foreign AI development.

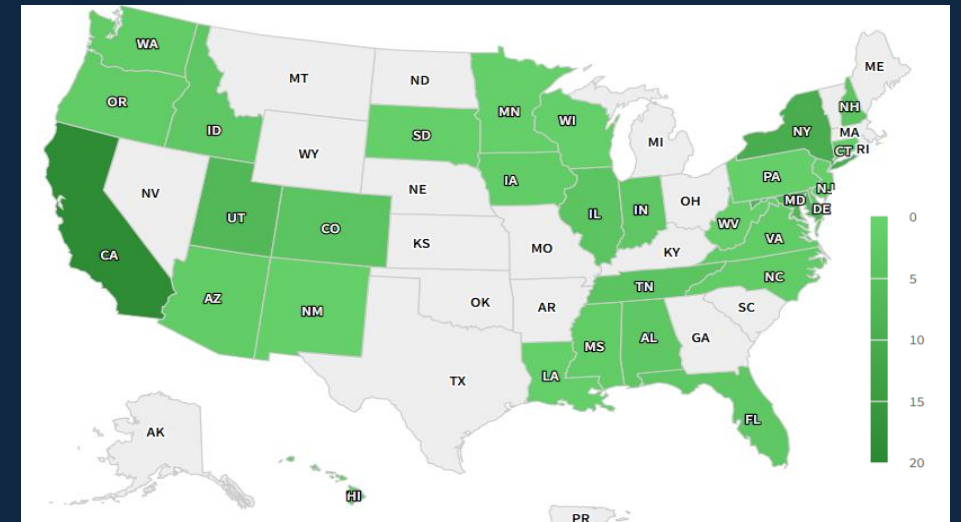
Patchwork of State Laws Regarding AI

- In 2024, almost 700 AI bills were introduced in 45 states, Puerto Rico, the Virgin Islands and Washington, D.C.;
- 113 bills were enacted into law across 31 states, Puerto Rico and the Virgin Islands.

AI Legislation Introduced in 2024:



AI Legislation Enacted through 2024:



Source: <https://www.multistate.ai/artificial-intelligence-ai-legislation>

	Colorado SB 205 <i>(effective February 1, 2026)</i>	Utah Artificial Intelligence Policy Act <i>(effective May 1, 2024)</i>
Scope	<ul style="list-style-type: none"> Developers v. Deployers. 	<ul style="list-style-type: none"> Regulated v. Nonregulated Occupations.
AI Covered	<ul style="list-style-type: none"> High-Risk AI System: AI system that <i>makes, or is a substantial factor in making, a consequential decision</i> about a consumer. 	<ul style="list-style-type: none"> GAI: An artificial system that (i) is trained on data; (ii) interacts with a person; and (iii) generates non-scripted outputs similar to outputs created by a human, with limited or no human oversight.
Core Requirements	<ul style="list-style-type: none"> <i>Use of reasonable care</i> to avoid algorithmic discrimination; <i>Disclosure requirements;</i> <i>Create risk management program;</i> <i>Conduct impact assessments.</i> 	Disclosure: <ul style="list-style-type: none"> Regulated Occupations (“prominent disclosure” standard) Nonregulated Occupation (“clearly and conspicuously” standard).
Liability	<ul style="list-style-type: none"> No private rights of action. \$20,000/violation. Affirmative defense available. 	<ul style="list-style-type: none"> No private rights of action. \$2,500/violation; Disgorgement of funds received from violation.

California Enacted AI Legislation

	CA AI Transparency Act (SB 942) (effective January 1, 2026)	AI Training Data Transparency Act (AB 2013) (effective January 1, 2026)	Bot Disclosure Law (Ca. Bus. Prof'l. Code 17941) (effective July 1, 2019)
Scope	Covered Providers: Person that <i>creates, codes or produces</i> GAI System; <ul style="list-style-type: none"> > 1M monthly visitors/users; and Publicly accessible within CA. 	<ul style="list-style-type: none"> AI Developer: Person, government, or entity that <i>develops or substantially modifies</i> AI system available in CA. 	<ul style="list-style-type: none"> Bots: Automated online account where actions are not the result of a person.
Reqs.	<ul style="list-style-type: none"> <i>Free verification tool;</i> <i>Manifest disclosure tool;</i> <i>Latent disclosure;</i> Require licensees to include latent disclosures. 	Public documentation regarding training data with certain required elements.	<i>Clear and conspicuous notice.</i> Prohibits use of a bot to communicate with CA person with the <i>intent to mislead</i> .
Liability	<ul style="list-style-type: none"> \$5K/each day of violation. Third party licensees subject to breach of contract claims. 	<ul style="list-style-type: none"> No specific enforcement mechanism. May be enforced under CA Unfair Competition Law. 	<ul style="list-style-type: none"> \$2,500/violation. No private right of action.

State Law Trend: Sector- Specific AI Laws

- **Sector-Specific Laws:** Many states have proposed laws and issued sector-specific guidance regarding AI use for decision-making for **employment, housing, insurance, and health care**.
 - CA AG issued guidance for health care providers, insurers and vendors;
 - NJ AG issued guidance prohibiting algorithmic discrimination in employment, housing, and public accommodations decisions.
- **Employment Decisions:** A growing number of states have enacted or proposed laws to prevent discrimination in employment decisions, including requiring:
 - *Disclosure;*
 - *Impact assessments;*
 - *Audits;*
 - *Human oversight* over decisions made by AI and employees have the *right to appeal;*

Some states have proposed bills including private rights of action for workers affected by automated decision-making.
- **Use of Personal Data:** Some states require companies to provide users the choice to opt out of automated decision-making that use personal data.

EU AI Act

Effective August 1, 2024, full applicability effective August 2, 2026; deadline for compliance set for August 2, 2027.

Scope	Applies to companies outside the EU that have a link to the EU market.
AI Covered	<ul style="list-style-type: none">• AI System: Machine-based system designed to operate with varying levels of autonomy and that may exhibit adaptiveness and infers from inputs how to generate outputs.• High-Risk AI Systems: AI systems intended for public infrastructure, education access and assessment, recruitment and employment, immigration, democratic process outcomes, insurance and banking.
Reqs.	<p><i>Prohibits</i> use of AI Systems for certain purposes;</p> <p>High-Risk AI Systems:</p> <ul style="list-style-type: none">• <i>Transparency notices</i> regarding interactions with AI systems;• Establish <i>risk management systems</i>;• Evaluate <i>data governance</i> practices; and• Implement <i>detailed record-keeping</i> and human oversight procedures.
Liability	Greater of €35 million or 7% of annual worldwide revenue.

Key Takeaways

FEDERAL:

- The Trump administration is likely to continue to adopt a light regulatory approach to AI development and use and may continue to roll back Biden-era initiatives.
- AI Action Plan is expected to be prepared by **July 22, 2025**.

STATE AND INTERNATIONAL:

- State and international laws may continue to prioritize transparency, disclosure and mitigation of potential risks of AI development and deployment.
- Current enacted and/or proposed state laws may continue to focus on use of AI in certain high-risk decision-making processes;
- States are likely to continue to enforce AI regulations under existing anti-discrimination, consumer protection and data privacy laws.

INDUSTRY:

- In a fragmented federal-state regulatory landscape, companies may self-regulate and look to state law trends for guidance.
- Companies may need to proactively implement accountability, transparency and risk management measures.

AI Developers & Deployers: *Actionable Steps*

- 1. Inventory AI tools** developed and/or used with a focus on:
 - purpose and source of each AI tool;
 - use of data for inputs and training;
 - consumer interaction.
- 2. Track and assess applicability of state AI laws**, including:
 - geographic coverage of AI offering; *and*
 - definitions/classifications unique to state laws (e.g., “High-Risk AI System”, “Developer” v. “Deployer”, “Regulated” or “Nonregulated Entity”).
- 3. Prepare disclosure notices** regarding AI system’s purpose and use cases, potential risks.
- 4. Consider conducting impact assessments** and track potential risks and remedial measures.
- 5. Create a risk management policy** and conduct regular employee trainings.

AI Developers & Deployers: *Additional Considerations*

DEVELOPERS

1. **Proactively track and document:**
 - current and contemplated use cases;
 - decision-making about users and model dependency;
 - data governance (decision-making/training);
 - foreseeable and known limitations, harmful uses and risks.
2. **Performance evaluations; document risks and mitigation actions.**
3. **Internal compliance training.**
4. **Enforce downstream licenses.**
5. **Offer public AI detection tool and manifest disclosure tool, *if applicable*.**
6. **Implement personal data opt-out mechanisms, *if applicable*.**

DEPLOYERS

1. **Assess deployer v. developer distinction**, if applicable (e.g., modifying or finetuning existing third-party AI model).
2. **Diligence third party AI models and tools.**
3. **Document collection and use of personal data.**
4. **Exercise caution in using AI for decision-making.**
5. **Conduct impact assessments.**
6. **Include clear and conspicuous notice.**



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