HOLISTIC AI WHITE PAPER

# Regulation of HR Tech

## The Key Laws You Need to Know

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Holistic AI

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# Executive summary

- AI is being leveraged by around 1 in 4 organizations for HR processes due to benefits such as greater efficiency, increased diversity, and better access to talent
- Despite these benefits, using AI in employment decisions comes with risks that must be managed
- Several laws have emerged around the world targeting AI-powered and automated HR tech tools, requiring risk identification and mitigation in various forms
- The US, particularly the East Coast, is leading the charge with HR tech laws
- The risk of bias is garnering the most attention, with multiple laws requiring bias audits of automated employment decision tools and similar technologies
- Transparency, notification, and consent are also required by several laws, with some specifically requiring consent for the use of AI-powered video interviews
- Some proposals amend existing laws to explicitly extend them to AI and automated tools, despite employment decisions always being governed by equal opportunity laws, regardless of whether they are made with AI
- AI-driven worker displacement and wage adjustments are also considered – a new development from previous years
- Horizontal AI laws around the world affecting a range of AI technologies typically regard automated HR tech tools as high risk and impose a series of obligations to manage their risks
- The most significant laws requiring actions are NYC Local Law 144 requiring bias audits of automated employment decision tools; Illinois' Artificial Intelligence Video Interview Act requiring consent for AI-powered video interviews, and the EU AI Act, which imposes stringent requirements on HR Tech tools
- There are very few laws currently targeting generative AI, although other HR tech laws are often still applicable
- Whether or not the governance of automated and AI-powered HR tech tools is legally required, it is imperative for the safe and effective use of the tools in employment decisions

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# Introduction

Around 1 in 4 organizations are leveraging artificial intelligence (AI) to transform their HR processes due to key benefits such as:

- Increased efficiency and time savings
- Better identification of top talent
- Access to wider and more diverse talent pools
- Data-driven insights and decisions

AI is being used across the talent lifecycle, but is particularly being leveraged for:

| | |
|---|---|
| Recruitment, interviewing, and hiring | 64% |
| Learning and development | 43% |
| Performance management | 25% |

Employment decisions can be key to an organization's success, and they are already considerably regulated by equal opportunity legislation around the world. However, AI presents new risks that must be managed differently.

As a result, industry bodies and government departments have issued guidance on best practices for using AI in employment decisions, including the Society for Industrial and Organizational Psychology in the US, the Department for Science, Innovation, and Technology in the UK, and the Garante Per La Protezione Dei Dati Personali (data protection authority) in Italy.

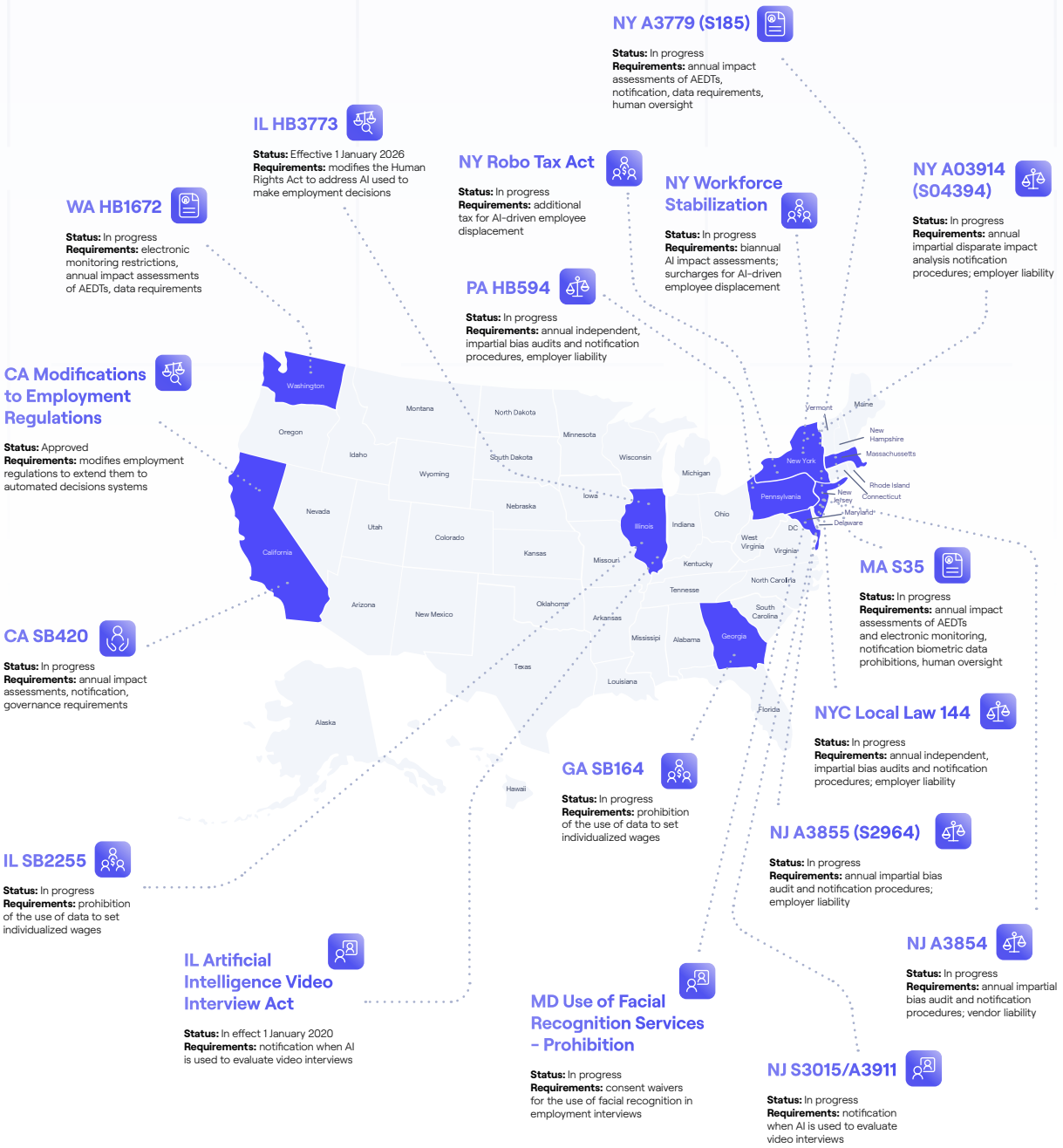
However, some jurisdictions have gone one step further, codifying requirements in laws to prevent bias, discrimination, a lack of transparency, and privacy violations when using AI in HR.

Although requirements and who is targeted (employers vs vendors) vary by jurisdiction, key themes in these requirements are:

- Bias audits to prevent and detect discriminatory outcomes
- Impact assessments to identify risks and mitigation opportunities
- Transparency and notification to inform candidates of the use of automated tools
- Disclosure and limiting of AI used for workplace monitoring
- Management of AI-driven worker displacement
- Explicit consent for the use of facial analysis in video interviews
- Risk management and governance frameworks

Much of this legislation is centered in the US, particularly on the East Coast, as can be seen on the map on the next page. However, legislation has also been proposed in other jurisdictions, including Europe and Asia.

This whitepaper provides a non-exhaustive overview of the key laws around the world requiring action from employers using and/or vendors providing AI-driven or automated HR tech tools. These laws are grouped by video interviewing, **bias audits**, **impact assessments**, modifications to existing laws, transparency and worker rights, worker displacement, and horizontal AI laws with significant implications for HR tech. Laws requiring action from state agencies, such as Texas's **SB2473**, are left out of scope.



# Video interviewing laws

Some of the first laws specifically targeting the use of automated HR tools focused on video interviewing. The first law to do this was the **Artificial Intelligence Video Interview Act** in Illinois, effective from 1 January 2020. The law requires that employers using AI to analyze video interviews:

- Notify applicants of the use of AI
- Explain how the AI works and the characteristics it considers
- Obtain consent from candidates, before the interview, for the use of AI to evaluate the interview

The law also places restrictions on how video interview data can be shared and has requirements for the destruction of videos upon candidate requests. Employers that solely rely on AI analysis to determine if applicants are selected for in-person interviews must also report the demographic data of those who are and are not hired.

New Jersey's proposed **S3015**/A3911, introduced in the first half of 2024, is almost identical to the Illinois law, adding that consent can also be given electronically. Penalties for non-compliance start at $500 for the first offence and rise to $1000 for subsequent offences.

With a slightly different approach that specifically focuses on facial analysis, **Maryland's Facial Recognition Services Prohibition** prevents employers from using facial recognition services during video interviews unless applicants sign a waiver consenting to its use as of 1 October 2020. The waiver must include their name, interview date, and confirmation that the waiver was read.

# Bias audit laws

After the emergence of video interviewing laws, the focus shifted to bias. This is despite adverse impact testing being common practice among employers, employment agencies, and assessment vendors to identify whether selection procedures result in different hiring outcomes for different subgroups. **New York City Local Law 144** set the precedent for bias audit laws, but many other states have also followed suit with similar proposals.

## New York City Local Law 144

Enforced since 5 July 2023, New York City **Local Law 144** mandates annual independent bias audits of automated employment decision tools (AEDTs) used to evaluate employees for promotion or candidates for employment in NYC. It also requires notifications and the publication of a summary of the results of the bias audit.

### *What is an AEDT?*

An AEDT uses a computational process derived from machine learning, statistical modelling, data analytics, or AI to issue a simplified output. This includes a score, classification, or recommendation that is used to substantially assist or replace discretionary decision making; it is the only factor considered to make decisions, the most important factor, or overrides decisions made based on other factors, including human decision making.

Here, machine learning, statistical modelling, data analytics, or artificial intelligence describes a group of mathematical, computer-based techniques used to generate a prediction or classification, where a computer is used at least in part to identify the inputs, their relative importance, and other model parameters to improve the accuracy of the model.

Importantly, tools used to translate or transcribe text are not within scope. Tools used for activities such as candidate sourcing are also out of scope – only those used to evaluate a candidate that has applied for a specific role meet the definition under the law.

Depending on how they work and how they are used, tools such as video interviews, game-based assessments, conversational assessments, and screening tools may be in scope.

### *How is a bias audit conducted?*

A bias audit assesses whether an AEDT results in disparate impact against individuals based on race/ethnicity and/or sex/gender.

Under Local Law 144, subgroup differences must be tested for male and female for gender, and Hispanic or Latino, White, Black or African American, Native Hawaiian or Pacific Islander, Asian, Native American or Alaska Native, and two or more races for race/ethnicity.

The audit must be carried out using specific metrics. For classification systems that result in a categorical outcome, an **impact ratio** is calculated to compare the selection rate for each category with the selection rate of the highest scoring category:

$$\frac{\text{Selection rate for a category}}{\text{Selection rate of the most selected category}}$$

Here the scoring rate refers to the proportion of people in each group designated to the positive condition. This is essentially the same calculation as the four-fifths rule required under the **Uniform Guidelines on Employee Selection Procedures**, which enforce Title VII of the Civil Rights Act of 1964, except the .80 threshold is not used.

For regression systems that result in a continuous score or ranking, outcomes must first be binarized to calculate the scoring rate. Here, individuals are designated to pass/fail based on whether their score is above or below the median score for the dataset used to complete the audit. The impact ratio can then be calculated using the scoring rate in a similar way to classification systems:

$$\frac{\text{Scoring rate for a category}}{\text{Scoring rate for the highest scoring category}}$$

Regardless of whether the system is categorical or continuous, impact ratios must be calculated based on standalone groups (e.g., male, female) and intersectional groups (e.g., black male, black female).

### *Who can conduct bias audits?*

Bias audits must be conducted by an independent, impartial entity from the employer or employment agency using the AEDT. Auditors must be able to exercise objective and impartial judgement, meaning they cannot:

- Have been involved in using, developing, or distributing the AEDT
- Have an employment relationship with the employer/employment agency or vendor of the tool during the bias audit
- Have a financial direct or material indirect interest in the employment agency, employer, or vendor of the AEDT during the bias audit.

### *How must the results of the bias audit be provided?*

In addition to any internal reports provided by auditors, employers or employment agencies must provide a summary of the results of the bias audit on their website before using the tool.
This must include:

- The source and explanation of the data used to conduct the bias audit
- The number of applicants in each category
- The number of individuals assessed by the AEDT that were not included in the calculations due to missing demographic data
- The distribution date of the tool and date of the audit
- Whether any categories were excluded from the analysis due to small sample size (<2%)
- The impact ratios for standalone and intersectional groups

This summary must be updated annually with the most recent bias audit and kept online for 6 months after the tool is retired.

### *What are the notification requirements?*

Employers and employment agencies must provide candidates or employees with notice of the use of an AEDT to evaluate them at least ten working days before the tool is used. The notice must contain all of the following:


This notice can be provided to candidates through the employment section of the website clearly and conspicuously, in a job posting, or through mail or email. Similarly, notice can be given to employees in a written policy or procedure, in a job posting, or via mail or email.

### *Who does NYC Local Law 144 apply to?*

Local Law 144 applies to employers or employment agencies using AEDTs to evaluate candidates or employees in NYC – regardless of whether they are physically based in NYC themselves or not. However, given that data from multiple employers/employment agencies can be aggregated to conduct the audit, often vendors procure the audit on behalf of employers or employment agencies using the tool.

### *How is Local Law 144 enforced?*

New York City Local Law 144 is enforced by New York City's Department of Consumer and Worker Protection (DCWP). The DCWP has issued **enforcement rules** and provided **FAQs** to support the enforcement of the Law.

**Penalties for non-compliance range start at $500 per violation and increase to $1500 for subsequent violations**

# Other bias audit laws

The New York City law has inspired similar proposals at the state level, most of which are on the East Coast. However, a bias audit law is yet to pass outside of NYC.

| Law number | Status | Bias audit requirements | Summary of results requirements | Notification requirements | Liability |
|---|---|---|---|---|---|
| NYC Local Law 144 | Enforced | Independent, impartial bias audit | Publicly available online | At least 10 working days before use | Employer/ Employment agency |
| NJ A3854 | In progress | Impartial bias audit | Publicly available online | Within 30 days of use | Vendor |
| NJ A3855 (S2964) | In progress | Impartial bias audit | Publicly available online | At least 10 working days before use | Employer/ Employment agency |
| NY A03914 (S04394) | In progress | Impartial disparate impact analysis | Publicly available online | - | Employer |
| PA HB594 | In progress | Independent, impartial bias audit | Publicly available online | At least 10 days before use | Employer/ Employment agency |

# HR tech laws requiring impact assessments

Other laws take a broader approach to preventing bias in automated employment decision tools by requiring employers to conduct impact assessments. The purpose of these impact assessments is to identify risks associated with AEDTs so that mitigation steps can be taken, where risks often include but are not limited to bias.

## Restricting AEDTs in New York

In New York, **A3779**/ S185, introduced January 2025, requires that employers with 100 or more employees carry out annual impact assessments of automated tools used to make employment decisions. This includes decisions about compensation, hours or schedule, performance evaluation, hiring and selection, discipline or termination, promotion, job content or assignment, access to work opportunities, productivity requirements, and health and safety.

Similar to the requirements for bias audits, the impact assessment must:

- Be carried out by an impartial third-party
- Identify and describe how the tool produces outputs
- Consider the potential for disparate impact and how this will be managed
- Evaluate if the tool or its data is the least discriminatory way of assessing performance

Impact assessments will be included in a public registry and should be distributed to employees who will be evaluated by the tool. Employees or candidates must also be notified of the use of AEDTs before or at the time of their use. The notification must be included in the advert for each job where the AEDT will be used and indicate:


A3779/S185 also imposes data access and correction requirements and prohibits employers from solely relying on AEDTs. This prohibition applies to decisions about hiring, promotion, termination, disciplinary, and compensation decisions. Instead, employers are required to implement human oversight, where factors other than the AEDT output must be considered. Further, employers and candidates cannot be forced to consent to the use of an AEDT.

## Vermont's restrictions on AEDTs and electronic monitoring

In Vermont, **H.262**, introduced in February 2025, seeks to govern both AEDTs and electronic monitoring tools.

First, employers using AEDTs must create a written impact assessment containing:

- A description of the tool, its outputs, and how they are used
- A justification of the need for the system

- Detailed assessments of validity and reliability in line with best practices in the field
- A risk assessment, including the risk of discrimination
- Measures taken to mitigate risks

The impact assessment must be updated any time a significant change is made to the system and provided to employees if requested.

Second, it prohibits the use of electronic monitoring in the workplace unless all of the following conditions are met:

- They exclusively use monitoring to assist with an essential job function, monitor production, ensure compliance, protect health and safety, for security, periodically assess performance, or track working hours to issue compensation
- The form of monitoring used is the least invasive means possible
- The smallest number of employees possible are monitored and the smallest amount of data possible is collected
- Only authorized people have access to the data generated and the data is only used for the specified purpose

Employers are also prohibited from electronically monitoring employees who are off-duty or in private spaces such as bathrooms, locker rooms, and cafeterias.

Moreover, at least 15 days before using electronic monitoring, employers must provide notification. They must also annually provide a list of systems used to monitor each employee.

Both AEDTS and electronic monitoring are prohibited from leveraging facial, gait, voice, or emotion recognition technology. Both AEDTS and electronic monitoring are also subject to requirements on data privacy, access, and correction.

The bill was intended to take effect 1 July 2025, although at the time of writing (July 2025) it had not progressed since its introduction.

## Massachusetts's restrictions on AEDTs and electronic monitoring

In Massachusetts, **S35** on Fostering artificial intelligence responsibility also seeks to regulate electronic monitoring, providing a number of conditions for its use and limiting it to certain activities and areas of the workplace. It also requires yearly impact

assessments of electronic monitoring systems to be carried out by **independent auditors**. The impact assessments must focus on data protection and security practices as well as the potential for electronic monitoring systems to violate applicable laws.

S35 also requires annual independent impact assessments of AEDTs that:

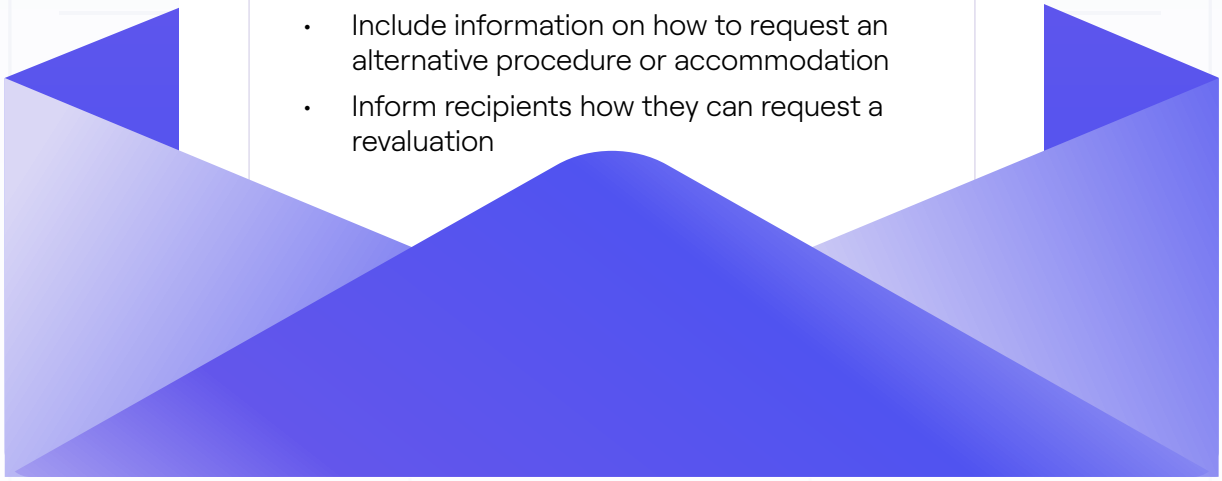
- Describe the attributes and modelling techniques used by the system to produce outputs
- Determine whether the above are scientifically valid ways of evaluating performance or ability
- Evaluate whether the attributes could serve as a proxy for belonging to a protected class
- Examine disparities in the model training data and whether they could result in disparate impact
- Consider how any outputs of the tool may result in disparate impact
- Evaluate whether the use of the AEDT may limit accessibility for individuals with disabilities and how this can be remedied or reduced
- Evaluate, in the case that disparate impact is identified, whether the data set, attribute, or feature is the least discriminatory method
- Consider how the AEDT could violate applicable laws
- Describe whether the use of the AEDT could negatively impact employees' privacy and job quality

Impact assessments must be submitted to the Department of Labor Standards for inclusion in a public registry.

Moreover, if impact assessments find that a data set, feature, or the application of the AEDT results in disparate impact, the employer must suspend its use until the disparate impact is remedied and a written explanation of the steps taken is provided.

Employers using an AEDT must also notify candidates and employees at least 10 business days prior to its use. The notification must:

- Inform recipients that an AEDT will be used
- Outline the job qualifications and characteristics that will be considered and the kinds of outputs that will be generated
- Indicate the data collected by the tool and the data retention policy
- Provide results of the most recent impact assessment
- Include information on how to request an alternative procedure or accommodation
- Inform recipients how they can request a revaluation



Finally, the bill, like Vermont's H.262, places restrictions on the use of AEDTs. Namely, it prohibits the use of AEDTs to make predictions about behavior, beliefs, intentions, personality, or emotional state as well as AEDTs that involve facial recognition, gait, or emotion recognition technologies.

Employers are also prohibited from relying primarily on the output of an AEDT for hiring, promotion, termination, disciplinary, or compensation decisions, as with New York's law, and must establish meaningful human oversight by competent reviewers who must manually review AEDT outputs and consider other sources of information to make a decision.

## Restricting electronic monitoring in Washington

In Washington, **HB 1672** also seeks to impose restrictions on the use of electronic monitoring, where it can only be used for specified activities and in certain locations, as well as require notification for the use of electronic monitoring in the workplace. Set to take effect on 1 July 2026 if passed, the bill also requires that employers using automated decision systems conduct a written impact assessment of the system that includes:

- A summary of the system
- The data the system uses
- System outputs and how they will be used
- Rationale for system use and associated risks, including discrimination
- Risk mitigation measures

This impact assessment must be updated following any significant changes to the system.

There are also data and security requirements for any entity that operates or maintains an electronic monitoring or automated decision system on behalf of an employer, as well as those that collect or use the data from these systems.

**Non-compliance can result in penalties of $1000 for the first violation and up to $10000 for subsequent violations.**

# Extending existing laws to AEDTs

Given that existing laws apply to AI, some policymakers have taken a slightly different approach, updating existing laws and extending them to explicitly cover AI and other automated systems.

## Limit Predictive Analysis Use in Illinois

Illinois' HB3773, adopted in August 2024 and effective 1 January 2026, amends sections 2-101 and 2-102 of the Illinois Human Rights Act. In doing so, it extends provisions on civil rights violations to specifically address (generative) artificial intelligence used in employment decisions. These provisions apply to employers, employment agencies, and labor organizations.

Through its amendments, HB3773 makes it a civil rights violation to use AI in a way that results in discriminatory outcomes based on protected attributes or to use zip codes as a proxy for protected attributes in a variety of employment decisions. It also makes it a civil rights violation if employers use an AI system for any of these purposes without providing notice to employees of such.

While there is currently a lack of clarity on what form these notifications should take, the Bill grants the Department of Human Rights the power to adopt rules for its implementation and enforcement. These rules could cover the particular circumstances that require notice, the required time period for providing notice, and how notice should be provided.

## California's modifications to employment regulations

Finally, following a several-year process, in March 2025, California's Civil Rights Council **secured approval** for its **final modifications** to its employment regulations to account for automated decision systems. Effective from 1 October 2025, the majority of the regulations are simply updated to explicitly specify that prohibitions, such as discrimination, also apply when automated decision systems are used. However, the regulations also note that evidence (or lack thereof) of bias testing could be used as a defense for any claims of unlawful discrimination, therefore alluding to the need for bias audits of AEDTs.

The regulations are also updated to require record-keeping for four years instead of two, which also covers data related to automated decision tools. Moreover, they note that technology such as facial or vocal analysis and tools that assess a candidate's skill, dexterity, or reaction time may unlawfully discriminate and that reasonable accommodations may be needed when they are used.

## Transparency and worker rights laws

Reflecting some of the sentiment of video interview and bias audit laws, in terms of providing greater transparency around the use of automated tools, several laws around the world have specifically sought to increase transparency and give workers rights when it comes to the use of automated tools in the workplace.

## Spain's Rider Law

In Spain, **Royal Decree-Law 9/2021** (RDL 9/2021), the so-called rider law, amended the Workers' Statute to provide additional rights to workers as of 12 August 2021 in two key ways.

First, it provides a presumption of employment for workers who provide delivery services on behalf of an employer that has the power to manage or control working conditions using an algorithmic system or digital platform. As such, so-called riders benefit from the protection of Spain's Workers' Statute Law.
Second, it creates greater transparency around AI and automated systems. Specifically, it provides the works council the right to be informed about the parameters, rules, and instructions on which algorithms or AI used by employers to influence working conditions and access to employment are based. This applies to all employees covered by the Workers' Statute Law, regardless of whether they are a rider.

## Transparency and data requirements in Texas

Texas' SB 2991 also imposes notification requirements for AEDTs, where employers must notify applicants that AEDTs will be used to evaluate their fit and provide information on the system and the characteristics it will consider before the tool is used. Written consent must also be obtained, similar to requirements imposed by video interview laws.

SB 2991 also seeks to prohibit the use of information on protected class status and 'applicants' zip codes as a factor in AEDTs. Similar to the Artificial Intelligence Video Interview Act, SB 2991 also imposes requirements around data sharing and data destruction.

**Non-compliance can result in penalties of between $2500 and $7000 per violation.**

# Worker displacement and wage laws

Given the potential for AI to automate processes and significantly augment roles, there are growing concerns about how AI may displace workers. Indeed, while AI can create opportunities to reskill or upskill the workforce, some laws in New York are aiming to protect employees from being displaced. On the other hand, other states are focusing on the use of AI to set individualized wages.

## New York Workforce Stabilization Act

To this end, the **Workforce Stabilization Act**, introduced in February 2025, seeks to require employers to conduct AI impact assessments to protect workers from being displaced by AI. Specifically, employers or entities acting on their behalf must conduct bi-annual impact assessments of their deployment of AI. Impact assessments must also be carried out before any major changes to the system.

The impact assessment must include:

- A description of the objectives of the system and the ability of these objectives to be realized
- A summary of the underlying algorithms and the design and training data
- Whether the system uses personal or sensitive data, how such data is used and stored, and controls users have over their data
- The estimated number of workers already displaced by AI and the number expected to be displaced by the increased usage of AI

This impact assessment must be submitted to the Department of Labor at least 30 days before the implementation of the system, where only employers with over 100 employees are required to conduct an assessment.

In addition to the impact assessment, the law also seeks to impose 2% surcharges on corporations that terminate or reduce the hours of 15 or more employees due to the deployment of AI. A second surcharge would also be implemented for corporations that use AI for data mining, where data mining refers to pattern-based queries, searches, or queries of electronic databases. If passed, A5429 would take effect 1 January 2026.

## New York Robot Tax Act

With a similar sentiment, the **Robot Tax Act** – which was first introduced in October 2023 and again in January 2025 – seeks to amend the tax law in New York. Specifically, employers that meet certain thresholds will be liable for additional tax based on an employee's wage where workers have been displaced by technology. Here, technology refers to machinery, AI algorithms, or computer applications. If passed, A3719 would be effective 1 January 2026.

## Preventing wage discrimination in Illinois and Georgia

**Illinois' SB2255**, the Surveillance-Based Price and Wage Discrimination Act, and **Georgia's SB164** on surveillance-based price discrimination and surveillance-based wage discrimination are more unique laws with identical requirements.

They seek to prevent surveillance data from being used to inform individualized pricing and wages has identical requirements. In these laws, surveillance data refers to data that is obtained through observation, inference, or surveillance.

However, individualized wages based purely on data specific to the individual or differences in the cost to the employee for their labor are permitted. Moreover, employers who disclose that wages are set using automated decision making before hiring an employee and those who proactively ensure the accuracy of the data used for setting wages are also permitted to use surveillance data.

**Non-compliance can result in penalties of up to $10000 per violation. Individuals can also bring civil action for non-compliance where each person affected may be awarded up to $3000.**

# Horizontal AI laws affecting HR Tech

In addition to targeted laws, HR tech is also affected by horizontal legislation around the world that seeks to regulate multiple AI technologies as it is considered to be high-risk due to the impact of employment decisions on life changes and fundamental rights.

## EU AI Act

The **EU AI Act** is the world's first comprehensive AI legislation. With a risk-based approach, it governs AI used across use cases and sectors, imposing stringent obligations on systems that have a high level of risk to fundamental rights, health, and safety. On the other hand, systems that pose an unacceptable level of risk are prohibited.

### *EU AI Act and HR Tech*

While the AI Act takes a horizontal approach, it has important implications for HR tech.

First, the EU AI Act **prohibits AI systems** used to infer emotions in the workplace. Consequently, AI systems used for sentiment analysis, for example, could be prohibited, with prohibitions applicable from 2 February 2025.

Second, AI systems used in employment, worker management, and access are considered high-risk. Specifically, AI systems used for the recruitment or selection of employees, including systems used to place targeted job ads, analyze and filter applicants, or evaluate candidates, are considered high-risk. This is in addition to AI systems used to make promotion, termination, or task allocation decisions based on behavior or traits or characteristics, and AI systems used to evaluate performance and behavior in the workplace.

Because they are considered high-risk, **providers** – generally vendors – of HR tech tools within the scope of the EU AI Act have the most significant obligations. These include post-market monitoring, putting a quality management system into place, and

conducting a conformity assessment. They must also ensure that their systems meet a series of design **requirements**:

- Establishing a continuous and iterative risk management system throughout the entire lifecycle of the system
- Establishing data governance practices to ensure the data for the training, validation, and testing of systems is appropriate
- Drawing up technical documentation before the system is put onto the market
- Establishing automatic recording of events to support record keeping
- Developing the system in a way that allows the appropriate transparency and provision of information to users
- Designing systems to allow appropriate human oversight
- Maintaining an appropriate level of accuracy, robustness, and cybersecurity throughout the lifecycle of the system

**Deployers** of HR tech systems – employers – also have specific obligations, such as ensuring they use the system in line with instructions and assigning human oversight responsibilities to individuals with the appropriate training and knowledge. Certain deployers may also need to conduct a fundamental rights impact assessment, and ensure they use the system in line with instructions and assigning human oversight responsibilities to individuals with the appropriate training and knowledge.

In addition to obligations for high-risk systems, some HR tech systems may also trigger **transparency obligations** if they interact directly with human users (candidates). If this is the case, candidates must be informed that they are interacting with an AI system unless this is something that would be obvious to a typical user. Requirements for high-risk AI systems, including HR tech tools, are applicable from 2 August 2026.

## *EU AI Act and generative AI*

HR tech systems using deepfakes or AI generated content must be accompanied by a declaration informing users that content is AI generated.

Moreover, the AI Act imposes specific requirements for general purpose AI models – models capable of performing a wide range of tasks that were trained with large amounts of data (think generative AI). Specifically, providers of general purpose AI models must:

- Have up-to-date technical documentation detailing the training and testing process for the model as well as evaluation results

- Make information and documentation available to providers of AI systems that integrate the general-purpose model into their system
- Establish a policy to comply with Union law on copyright
- Draw up and make publicly available a sufficiently detailed summary about the content used for training of the general-purpose AI model using a template provided by the AI Office.

There are additional obligations for providers of general purpose AI models that have high impact capabilities, which are classified as general purpose AI models with systemic risk. While there may be different methodologies to evaluate the impact of a general purpose AI model, the EU AI Act presumes that models that are trained using more than 1025 floating point operations in computation power can be considered as having systemic risk. Specifically, providers of these models must:

- Evaluate the model in line with standardized protocols and tools that reflect the state of the art. This includes conducting and recording adversarial testing
- Assess and mitigate systemic risks at the Union level that could come from developing, placing on the market, or using AI models with systemic risk
- Track, document, and report information relating to serious incidents and associated corrective measures
- Ensure that there is adequate cybersecurity protection

Requirements for GPAI models apply from 2 August 2025. Providers of GPAI models that are made available in the EU before this date must be compliant by 2 August 2027.

**Penalties for non-compliance are tiered, ranging from €7.5 million (almost $9 million) to €35 million (over $40 million) for operators.**

## Brazil AI law

Although the EU was the first to pass comprehensive horizontal legislation, other countries around the world have started to follow suit, including Brazil. Indeed, in December 2024, Brazil passed **Bill No. 2238**, which replaced **previously introduced** AI legislation in the country. Although 2238 still has some steps to go through in the legislative process before it comes into effect, its passing signals that regulating high-risk applications of AI is a priority.

Indeed, the Brazil AI law takes a risk-based approach similar to the EU AI Act, where

AI systems used to make employment decisions, including about recruitment, promotions, termination, and performance and behavior, are considered high-risk. However, there are no specific provisions for generative AI nor prohibitions for the inference of emotions in the workplace.

Nevertheless, the Brazil AI law imposes stringent obligations on high-risk systems, many of which overlap with the AI Act. Key obligations for developers (usually vendors) include:

- Measures to mitigate and prevent bias
- Transparency on management and governance policies
- Record keeping to support assessments of accuracy and robustness
- Security tests

Key obligations for those using AI tools include:

- Documenting all steps in the system's lifecycle
- Documenting the testing of reliability and security
- Implementing measures to mitigate and prevent bias

**Non-compliance can result in fines of up to R$50,000,000 (around $9 million) per infraction, or up to 2% of annual revenue. Other outcomes such as a suspension of the development or supply of the AI system are also possible.**

## Korea AI law

An AI law was also passed in South Korea in 2024. Like the AI Act and Brazil AI law, Korea's **Basic AI Act** takes a risk-based approach to AI regulation with more stringent obligations for so-called high-impact systems, which include those used for hiring. Those using generative AI or high-impact systems must inform users that they are interacting with AI or an AI generated output. Additional obligations for high-impact systems include:

- Developing and implementing a risk management plan
- Providing information about the final output and how it was derived
- User protection measures
- Documentation on system safety and reliability

**Penalties for non-compliance can reach up to 30 million won (over $21000). Additionally, National AI Committee members who disclose confidential information can be fined the same or imprisoned for up to three years.**

## Chile AI laws

In 2024, Chile introduced **a risk-based AI bill**, although the specific systems that are considered high-risk are not specified. What is specified are the rules applicable to high-risk systems, which include:

- The establishment of a risk management system
- Data governance processes
- Technical documentation and transparency requirements
- Establishing a logging system
- Human oversight mechanisms
- Accuracy, robustness, and cybersecurity
- Post-market surveillance

**Penalties for violations, like the AI Act, are tiered, ranging from 5000 monthly tax units to 20000 monthly tax units.**

## California's Automated Decision System bill

Horizontal AI bills affecting HR tech have also been introduced in the US at the state level.

In California, **SB-420** seeks to require developers and deployers to conduct impact assessments for high-risk ADSs - those used to make decisions that have a significant effect, including employment. The impact assessment of these systems must include:

- Information on the purpose, benefits, and inputs of the system
- A summary of foreseeable disproportionate or unjustified impacts on protected classes

- A description of safeguards implemented to mitigate risk and how risks will be monitored
- A statement of how consistent the actual use is with the intended use
- Safeguards to mitigate and prevent known risks of discrimination
- A description of how the system has been and will be monitored and evaluated

Moreover, deployers must provide notification of their use of an automated decision system and provide information on the high-risk ADSs it deploys on its website. Further, developers and deployers must establish a governance program to safeguard against risks that aligns with the **NIST AI RMF**.

**Civil action may be brought against developers or deployers who fail to conduct an impact assessment. Penalties start at $2500 for violators with fewer than 100 employees, with penalties increasing to $5000 for those with fewer than 500 employees and $10000 for those with 500 or more employees. For intentional violations, the penalty increases by $500 for each day of noncompliance.**

## Colorado's SB205

Like California, Colorado has also introduced horizontal AI legislation at the state level. **SB205**, signed into law on 14 May 2024 and in effect from 1 February 2026, seeks to provide consumer protections for AI.

Although Colorado's Attorney General is yet to develop regulations to support the enforcement of the law and provide clarity, broadly, SB205 requires developers and deployers to demonstrate reasonable care to protect consumers from known or reasonably foreseeable risks of algorithmic discrimination through a series of transparency, governance, and mitigation measures.

As with the other horizontal laws, SB205 primarily focuses on high-risk systems – those used to make consequential decisions, including employment decisions. At a high level, developers of high-risk systems (typically vendors) must:

- Take reasonable care to protect consumers from known or reasonably foreseeable risks of algorithmic discrimination
- Provide deployers with documentation on data, system risks, the purposes of the system, and risk mitigation measures

- Make a public statement available describing the type of high-risk systems developed and how risks are managed
- Disclose to the attorney general and all other known developers and deployers of a high-risk system any known or reasonably foreseeable risks within 90 days of discovery

The requirements for deployers (typically employers) also focus on risk management. Specifically, deployers must:

- Implement a risk management policy that specifies the principles, processes, and personnel that a deployer uses to identify, document, and mitigate any known or foreseeable risks.
  - This policy must consider the AI Risk Management Framework (AI RMF) developed by the National Institute of Standards and Technology (NIST), standard ISO/IEC 42001 of the International Organization of Standardization, or any other recognized risk management framework for AI.
- Complete an impact assessment (annually and within 90 days of making an intentional and substantial modification to the high-risk system) specifying the purpose, intended use, known or reasonably foreseeable risks of algorithmic discrimination, categories of data used and produced, performance evaluation metrics, transparency measures, and post-deployment monitoring of the system.
- Publish a statement describing the types of high-risk systems deployed and how risks of algorithmic discrimination are managed
- Disclose to the attorney general and all other known developers and deployers of a high-risk system any known or reasonably foreseeable risks within 90 days of its discovery.

Non-compliance with SB205 will be considered an unfair trade practice. On the other hand, it is an affirmative defense if the developer or deployer discovers and cures violations as a result of feedback, adversarial testing or red teaming, or internal reviews. Compliance with the latest version of the AI RMF and ISO/IEC 42001, another nationally or internationally recognized risk management framework with equivalent or more stringent requirements, or any framework designated by the Attorney General also provides an affirmative defense.

# AI Governance is imperative

It is clear that governing HR tech tools to manage their risks is a global priority with many policymakers taking action towards this, whether this is through guidance, targeted HR tech laws, or horizontal laws with direct implications for HR tech.

Whether you are a vendor, employer, or have another key role in the HR tech pipeline, governing AEDTs is imperative to reduce reputational, financial, and legal risk. It also promotes trust from both internal and external stakeholders, improving brand image and creating greater potential for increased innovation.

## How to get started with governing your HR tech

AI governance is a journey that requires constant iteration and ongoing monitoring, whether for compliance or to align with organizational values and risk tolerances. However, it's never too late to begin your AI governance journey with these simple steps:

1. Create an inventory to identify all of the HR tech tools you are offering, developing, or using, including details about their deployment locations and how they work
2. Identify relevant laws in the jurisdictions you operate in to determine whether there are any compliance actions you may need to take
3. Establish notification procedures or transparency mechanisms in line with relevant laws or internal policies
4. Commission annual independent audits of your HR tech to support compliance with bias audit laws and global equal opportunity laws
5. Continuously monitor your systems and act fast when risks are identified

## Partnering with Holistic AI

Holistic AI is the leading provider of AEDT bias audits, particularly under NYC Local Law 144. With deep expertise in AI governance, psychometrics, machine learning, and large language models, we have conducted hundreds of audits of HR tech tools and support the AI governance efforts of global organizations.

Get in touch with our experts to find out how Holistic AI can help you cut through the noise and streamline the governance of your HR tech so you can embrace it with confidence.

## GOT QUESTIONS OR WANT TO SCHEDULE A CHAT? CONTACT US AT

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