



Oct 10, 2023

Joint Committee on Labor and Workforce Development  
24 Beacon St  
Boston, MA 02133

## Re: H. 1873 - An Act preventing a dystopian work environment.

Dear Co-Chair Jehlen, Co-Chair Cutler and Members of the Joint Committee on Labor and Workforce Development:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose H. 1873, an act preventing a dystopian work environment.

CCIA is an international, not-for-profit trade association<sup>1</sup> representing a broad cross-section of communications and technology firms. While CCIA recognizes that policymakers are appropriately interested in the digital services that make a growing contribution to the U.S. economy, more work can and must be done to study the potential implications of automated tools and practices prior to considering H. 1873.

### **1. Algorithmically-informed decision-making is complex. Given the nuanced nature of such systems, there could be a variety of unintended consequences if one were to regulate these technologies in haste.**

The span of automated decision-making is elaborate and often misunderstood.<sup>2</sup> At its core, algorithmically-informed decision-making is simply a set of techniques that can be used for doing tasks that would otherwise be accomplished manually or using traditional, non-AI technology. These technologies are data-driven and can efficiently process massive amounts of data to create gains in productivity and accuracy and support technological and scientific breakthroughs. Algorithmically-informed decision models touch almost every aspect of our day-to-day activities. This includes filtering spam emails, using ride-share apps, online shopping, plagiarism scans, using smartwatches to track a workout, monitoring online test taking, and pre-authorizing medical insurance before a visit.

Ambiguous and inconsistent regulation at the state or local levels would undermine business certainty, creating significant confusion surrounding compliance. This type of regulatory patchwork may deter new entrants, harming competition and consumers. While we understand the concerns of potential bias in these

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<sup>1</sup> For over 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.

<sup>2</sup> See generally Mike Masnick, *The Latest Version Of Congress's Anti-Algorithm Bill Is Based On Two Separate Debunked Myths & A Misunderstanding Of How Things Work*, Techdirt (Nov. 11, 2021), <https://www.techdirt.com/2021/11/10/latest-version-congresss-anti-algorithm-bill-is-based-two-separate-debunked-myths-misunderstanding-how-things-work/>.

tools, we must also strike the correct balance to avoid stifling the use of technology when organizations are looking to use AI technology as an essential tool to help their businesses. CCIA recommends that Massachusetts lawmakers pause in legislating on this complex topic, and urges Committee members to first study both the benefits and drawbacks of algorithmic technologies and to engage with practitioners and stakeholders to support the ongoing development of practicable solutions. It is also important to note that enforcement of similar legislation recently passed in New York City has been delayed due to complexities regarding implementation<sup>3</sup>.

## **2. There are several ongoing studies at the national level aimed at understanding how to balance the capabilities and risks of algorithmically-informed decision-making. These studies are intended to inform appropriately tailored and impactful regulation of such systems.**

The AI systems that lawmakers seek to regulate are complex and warrant adequate understanding to reach intended outcomes appropriately. For example, the National Artificial Intelligence Initiative (NAII) was established by bipartisan federal legislation enacted in 2021.<sup>4</sup> The NAII is tasked with ensuring continued U.S. leadership in AI R&D while preparing the present and future U.S. workforce to integrate AI systems across all sectors of the economy and society. Importantly, NAII is doing so in partnership with academia, industry, non-profits, and civil society organizations. Most recently, the U.S. Congress passed legislation to create a training program to help federal employees responsible for purchasing and managing AI technologies better understand the capabilities and risks they pose to the American people.<sup>5</sup>

The White House Office of Science and Technology Policy is also continuing to support the development of policies and practices that protect civil rights and promote democratic values in the building, deployment, and governance of automated systems. Released in October 2022, the *Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People*<sup>6</sup> outlines five principles to guide the design, use, and deployment of automated systems to protect the American public in the age of artificial intelligence.

The deliberate, thoughtful, and bipartisan fashion in which leaders at the federal level are approaching the wide variety of issues associated with artificial intelligence and algorithmic decision-making is encouraging. These ongoing studies by national experts should signal the complexity of the issue. Lawmakers should wait for and review forthcoming best practices by technical experts to help inform the development of national standards and regulations.

## **3. The bill's requirements may adversely affect small businesses by limiting their ability to access certain beneficial automated tools.**

<sup>3</sup> *Updated Rules Issued for New York City's Local Law 144 on Automated Employment Decision Tool*, JD Supra, (Jan. 19, 2023), <https://www.jdsupra.com/legalnews/updated-rules-issued-for-new-york-city-3236032/>.

<sup>4</sup> National Artificial Intelligence Initiative Act of 2020, Pub. L. No. 116-283, § 5001-5501, 134 Stat. 4523-4547 (2021).

<sup>5</sup> AI Training Act, Pub. L. No. 117-207, 136 Stat. 2238 (2022).

<sup>6</sup> White House, *Blueprint for an AI Bill of Rights* (Oct. 4, 2022), <https://www.whitehouse.gov/ostp/ai-bill-of-rights/>.



Automated tools are used by businesses to lower operational costs and improve efficiency, enabling smaller businesses to enter markets and compete with larger operators. Restrictions on the use of these tools adversely impacts smaller businesses and employers who may not be able to afford costlier options to meet the bill’s requirement of using the “least invasive” method of monitoring, or comply with the burdensome notice requirements. These additional costs would hurt employees as it limits their employers’ ability to leverage these cost-saving tools that could otherwise allow them to increase pay or hire additional employees.

**4. Definitions of key terms should be clear.**

As currently drafted, H. 1873 includes overly broad definitions of key terminology, including “automated decision system”, whose current definition would potentially include a wide range of technology, capturing everything from spreadsheets to automated cameras.

**5. A clear and sufficient timeline must be provided to enable employers to understand and comply with newly established requirements.**

Currently, H. 1873 does not provide employers with a clear timeline by which they would need to comply with the newly outlined requirements. Any legislation that would alter an employers’ ability to utilize important technological systems should provide an adequate timeline to allow employers the opportunity to clarify the measures that need to be taken to fully comply with new requirements. We recommend including a proposed effective date of no earlier than January 1, 2025.

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We appreciate the Committee’s consideration of these comments and stand ready to provide additional information as the Legislature considers proposals related to technology policy.

Sincerely,

Alex Spyropoulos  
Regional Policy Manager, Northeast  
Computer & Communications Industry Association