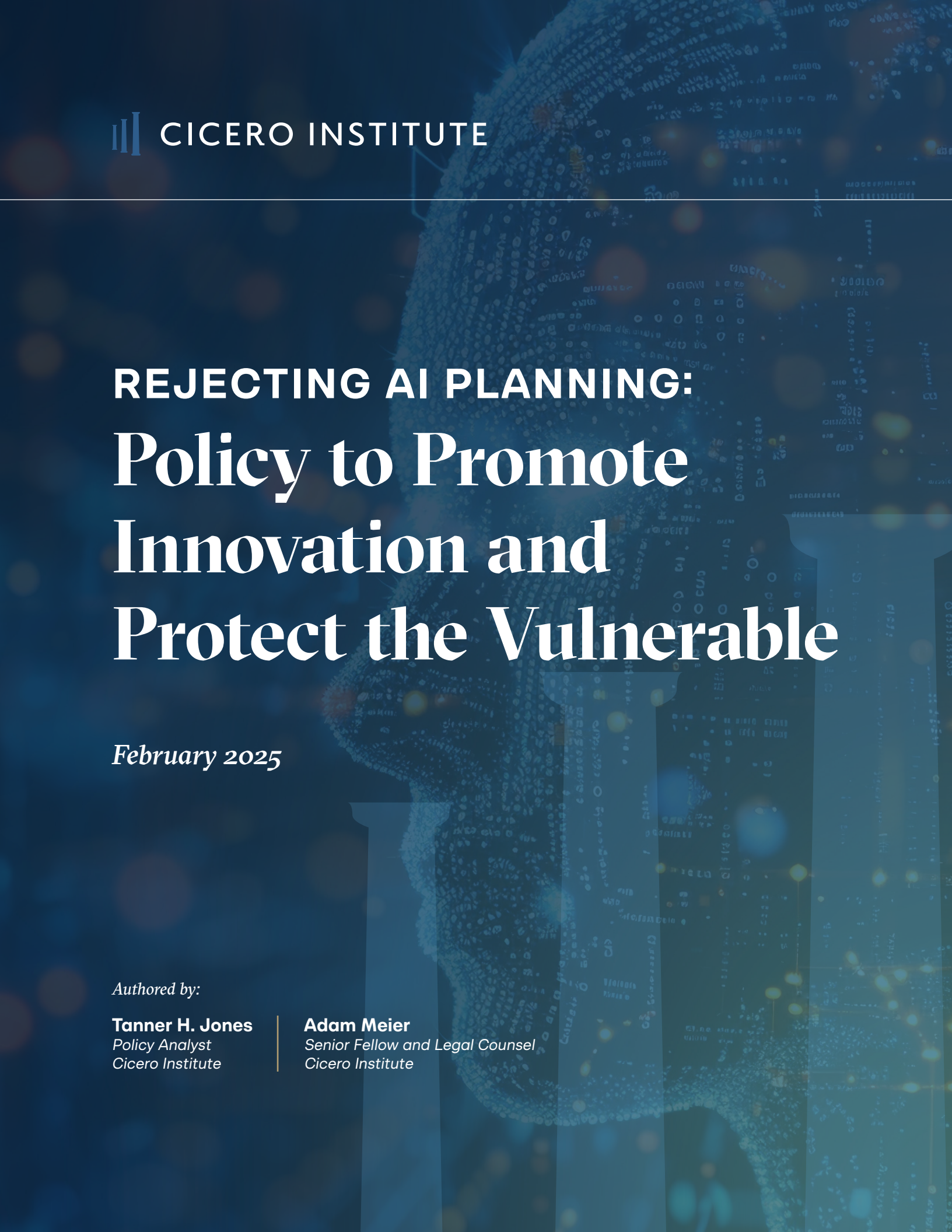

CICERO INSTITUTE

REJECTING AI PLANNING: Policy to Promote Innovation and Protect the Vulnerable

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Introduction

Artificial Intelligence (AI) is now central to global economic competition, promising to unlock new productivity growth, enable medical breakthroughs, afford national security advantages, and open new frontiers for private enterprise. Worldwide AI investment surpassed $90 billion in 2021 and continues to grow at a remarkable pace of roughly 40-50 percent annually.[1] In terms of compute—the hardware and energy fueling machine learning models—leading research labs report that the computational resources for cutting-edge AI have been doubling every six to nine months, far outpacing Moore's Law.[2] Even conservative estimates project that by 2030, AI could contribute between $13 and $15 trillion to global GDP, making it the most transformative economic force of the century.[3]

BY 2030, AI COULD CONTRIBUTE BETWEEN $13 AND $15 TRILLION TO GLOBAL GDP, MAKING IT THE MOST TRANSFORMATIVE ECONOMIC FORCE OF THE CENTURY

Unsurprisingly, most AI innovation is concentrated in the United States, followed closely by China, whose government aggressively subsidizes AI development to bolster economic growth and military competitiveness. Meanwhile, Europe's share of venture funding for AI remains below 10 percent, lagging behind America's roughly 60–70 percent share, due in large part to a strict regulatory environment that has deterred private investment and forced some

European startups to relocate to friendlier jurisdictions.[4] Indeed, the EU's sweeping "AI Act" has been criticized for creating compliance costs so prohibitive that many entrepreneurs and financiers are looking elsewhere for opportunities. This divergence underscores how heavy-handed, preemptive regulation can push innovation to jurisdictions committed to a more balanced approach.

States should reject reflexive, top-down AI planning—where technology is controlled via sweeping rules and licensing regimes—in favor of a legislative strategy that:

1. **Targets specific, demonstrable harms**
2. **Nurtures private-sector innovation, and**
3. **Leverages AI to streamline government operations.**

Section I lays out the Pathology of Planning in AI: why the urge to regulate everything upfront leads to regulatory capture, stifles competition, and could cede America's leadership in AI to geopolitical rivals. Section II details Cicero Institute's solution, which precisely addresses real harms while nurturing AI-driven growth and leveraging AI to achieve government efficiency. By adopting this strategy, states can safeguard against genuine risks, preserve America's global edge in AI, and modernize government itself through efficient, AI-driven services.

PROBLEM: The Pathology of Planning in AI

"The ideology of governmental efficacy—that is, the view that government is, and must be, an effective agent for getting things done. Only a legislature committed to that ideology need act to solve problems in the face of pervasive uncertainties about their dimensions and their remedies."

—Jerry L. Mawshaw, Regulation, Logic, and Ideology[5]

Central Planning's False Promise in a Dynamic Tech Sector

Emerging technologies such as AI evolve at a blistering pace, defying neat definitions and static rules. Yet governments often feel tempted to "plan" and preemptively regulate such technologies, treating them as a problems to solve rather than as tools to unleash. This pathology of planning—an overreliance on top-down control—has a troubled history. In economic theory, central planning is inherently limited by the "knowledge problem," which posits that no central authority can aggregate and process the dispersed information needed to govern a complex, changing system efficiently.[6] Long before the world could reasonably conceive of the AI revolution, Friedrich A. Hayek warned this "knowledge problem" erects "an

insuperable barrier" to effective central planning.[7] In the context of AI, where innovations emerge from countless experiments in labs, startups, and open-source communities, a rigid plan can quickly become an obstacle rather than a guide.

Throughout history, major technological breakthroughs have often been met with panicked, misguided regulatory responses driven by fear of the unknown. Policymakers, with the best of intentions, have attempted to dictate outcomes or control new technologies, only to stifle progress or misallocate resources inadvertently. This reactionary impulse is evident today—states and nations are rushing to draft broad AI laws in the name of precaution. Such central planning in AI governance tends to overshoot—imposing rules based on speculative worst-case scenarios rather than empirical harms. The result is often a framework that is obsolete upon arrival. Indeed, AI is "an expansive and rapidly developing category…with no consensus definition and unclear boundaries."[8] By the time a bureaucracy defines what "counts" as AI, innovators have moved on. Any law risks being outdated almost as soon as it's enacted, a reality that underscores the futility of heavy-handed planning in this arena.

The Costs of Premature and Heavy-Handed Regulation

The current trajectory of state-level AI policy in the United States highlights the problem. In recent years, state legislators have introduced a patchwork of AI-related bills—more than 700 across 45 states by one count—many aiming to curb algorithmic bias preemptively, require detailed algorithm audits, or even outright ban certain AI applications.[9] This unprecedented flurry of activity represents an "unprecedented level of policy interest in preemptively regulating a new information technology," and it stands in stark contrast to the approach the U.S. adopted for the internet.[10] A generation ago, permissionless innovation was the prevailing ethos for the early internet: lawmakers chose restraint, allowing online services to flourish with minimal ex-ante (preemptive) regulation. That light-touch approach resulted in a "robust national marketplace of digital speech and commerce" and made American innovators world leaders in the tech sphere.[11] By comparison, today's reflex to regulate AI early and often risks reversing that successful formula.[12]

Heavy-handed or hasty AI regulations undermine economic growth and global AI competitiveness. AI is poised to be a major driver of productivity across industries—from healthcare and finance to manufacturing and agriculture. Overbroad rules or compliance burdens can chill investment and divert resources away from innovation. A "mother of all state regulatory patchworks" is on the horizon, which could burden startups with confusing, costly compliance requirements and "discourage entrepreneurialism and investment" in AI ventures.[13] Small and mid-sized innovators, in particular, struggle to navigate a forest full of legal obstacles, leaving only well-lawyered tech giants able to navigate the thicket. This dynamic not only harms economic dynamism but also perversely entrenches incumbent firms, reducing competition. It is a classic case of regulatory capture in the making—where established players shape and survive regulation while upstarts are kept out. Even the creation of new AI oversight agencies could backfire.

As a Mercatus Center study cautions, adding a "new opaque authority with potentially extensive power" over AI would invite capture by special interests that are "antithetical to the public interest," creating new problems while ignoring or exacerbating old ones.[14] In short, an expansive AI regulatory regime may become a playground for lobbyists and lawyers rather than a safeguard for the public.

AN EXPANSIVE AI REGULATORY REGIME MAY BECOME A PLAYGROUND FOR LOBBYISTS AND LAWYERS RATHER THAN A SAFEGUARD FOR THE PUBLIC.

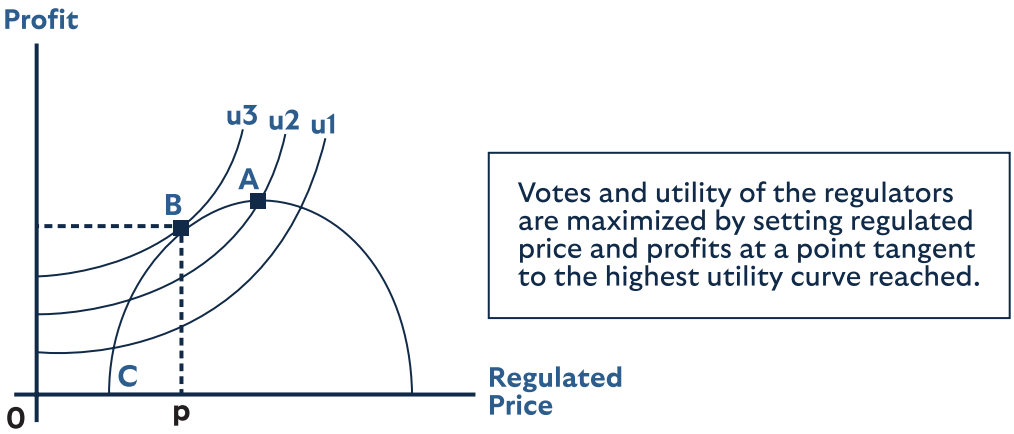
International experience validates these concerns. The European Union's recently passed AI Act represents the most comprehensive attempt at centralized AI governance—and a cautionary tale. The EU's "sweeping set of regulations" uses a risk-based approach that sounds reasonable in theory, but, in practice, its expansive definition of "high-risk" AI casts a wide net. The law can classify even general-purpose AI models as having "systemic risk" under vague criteria.[15] While meant to protect against AI harms, this approach seals Europe's fate as a digital laggard. The lesson is clear: overbearing AI rules can drive away the very innovators we need, undermining a country or state's long-term economic vitality.

Regulatory Capture and Unintended Consequences

Overregulation not only stifles innovation but also breeds bureaucratic pathologies that defeat the regulation's purpose. One of these is regulatory capture, where instead of serving the public, regulators come to serve the industry or special interests they oversee. This is a well-documented phenomenon in economic literature and a particular risk in the tech sector, where technical expertise is at a premium. Suppose a state creates, for example, an AI licensing board or an algorithm review commission. In that case, there is a real danger that such a body could be dominated by established companies or advocacy groups seeking to bend the rules in their favor. The history of telecommunications, finance, and other regulated industries shows that well-intentioned oversight bodies can be co-opted, leading to higher barriers to entry and regulations that favor the few instead of the many. In the AI context, that could mean freezing the current leaders and approaches in place and smothering the adaptive, evolutionary processes that characterize true innovation.

If states pursue sweeping regulatory frameworks rather than targeted interventions in AI, the beneficiaries will be Big Tech giants, and the losers will be consumers and innovators. When regulatory agencies wield new powers, bureaucrats become attractive targets for industry giants who have the resources and influence to access and shape regulations to their advantage. Rather than resist new compliance burdens, these incumbent firms actively lobby for unbalanced rules and enforcement, knowing that high costs bulwark their monopolies and oligopolies.

Consumers stand to lose the most, enjoying less choice and facing higher prices in a captured market. UChicago Economist Sam Pelzman famously pointed out that profits of this "regulatory cartel"—rent-seeking interest groups and career-or political-minded regulators—come at the expense of market equilibrium (Graph 1). In short, while regular citizens and disruptive founders have access to their elected lawmakers, only the most entrenched interests have access to overpowered regulators, weaponizing expansive and legally uncontested rulemaking to distort price signals and fortify market failures. As capture yields deadweight losses, suboptimal market conditions then invite a feedback loop that yields even more regulation.



Graph 5.1: Peltzman Theory of Constrained Regulator Utility Maximization

Source: James Edwards, The Economic Theory of Regulation; Regulation, the Constitution, and the Economy, chapter 5, p. 77.[15]

In this diagram, point C is the unregulated price, B is the regulated price, and A is the monopoly price. On the y-axis, profits of the regulatory cartel motivate higher prices (the x-axis), rendering deadweight losses.

Moreover, the complexity and opacity of AI systems provide convenient cover for bureaucratic overreach. Regulators might demand algorithmic "transparency" or audits, yet as researchers point out, requiring innovators to get "constant permission from a number of different regulators" at each stage of algorithm development would "ultimately backfire… by slowing innovation."[16] It creates a false sense of security—a belief that government overseers can fully understand and control AI—while, in reality, outsourcing trust to "faraway bureaucrats" introduces a new opacity.[17] The public may know even less about how decisions are made if everything goes on behind closed regulatory doors. This "transparency paradox," as the Mercatus scholars term it, means that calls for algorithmic accountability could paradoxically result in a regime that is less transparent and less accountable than the status quo.[18] And once entrenched, such a regime would be difficult to reform—as the "harder-to-reverse methods of capture" in administrative law attest.[19]

Threats to U.S. Technological Leadership

As mounting national debt poses a growing threat to America's security and economic stability, the stakes for AI innovation extend beyond market competition. The United States' position as a global leader in AI is neither guaranteed by birthright nor immortal—it stems from a long cultivated environment that rewards bold thinking and calculated risk. If that environment shifts toward an overly burdensome regulatory framework, it will invite adversarial nations, notably China, to seize global leadership. Beijing is actively channeling vast resources into AI, but for ends often at odds with American values. To maintain our technological edge and unlock AI's potential for boosting productivity—thereby helping to address our debt-driven national security challenges—America must avoid self-inflicted damage through poor policy choices. Concretely, this means ensuring that top talent, investment, and companies can thrive on American soil under rules that encourage innovation rather than suppress it. Any regulatory overreach—say, making AI deployment unworkable in healthcare or finance—will inevitably prompt entrepreneurs to seek friendlier jurisdictions, granting rivals the upper hand.

Nor is this merely a contest of economic power. AI will embody the principles of the societies that refine and deploy it, and if the United States allows rigid rules to strangle development, it risks forfeiting leadership in setting global norms. By remaining an epicenter of AI progress, America can shape these technologies in accordance with openness, transparency, and respect for personal liberties—thereby outmaneuvering authoritarian models. As Heritage Foundation analysts note, the world needs guardrails for AI that are "imbued with American values like openness," rather than leaving the field to authoritarian "AI-for-control" regimes.[20]

Thus, from both an economic and strategic standpoint, the U.S. must be wary of policies that respond to AI with the knee-jerk impulse to police and control at the expense of progress. We cannot cling to the illusion of control through burdensome regulations without jeopardizing our innovation ecosystem, global standing, and foundational values.

Government Inefficiency and the Innovation Gap

Ironically, while many governments rush to regulate AI, they often neglect opportunities to leverage AI for their own efficiency and public service improvements. The pathology of planning is evident not only in overregulation but also in the public sector's sluggish adoption of innovation. Many state agencies operate with outdated systems and processes, missing out on AI tools that could enhance government efficiency and accountability. For example, AI applications can help agencies process data faster, reduce fraud in benefit programs, handle routine inquiries via chatbots, and assist human decision-makers with insights. Yet bureaucratic inertia and fear of the unknown frequently hold back these advances.

AI APPLICATIONS CAN HELP AGENCIES PROCESS DATA FASTER, REDUCE FRAUD IN BENEFIT PROGRAMS, HANDLE ROUTINE INQUIRIES VIA CHATBOTS, AND ASSIST HUMAN DECISION-MAKERS WITH INSIGHTS.

In some cases, overly stringent rules or a lack of clear guidance prevent agencies from experimenting with AI that could improve their operations. One problem is the absence of a coherent strategy: agencies may not even be aware of all the AI tools in use across the government. No single office or official is tasked with identifying redundant efforts, unmet needs, or best practices for AI deployment in state services. This internal lack of coordination is a policy failure in its own right—a form of planning without vision. Just as central economic planning fails for lack of real-time knowledge, government modernization fails when agencies operate in silos.

The problem is two-fold: on one hand, heavy-handed AI regulation threatens to hamstring innovation, invite regulatory capture, and undermine economic growth. On the other hand, the public sector's inefficiency and failure to embrace innovation leave potential gains on the table. The pathology of planning manifests as an impulse to control what is new and a paralysis in updating what is old. Both trends jeopardize the promise of AI to enhance prosperity and public welfare. Americans require a course correction that addresses legitimate concerns without succumbing to the false allure of centralized control.

SOLUTION: A Balanced Legislative Blueprint to Spur Innovation and Protect the Public

Having diagnosed the pathology of planning in AI—overregulation that stifles innovation, bureaucratic capture, and missed opportunities for government modernization—states require a nuanced legislative strategy that targets real harms while nurturing AI-driven growth and agency efficiency. The AI Innovation and Child Protection Act presented here achieves precisely that. By (1) streamlining government operations, (2) restraining new AI-specific regulations without express legislative approval, and (3) criminalizing genuinely harmful AI uses, the Act addresses both the innovation imperative and the urgent need for concrete safeguards—particularly around child sexual abuse materials and self-harm promotion. Below is a line-by-line explanation of how each section solves the core problems outlined in Section II.

Government Efficiency and Modernization

Section 4. Government Efficiency and Modernization

(a) The Governor shall direct state agencies to:
  (1) Identify opportunities to implement AI solutions that reduce administrative burdens;
  (2) Eliminate regulations that unnecessarily restrict AI innovation; and
  (3) Streamline procurement processes to enable AI adoption.
(b) Agency implementation of AI systems shall:
  (1) Focus on reducing costs and improving service delivery;
  (2) Not create new regulatory requirements solely applicable to private sector AI development; and
  (3) Utilize existing staff and resources without creating new administrative bodies.

Why It Matters

States often miss the chance to modernize their agencies, bogged down by archaic processes and risk aversion. This section directs an active pivot:

- Agencies must incorporate AI to cut costs and slash red tape.
- They cannot complicate private-sector AI adoption by introducing extra licensing boards or "pilot fees"—incentivizing them to be facilitators, not obstructionists.
- They must rely on existing staff and resources as a check against ballooning bureaucracy.

This arrangement addresses the innovation gap in the public sector, ensuring that AI-based reform is championed by the governor's office rather than entangled in new layers of oversight. The slashing of unnecessary AI barriers parallels success stories like Idaho's regulatory reset.[21-22]

Virginia, in particular, leads in the piloting of AI among government agencies as well as establishing clear governance and procurement procedures for state government deployment. By compelling agencies to actively prune outdated rules, section four fosters a clear, innovation-friendly climate.

Regulatory Limitations

Section 5. Regulatory Limitations

(a) Proposed rules must only regulate, test, or assess AI generated outcomes, and may not require preemptive review of source code, models, algorithms, training data, or similar information prior to an AI tool or service being deployed or used for commercial or noncommercial purposes.
(b) No government entity may promulgate rules specifically regulating AI or computational technologies unless:
  (1) The legislature provides an express statutory delegation to address a specific harm;
  (2) Proposed rules are the least restrictive means available to achieve the statutory objective;
  (3) Benefits clearly outweigh impacts on innovation and competition; and
  (4) Rules do not create barriers to market entry or advantage incumbent firms.

(c) All agencies shall:
    (1) Review existing regulations affecting AI development to identify instances of regulatory capture or negative impacts on competition and innovation; and
    (2) Modify or eliminate any AI regulation that creates unreasonable barriers to AI innovation.
(d) Any emergency or temporary rule specifically regulating AI or computational technology shall be approved by the legislature subject to the following conditions:
    (1) All such rules in effect at the beginning of a legislative session must receive a ratifying vote in order for the regulation to remain in effect at the conclusion of the legislative session; and
    (2) The state legislature shall schedule a vote on the floor of each house to ratify all such rules within the first thirty (30) days of the legislative session; and
    (3) The state legislature shall not require more than a simple majority vote to ratify a rule.

Why It Matters

A Core Fix to the Problem of Top-Down AI Planning

Rather than allowing agencies spontaneously to overregulate under ambiguous mandates, our model restricts new AI rules unless the legislature has explicitly identified a real, specific harm. By demanding that "benefits clearly outweigh impacts," the Act effectively sets up a cost-benefit test akin to robust economic scrutiny. Simultaneously, it blocks regulatory capture by requiring that rules "do not create barriers to market entry or advantage incumbents."

Additionally, any "emergency rule" must be ratified quickly, preventing indefinite placeholders from slipping into permanence. This principle comports with many successful state reforms, where deregulatory sunsets force a reevaluation of each rule's necessity. Consequently, our model erects a strong bulwark against reactionary or captured rulemaking, ensuring that market competition and innovation remain paramount.

Criminal Law

Section 6. Criminal Law

(a) Nothing in this Act prevents state or local law enforcement from applying current criminal and civil laws against activity facilitated by an Artificial intelligence system.
(b) It shall not be a defense to criminal activity that the actor used an artificial intelligence system to commit the criminal act.

Why It Matters

This clarifies that existing penal codes still hold criminals accountable, even if AI is involved. If an individual orchestrates fraud, identity theft, or harassment via an AI tool, traditional statutes remain in play. That approach obviates the need for a separate "AI penal code," alleviating concerns that new legislation might complicate existing enforcement or let criminals claim "the AI did it." By reinforcing that AI is merely another instrument, our model strengthens public safety without redundant legal expansions—mirroring successes in states that rely on existing laws to cover emerging crimes.

Certain Sexually Explicit Videos, Images

Section 7. Certain Sexually Explicit Videos, Images, Child Pornography, Promotion of Self Harm, and Censorship of Political Speech

(a) Unlawful Distribution of Non-Consensual Synthetic Sexual Material.

(1) In this section:
  (A) "Synthetic Sexual Material" means visual material, as defined in the [relevant state code], that has been created, altered, or manipulated through the use of artificial intelligence systems or other digital methods to realistically depict a particular person.
  (B) "Intimate parts" has the meaning assigned by [relevant state code].

(2) A person commits an offense if:
  (A) without the effective consent of the depicted person, the person distributes, transmits, or otherwise makes available Synthetic Sexual Material that realistically depicts another person;
  (B) at the time of the distribution or transmission, the person knows or has reason to believe that the Synthetic Sexual Material was created or altered without the knowledge or consent of the depicted person and under circumstances in which the depicted person had a reasonable expectation of privacy; and
  (C) the distribution of the Synthetic Sexual Material causes harm to the depicted person or is intended to cause such harm.

(3) A person commits an offense if the person intentionally threatens to distribute, without the consent of the depicted person, Synthetic Sexual Material that depicts the person with the person's intimate parts exposed or engaged in sexual conduct and makes the threat to obtain a benefit:
  (A) in return for not making the disclosure; or
  (B) in connection with the threatened disclosure.

(4) A person commits an offense if, knowing the character and content of the Synthetic Sexual Material, the person promotes such material on an Internet website, social media, or other digital platform.

(5) It is not a defense to prosecution under this section that the depicted person:
  (A) created or consented to the creation of the Synthetic Sexual Material, unless the depicted person is the one who distributes, transmits, or otherwise makes the material available for lawful purposes; or
  (B) voluntarily transmitted the Synthetic Sexual Material to the actor.

(6) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if committed with the intent to extort, harass, or intimidate the depicted person.

(7) If conduct that constitutes an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

(8) A victim of an offense under this section may bring a civil action to recover damages, including mental anguish, court costs, and reasonable attorney's fees.

Why It Matters

Deepfake revenge porn is a real, expanding threat, especially with modern generative models producing lifelike sexual images from minimal data. This clause criminalizes AI-based sexual violations, ensuring offenders cannot hide behind claims of "fictional content." By giving victims a civil cause of action, it also empowers them to seek damages promptly.

Child Pornography

Section 8. Unlawful Distribution of Synthetic child pornography. [relevant state code], is amended to read as follows

(1) A person commits an offense under this section if the person:
  (A) knowingly or intentionally uses an artificial intelligence system to generate or create visual material described by Subsection (a)(1); or
  (B) knowingly or intentionally possesses or promotes visual material that the person knows was generated by an artificial intelligence system and depicts a child as described by Subsection (a)(1), regardless of whether:
  (C) the offense is subject to the same penalties provided under Subsections (d), (d-1), and (d-2).

Why It Matters

Standard child pornography laws often presume an actual human minor's involvement, potentially leaving loopholes for AI-generated images. This section explicitly outlaws synthetic child sexual imagery. The stiff penalties effectively close that loophole, protecting minors (real or hypothetical) and stopping predators who exploit new AI tools.

Child Pornography Continued and Promotion of Self Harm

Section 9. Unlawful Development or Distribution of Artificial Intelligence Applications Intended to create, distribute, or promote child pornography.

(1) A person commits an offense if the person:
  (A) Knowingly develops or distributes an Artificial Intelligence Application specifically designed to create, distribute, or promote child pornography or to create, distribute, or promote synthetic child pornography; and
  (B) Does so with the intent that the application be used by others to create, distribute, or promote child pornography or materials described in [relevant state code] or with knowledge that it will be used for that purpose.
(2) This section does not apply to:
  (A) Instances where the Artificial Intelligence Application produces content that promotes child pornography or child pornography solely as a result of user prompts or inputs, without the developer's intent to encourage such outputs;
  (B) Educational or research institutions conducting bona fide research with appropriate safeguards and oversight;
  (C) Law enforcement activities authorized under state or federal law.
(3) An offense under this section is a felony of the third degree.
(4) A victim of an offense under this section may bring a civil action to recover damages, including mental anguish, court costs, and reasonable attorney's fees.

Section 10. Unlawful Development or Distribution of Artificial Intelligence Applications Intended to Promote Self-Harm

(1) A person commits an offense if the person:
  (A) Knowingly develops or distributes an Artificial Intelligence Application specifically designed to promote self-harm; and
  (B) Does so with the intent that the application be used by others to promote self-harm or with knowledge that it will be used for that purpose.
(2) This section does not apply to:
  (A) Instances where the Artificial Intelligence Application produces content that promotes self-harm solely as a result of user prompts or inputs, without the developer's intent to encourage such outputs;
  (B) Licensed medical practitioners providing legitimate medical or therapeutic services;
  (C) Educational or research institutions conducting bona fide research with appropriate safeguards and oversight;
  (D) Law enforcement activities authorized under state or federal law.
(3) An offense under this section is a felony of the third degree.
(4) A victim of an offense under this section may bring a civil action to recover damages, including mental anguish, court costs, and reasonable attorney's fees.

Why It Matters

Sections (c) and (d) clamp down on the supply side of malicious AI apps. By extending liability to those who intentionally build and distribute tools enabling child pornography or self-harm promotion, the Act deters would-be creators of harmful software. At the same time, legitimate mental health uses are exempted, preserving therapeutic AI that actually prevents self-harm.

Censorship of Political Speech

Section 11. Prohibition of Censorship of Political Speech by Interactive Computer Services Using Artificial Intelligence

(1) An Interactive Computer Service (as defined in 47 U.S.C. Section 230) may not, through the use of an Artificial Intelligence Algorithm:
  (A) Block, ban, remove, de-platform, demonetize, de-boost, restrict, or otherwise discriminate against a user based on the user's Political Speech;
  (B) Modify or manipulate a user's content or postings for the purpose of censoring Political Speech.
(2) The prohibition applies regardless of whether the service's actions are automated or conducted with human oversight
(3) Exceptions: This section does not apply to speech that would otherwise be Political Speech but that:
  (A) Is illegal under federal or state law;
  (B) Constitutes a credible threat of violence or incitement to imminent lawless action;
  (C) Contains obscene material as defined by Section XX the [State] Criminal Code; or
  (D) Violates intellectual property rights under applicable law.

(4) The attorney general may bring an action to enforce this section and seek civil penalties of up to $10,000 for each violation.
(5) This section shall be construed to be consistent with federal statutes, including 47 U.S.C. Section 230, and the United States Constitution.

Why It Matters

Finally, AI-based content moderation can silence views or stoke biases in online discussions. This subsection bans viewpoint-based discrimination when AI is used, simultaneously carving out exceptions for illegal or violent materials. For a democracy reliant on open debate, this ensures robust speech remains protected, preventing unaccountable machine-learning systems from de-ranking or demonetizing certain political perspectives. By imposing civil penalties, Section 7(e) enforces meaningful compliance without crippling a platform's capacity to remove truly unlawful content.

Liability Protection for AI Application Developers

Section 12. Liability protection for developers of AI tools and systems of general applicability when such tools are used for illegal or illicit activities.

(1) Except as provided under paragraph (c), (d), and (f)(2) of this section, the developer of an AI application, tool, or system shall not be liable for damages arising from the use of an AI application, tool, or system when a third-party user did so with the intent to utilize the AI for illegal or illicit activities or intent to cause harm, unless
(2) the AI application, tool or system
    (a) was developed with the knowledge or intent that the primary purpose of the AI application, tool or system would be for illegal or illicit activities, or
    (b) developer should have known that the primary use of the tool would be for illegal or illicit purposes.

Why it Matters

Lawsuits arising from third-party actions may stifle innovation and limit the AI tools that are put into the market. It is not reasonable to expect developers to predict every scenario for which end users may use an AI tool, especially those that serve a broad or general purpose, such as LLMs. Most recognize that cars and kitchen knives have great utilitarian purposes, but in the hands of the wrong user, can be weapons deployed to inflict damage. Similarly, there are a multitude of ways an AI application, tool, or system could be used for illegal or illicit activities resulting in harm. America's product liability framework is well developed elsewhere—for physician tools, cars, knives, etc.—actions by a third party using tools for illegal activities will not result in liability to the creator of that tool. The same reasoning applies in AI. States can make clear that AI app developers should be provided the same protection, with limited exceptions, such as if that tool was developed with the primary purpose of being used for illegal or illicit activity.

Preemption and Severability

Section 13. Preemption and Severability

(a) This act supersedes and preempts any conflicting local regulations.
(b) If any provision of this act is held invalid, the remainder shall continue in effect.

Why It Matters

Minimizing patchwork regulation is essential. States that allow localities to adopt contradictory AI ordinances confuse agencies and startups. By preempting local rules on AI, the Act creates a stable statewide environment, akin to how many states handle ride-sharing or telehealth. The severability clause ensures that if a court strikes one part, the rest remains intact—thereby preventing legal challenges from unraveling the entire framework.

CONCLUSION: Fostering Innovation While Guarding Against Regulatory Pitfalls

The AI Innovation and Child Protection Act presented herein stands as a coherent, action-oriented framework for state policymakers grappling with both the promise and the perils of AI. Its hallmark is precision—encouraging economic dynamism and modernization in section four, limiting overregulation via section five, leveraging existing criminal laws in section six, and surgically outlawing malicious AI uses in section seven. By expanding the public sector's own AI adoption, it converts state government from an inhibitor to a champion of innovation, all while blocking the destructive potential of so-called "deepfake" sexual content, AI-facilitated child pornography, and self-harm applications.

In direct response to the pathology of central planning, this Act shields entrepreneurs from capricious rules, empowers agencies to adopt AI responsibly, and protects citizens from malicious AI-based threats. In short, it carefully targets specific, demonstrable harms without stifling the free development of AI. For states aiming to retain their economic leadership, ensure public safety, and preserve American competitiveness in AI, the AI Innovation and Child Protection Act serves as a practical, flexible solution—one that unlocks AI's vast potential while addressing legitimate fears.

APPENDIX:

Model Bill

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Model State AI Innovation and Child Protection Act

Section 1. Title

This act may be cited as the "AI Innovation and Child Protection Act."

Section 2. Findings

(a) Existing regulatory frameworks often create unnecessary barriers to AI development and deployment;
(b) State agencies can improve efficiency through AI adoption while reducing regulatory burdens.

Section 3. Definitions

(a) "Artificial intelligence system" means any machine learning-based system that can, for a given set of objectives, generate outputs such as content, predictions, recommendations, or decisions influencing physical or virtual environments.
(b) "Computational resources" means any tools, technologies, systems, or infrastructure, whether digital, analog, or quantum, that facilitate computation, data processing, storage, transmission, manipulation, or use of information.
(c) "Government entity" means any state agency, department, board, commission, or other unit of state government.
(d) "Content" means any digitally generated, manipulated, or synthesized text, images, audio, video, three-dimensional models, interactive elements, or combination thereof that can be produced as output by an artificial intelligence system.

Section 4. Government Efficiency and Modernization

(a) The Governor shall direct state agencies to:
    (1) Identify opportunities to implement AI solutions that reduce administrative burdens;
    (2) Eliminate regulations that unnecessarily restrict AI innovation; and
    (3) Streamline procurement processes to enable AI adoption.
(b) Agency implementation of AI systems shall:
    (1) Focus on reducing costs and improving service delivery;
    (2) Not create new regulatory requirements solely applicable to private sector AI development; and
    (3) Utilize existing staff and resources without creating new administrative bodies.

Section 5. Regulatory Limitations

(a) Proposed rules must only regulate, test, or assess AI generated outcomes, and may not require preemptive review of source code, models, algorithms, training data, or similar information prior to an AI tool or service being deployed or used for commercial or noncommercial purposes.
(b) No government entity may promulgate rules specifically regulating AI or computational technologies unless:
    (1) The legislature provides an express statutory delegation to address a specific harm;
    (2) Proposed rules are the least restrictive means available to achieve the statutory objective;
    (3) Benefits clearly outweigh impacts on innovation and competition; and
    (4) Rules do not create barriers to market entry or advantage incumbent firms.
(c) All agencies shall:
    (1) Review existing regulations affecting AI development to identify instances of regulatory capture or negative impacts on competition and innovation; and
    (2) Modify or eliminate any AI regulation that creates unreasonable barriers to AI innovation.
(d) Any emergency or temporary rule specifically regulating AI or computational technology shall be approved by the legislature subject to the following conditions:
    (1) All such rules in effect at the beginning of a legislative session must receive a ratifying vote in order for the regulation to remain in effect at the conclusion of the legislative session; and
    (2) The state legislature shall schedule a vote on the floor of each house to ratify all such rules within the first thirty (30) days of the legislative session; and
    (3) The state legislature shall not require more than a simple majority vote to ratify a rule.

Section 6. Criminal Law

(a) Nothing in this Act prevents state or local law enforcement from applying current criminal and civil laws against activity facilitated by an Artificial intelligence system.
(b) It shall not be a defense to criminal activity that the actor used an artificial intelligence system to commit the criminal act.

Section 7. Certain Sexually Explicit Videos, Images, Child Pornography, Promotion of Self Harm, and Censorship of Political Speech

(a) Unlawful Distribution of Non-Consensual Synthetic Sexual Material.

(1) In this section:
    (A) "Synthetic Sexual Material" means visual material, as defined in the [relevant state code], that has been created, altered, or manipulated through the use of

artificial intelligence systems or other digital methods to realistically depict a particular person.

(B) "Intimate parts" has the meaning assigned by [relevant state code].

(2) A person commits an offense if:

(A) without the effective consent of the depicted person, the person distributes, transmits, or otherwise makes available Synthetic Sexual Material that realistically depicts another person;

(B) at the time of the distribution or transmission, the person knows or has reason to believe that the Synthetic Sexual Material was created or altered without the knowledge or consent of the depicted person and under circumstances in which the depicted person had a reasonable expectation of privacy; and

(C) the distribution of the Synthetic Sexual Material causes harm to the depicted person or is intended to cause such harm.

(3) A person commits an offense if the person intentionally threatens to distribute, without the consent of the depicted person, Synthetic Sexual Material that depicts the person with the person's intimate parts exposed or engaged in sexual conduct and makes the threat to obtain a benefit:

(A) in return for not making the disclosure; or

(B) in connection with the threatened disclosure.

(4) A person commits an offense if, knowing the character and content of the Synthetic Sexual Material, the person promotes such material on an Internet website, social media, or other digital platform.

(5) It is not a defense to prosecution under this section that the depicted person:

(A) created or consented to the creation of the Synthetic Sexual Material, unless the depicted person is the one who distributes, transmits, or otherwise makes the material available for lawful purposes; or

(B) voluntarily transmitted the Synthetic Sexual Material to the actor.

(6) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if committed with the intent to extort, harass, or intimidate the depicted person.

(7) If conduct that constitutes an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

(8) A victim of an offense under this section may bring a civil action to recover damages, including mental anguish, court costs, and reasonable attorney's fees.

Section 8. Unlawful Distribution of Synthetic child pornography. [relevant state code], is amended to read as follows

(1) A person commits an offense under this section if the person:

(A) knowingly or intentionally uses an artificial intelligence system to generate or create visual material described by Subsection (a)(1); or

(B) knowingly or intentionally possesses or promotes visual material that the person knows was generated by an artificial intelligence system and depicts a child as described by Subsection (a)(1), regardless of whether:

(C) the offense is subject to the same penalties provided under Subsections (d), (d-1), and (d-2).

Section 9. Unlawful Development or Distribution of Artificial Intelligence Applications Intended to create, distribute, or promote child pornography.

(1) A person commits an offense if the person:
  (A) Knowingly develops or distributes an Artificial Intelligence Application specifically designed to create, distribute, or promote child pornography or to create, distribute, or promote synthetic child pornography; and
  (B) Does so with the intent that the application be used by others to create, distribute, or promote child pornography or materials described in [relevant state code] or with knowledge that it will be used for that purpose.
(2) This section does not apply to:
  (A) Instances where the Artificial Intelligence Application produces content that promotes child pornography or child pornography solely as a result of user prompts or inputs, without the developer's intent to encourage such outputs;
  (B) Educational or research institutions conducting bona fide research with appropriate safeguards and oversight;
  (C) Law enforcement activities authorized under state or federal law.
(3) An offense under this section is a felony of the third degree.
(4) A victim of an offense under this section may bring a civil action to recover damages, including mental anguish, court costs, and reasonable attorney's fees.

Section 10. Unlawful Development or Distribution of Artificial Intelligence Applications Intended to Promote Self-Harm

(1) A person commits an offense if the person:
  (A) Knowingly develops or distributes an Artificial Intelligence Application specifically designed to promote self-harm; and
  (B) Does so with the intent that the application be used by others to promote self-harm or with knowledge that it will be used for that purpose.
(2) This section does not apply to:
  (A) Instances where the Artificial Intelligence Application produces content that promotes self-harm solely as a result of user prompts or inputs, without the developer's intent to encourage such outputs;
  (B) Licensed medical practitioners providing legitimate medical or therapeutic services;
  (C) Educational or research institutions conducting bona fide research with appropriate safeguards and oversight;
  (D) Law enforcement activities authorized under state or federal law.
(3) An offense under this section is a felony of the third degree.
(4) A victim of an offense under this section may bring a civil action to recover damages, including mental anguish, court costs, and reasonable attorney's fees.

Section 11. Prohibition of Censorship of Political Speech by Interactive Computer Services Using Artificial Intelligence

(1) An Interactive Computer Service (as defined in 47 U.S.C. Section 230) may not, through the use of an Artificial Intelligence Algorithm:
    (A) Block, ban, remove, de-platform, demonetize, de-boost, restrict, or otherwise discriminate against a user based on the user's Political Speech;
    (B) Modify or manipulate a user's content or postings for the purpose of censoring Political Speech.
(2) The prohibition applies regardless of whether the service's actions are automated or conducted with human oversight
(3) Exceptions: This section does not apply to speech that would otherwise be Political Speech but that:
    (A) Is illegal under federal or state law;
    (B) Constitutes a credible threat of violence or incitement to imminent lawless action;
    (C) Contains obscene material as defined by Section XX the [State] Criminal Code; or
    (D) Violates intellectual property rights under applicable law.
(4) The attorney general may bring an action to enforce this section and seek civil penalties of up to $10,000 for each violation.
(5) This section shall be construed to be consistent with federal statutes, including 47 U.S.C. Section 230, and the United States Constitution.

Section 12. Liability protection for developers of AI tools and systems of general applicability when such tools are used for illegal or illicit activities.

(1) Except as provided under paragraph (c), (d), and (f)(2) of this section, the developer of an AI application, tool, or system shall not be liable for damages arising from the use of an AI application, tool, or system when a third-party user did so with the intent to utilize the AI for illegal or illicit activities or intent to cause harm, unless
(2) the AI application, tool or system
    (a) was developed with the knowledge or intent that the primary purpose of the AI application, tool or system would be for illegal or illicit activities, or
    (b) developer should have known that the primary use of the tool would be for illegal or illicit purposes.

Section 13. Preemption and Severability

(a) This act supersedes and preempts any conflicting local regulations.
(b) If any provision of this act is held invalid, the remainder shall continue in effect.

Section 14. Effective Date

This act shall take effect immediately upon passage.

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