



February 22, 2025

Re: House Bill 60: An Act Relating to Artificial Intelligence - Support

Dear Honorable Representatives of the House Judiciary Committee,

Consumer Reports¹ writes in support of H.B. 60. This bill is focused on a critically important issue—ensuring that artificial intelligence systems used in high-stakes decisions about New Mexicans are transparent, free of bias, and that residents retain some autonomy and recourse.

It is an essential patch for New Mexico’s existing civil rights and consumer protection laws in the A.I. era. While these laws clearly apply to A.I. products, the “black box” nature of these systems and their ability to stand in for human decision-makers with intent make cases difficult to bring in practice. This bill provides a solution to that problem.

When companies use predictive artificial intelligence to make critical decisions about New Mexicans—such as whether a consumer gets a job, is offered their dream apartment, or qualifies for certain health services—consumers may be subject to bias, or erroneous conclusions. One resume screening program identified two factors as the best predictors of future job performance: having played high school lacrosse and being named Jared.² Another assessment provided high scores in English proficiency even when questions were answered exclusively in German.³ A health care algorithm used widely by hospitals to identify which patients would receive additional care was found by independent researchers to be biased against Black patients; in attempting to predict which patients would become the sickest, it instead predicted who would spend the most money care.⁴ A sepsis-prediction algorithm used by many hospitals nationally

¹ Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

² Dave Gershgorn, Quartz, “Companies are on the hook if their hiring algorithms are biased,” (Oct 22, 2018) <https://qz.com/1427621/companies-are-on-the-hook-if-their-hiring-algorithms-are-biased>

³ Sheridan Wall, Hilke Schellmann, MIT Technology Review, “We tested AI interview tools. Here’s what we found,” (July 7, 2021) <https://www.technologyreview.com/2021/07/07/1027916/we-tested-ai-interview-tools/>

⁴ Ziad Obermeyer, Brian Powers, Christine Vogeli, Sendhil Mullainathan, *Science*, “Dissecting racial bias in an algorithm used to manage the health of populations” <https://www.science.org/doi/10.1126/science.aax2342>

was found to not be nearly as accurate as the company selling it had claimed—and only slightly more accurate than simply flipping a coin.⁵

H.B. 60 offers a measured approach to this problem. Crucially, it includes strong definitions, a solid enforcement regime, and few of the “get out of jail free” provisions that tech lobbyists regularly attempt to insert into similar bills. It is similar to a law passed by Colorado last year.

Consumer Reports would prefer a bill that prohibits the sale and use of products that cause algorithmic discrimination, instead of taking a “duty of care” approach. This would align the bill with existing civil rights laws, help prevent confusion about legal standards for discrimination when enforcers bring cases, and would make it clear that even if a company has taken “reasonable care,” no amount of discrimination is legal.

However, we understand that legislation is the product of compromise, and believe this measure would provide important protections for New Mexicans. We encourage an “aye” vote.

Sincerely,
Grace Gedye
Policy Analyst, Consumer Reports

⁵ Arvind Narayanan and Sayash Kapoor, Financial Review, (Sept. 13, 2024)
<https://www.afr.com/technology/snake-oil-don-t-believe-the-artificial-intelligence-hype-20240909-p5k93y>