What PEOs Need to Know About the Current State of Workplace AI Regulation

Insights

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As employers across the country embrace the use of artificial intelligence in their workplace activities, federal and state lawmakers are lining up to consider guardrails on common AI practices. From hiring to performance management, from resume review to video interviews, AI is increasingly relied upon by employers to help with a wide spectrum of tasks – and lawmakers are taking notice. Their race to regulate has a particular impact on PEOs and their vendors. This Insight will review some of the key workplace-related AI laws that are either slated to take effect or are being considered on Capitol Hill and in statehouses around the country.

Congress

Federal lawmakers failed to pass a law that would have prevented states from implementing their own AI rules for the next 10 years (or blocked them from collecting billions in federal funding for five years). But that doesn't mean Congress is sitting idly by. It is also considering a bipartisan proposal to create whistleblower protections for employees who report risks or misuse of AI tools in the workplace. The proposed law would cover retaliation claims and encourage internal reporting mechanisms.

California Regulators Enter the Chat

Three big things are brewing in California:

- Regulators are in the process of adopting new procedural rules to enforce anti-discrimination laws as they apply to automated decision systems (ADS). They could take effect as early as October 2025.

- Lawmakers are considering a number of potential workplace-related bills before the September deadline, including a whistleblower protection proposal that pales in comparison to last year's attempt at regulating AI.

- A working group released a landmark AI Policy Blueprint outlining future regulatory goals, including bias, surveillance, and fairness. Expect formal proposals to follow in 2026.

Will Colorado's Landmark Law Take Effect in 2026?

Colorado's SB 205 is slated to create the most detailed AI regulatory scheme in the country, imposing significant obligations on businesses using "high-risk" AI systems, including employment-related tools. Starting in 2026, employers will be required to conduct impact assessments, disclose AI use to individuals, and take steps to mitigate discrimination. But rumblings persist from state leaders that the law may be delayed or watered down prior to the February 1, 2026, effective date.

Illinois Currently Regulates AI Interviewing

Under the Illinois Artificial Intelligence Video Interview Act, employers using AI to analyze video interviews must notify candidates, obtain consent, and share how the technology works. Noncompliance could lead to lawsuits or enforcement actions.

New York Awaiting Word from Governor on AI Safety Proposal

SB 5668 (The RAISE Act) would require developers of advanced AI systems to implement safety protocols and disclose testing documentation. Lawmakers passed the bill in June, and it still awaits action from Governor Hochul – who is hearing concerns from tech leaders about the potential negative impacts it could have on the state if adopted.

New York City's Bias Audit Law Already in Effect

NYC's Local Law 144 – the first local AI law in the country to regulate the workplace – has been requiring employers using automated employment decision tools (AEDTs) to conduct annual bias audits and notify candidates and employees about their use since 2023.

Texas Passes Pro-Business Law

Texas surprised everybody when it enacted a law requiring a detailed study of AI's impact on jobs, bias, and transparency – but the pending law (set to take effect in 2026) presents few if any regulatory challenges for employers.

PEO Impact

The emerging landscape of AI legislation demands a proactive and comprehensive approach from PEOs. As laws evolve, particularly with significant developments expected in states like California, Illinois, and New York, PEOs must ensure their clients and their own operations have robust policies and practices for workplace complaints and investigations, especially those involving AI-driven decisions. Savvy PEOs will also work closely with vendors to limit liability arising from third-party products utilized by the PEO.

Conclusion

Fisher Phillips will continue to monitor developments and provide updates as warranted, so make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information direct to your inbox. For further information, contact your Fisher Phillips attorney, the author of this Insight, or any attorney on the firm's PEO Advocacy and Protection Team.

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Related People

John M. Polson
Chairman & Managing Partner
949.798.2130
Email

Service Focus

AI, Data, and Analytics

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