136th General Assembly

Regular Session   **H. B. No. 628**

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Representative Mathews, T.

Cosponsors: Representatives Ritter, Hall, T., Deeter, Fischer

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To enact sections 3755.01, 3755.02, 3755.03,	1
3755.04, 3755.041, 3755.05, 3755.06, 3755.07,	2
3755.08, 3755.09, 3755.091, 3755.10, 3755.11,	3
and 3755.12 of the Revised Code to create an	4
independent verification organization license	5
for verifying artificial intelligence risk	6
mitigation.	7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3755.01, 3755.02, 3755.03,	8
3755.04, 3755.041, 3755.05, 3755.06, 3755.07, 3755.08, 3755.09,	9
3755.091, 3755.10, 3755.11, and 3755.12 of the Revised Code be	10
enacted to read as follows:	11
Sec. 3755.01. As used in this chapter:	12
(A) "Artificial intelligence application" means a software	13
program or system that uses artificial intelligence models to	14
perform tasks that typically require human intelligence.	15
(B) "Artificial intelligence model" means an engineered or	16
machine-based system that can, for explicit or implicit	17
objectives, infer from the input it receives how to generate	18
outputs that can influence physical or virtual environments.	19

(C)(1) "Deployer" means a person or entity that implements, integrates, or makes operational an artificial intelligence model or artificial intelligence application within this state.

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(2) "Deployer" includes a person or entity that makes an artificial intelligence model or artificial intelligence application available for use by others within this state, whether directly or as part of a product or service.

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(D) "Developer" means a person or entity who develops an artificial intelligence model or artificial intelligence application that is deployed in this state.

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(E) "Independent verification organization" means an entity licensed by the attorney general pursuant to section 3755.03 of the Revised Code to assess artificial intelligence models' or applications' adherence to standards reflecting best practices for the prevention of personal injury and property damage.

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(F) "Security vendor" means a third-party entity engaged by an independent verification organization or developer to evaluate the safety or security of an artificial intelligence model or artificial intelligence application, using processes such as red teaming, risk detection, and risk mitigation.

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Sec. 3755.02. An application for an independent verification organization license shall be made by filing with the attorney general the information, materials, and forms specified in rules adopted by the attorney general, along with a plan detailing all of the following information:

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(A)(1) The risk or risks with respect to which the applicant intends to verify that artificial intelligence models

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or artificial intelligence applications achieve acceptable   49

levels of mitigation;   50

(2) For each risk detailed in division (A)(1) of this   51

section, a proposed definition of acceptable levels of   52

mitigation, along with all of the following: 53

(a) Measurable outcome metrics that are reasonable proxies   54

for the attainment of acceptable levels of risk mitigation;   55

(b) Baselines and targets for outcome metrics described in   56

division (A)(1)(a) of this section, identified data sources, and   57

specific measurement methods;   58

(c) A description of the evaluation and reporting protocol   59

the independent verification organization will use to determine   60

whether verified artificial intelligence models or artificial   61

intelligence applications meet the outcome metrics described in   62

division (A)(1)(a) of this section on an ongoing basis.   63

(B) Proposed technical and operational requirements for   64

developers or deployers, including procedures for both pre-   65

development and post-development, to ensure that an artificial   66

intelligence model or artificial intelligence application   67

achieves acceptable levels of risk mitigation, including   68

requirements for both of the following: 69

(1) Ongoing monitoring of risks;   70

(2) Ongoing assessment of the efficacy of mitigation   71

measures.   72

(C) The methodologies and sources the applicant proposes   73

using to evaluate its technical and operational requirements'   74

efficacy for ensuring acceptable risk mitigation and for   75

updating those requirements to address identified gaps or   76

deficiencies;   77

(D) The benchmarks, technologies, and audit methodologies the applicant proposes using to verify developers' and deployers' adherence to its technical and operational requirements;   78 79 80 81

(E) The applicant's approach to ensuring continual good standing of a verified entity, including by reviewing and assessing the developer's or deployer's maintenance of artificial intelligence governance plans and policies, processes for risk monitoring and mitigation, whistleblower protections, and training for employees and third parties;   82 83 84 85 86 87

(F) The applicant's proposed requirements for developers or deployers to disclose to the applicant detected risks, incident reports, or material changes to the risk profile of the model or application, including risks detected prior to verification and risks resulting from fine-tuning or modifying an artificial intelligence model or artificial intelligence application after verification;   88 89 90 91 92 93 94

(G) The applicant's proposed procedure for prescribing and verifying implementation of corrective action to remedy an identified failure by a developer or deployer to do any of the following: 95 96 97 98

(1) Achieve acceptable risk mitigation with respect to an artificial intelligence application or artificial intelligence model;   99 100 101

(2) Comply with any other requirements promulgated by the applicant;   102 103

(3) Comply with the developer's or deployer's artificial intelligence governance plans and policy.   104 105

(H) The applicant's proposed standards and procedures for revoking the verification of artificial intelligence models or artificial intelligence applications for noncompliance with the applicant's requirements, failure to achieve acceptable levels of risk mitigation, or noncompliance with the developer's or deployer's artificial intelligence governance plans and policies; 106 107 108 109 110 111 112

(I) Whether the applicant proposes providing verification for one or more particular actual or potential artificial intelligence industry market segments and, if so, how the elements of the applicant's plans are tailored to any unique attributes of that market segment; 113 114 115 116 117

(J) The applicant's plan for interfacing and coordinating effectively with federal and state authorities; 118 119

(K) The applicant's personnel and the qualifications of those personnel; 120 121

(L) Whether the applicant's proposed risk mitigation procedures described in division (B) of this section will involve the use of security vendors. 122 123 124

(M) The applicant's governance policies, sources of funding, and policies to ensure its independence in carrying out its responsibilities under this chapter. 125 126 127

(N) Any other information the attorney general requires. 128

Sec. 3755.03. (A) The attorney general may license an applicant as an independent verification organization if the attorney general determines both of the following: 129 130 131

(1) That the applicant has demonstrated its independence from the artificial intelligence industry; 132 133

(2) That every element of the applicant's plan required   134
under section 3755.02 of the Revised Code is adequate to ensure   135
that artificial intelligence models or artificial intelligence   136
applications verified pursuant to the plan will mitigate to an   137
acceptable level one or more risks for which the applicant   138
proposes conducting verification.   139

(B) If an applicant proposes conducting verification for a   140
particular artificial intelligence market segment, the attorney   141
general shall, in determining the plan's adequacy, account for   142
the characteristics of the relevant market segment.   143

(C) If the attorney general finds that an applicant's plan   144
under section 3755.02 of the Revised Code adequately mitigates   145
some, but not all, of the proposed risks, the applicant shall be   146
licensed to verify only those risks for which the plan is deemed   147
adequate.   148

(D)(1) In licensing an independent verification   149
organization, the attorney general shall expressly and   150
specifically identify the risks for which the independent   151
verification organization is licensed to conduct verification.   152

(2) If the independent verification organization proposes   153
conducting verification for one or more specific market   154
segments, the attorney general shall expressly and specifically   155
identify the market segments for which the independent   156
verification organization is licensed to conduct verification.   157

Sec. 3755.04. The attorney general shall revoke an   158
independent verification organization's license if the attorney   159
general determines any of the following: 160

(A) The independent verification organization's plan is   161
materially misleading or inaccurate.   162

(B) The independent verification organization fails to 163
adhere to its plan in a manner that materially impairs its 164
ability to fulfill its responsibilities, including failure to 165
adhere to the plan's procedures for ongoing monitoring of 166
verified artificial intelligence models or applications and 167
implementation of corrective action. 168

(C) A material change compromises the independent 169
verification organization's independence from the artificial 170
intelligence industry. 171

(D) Evolution of technology renders the independent 172
verification organization's methods obsolete for ensuring 173
acceptable levels of the risk the attorney general has 174
designated the independent verification organization to verify. 175

(E) An artificial intelligence model or artificial 176
intelligence application verified by the independent 177
verification organization causes a material harm of the type the 178
independent verification organization seeks to prevent by 179
establishing acceptable risk levels. 180

Sec. 3755.041. Notwithstanding section 3755.04 of the 181
Revised Code, if the attorney general determines that the public 182
interest so requires, the attorney general may provide an 183
independent verification organization with an opportunity to 184
cure the basis for revocation before revoking the independent 185
verification organization's license. 186

Sec. 3755.05. (A) The attorney general shall establish 187
reasonable application fees and annual renewal fees for 188
independent verification organizations licensed under this 189
chapter sufficient to offset the costs incurred by the attorney 190
general in administering this chapter. 191

(B) All fees assessed pursuant to this section shall be   192
made payable to the attorney general.   193

(C) All fees collected pursuant to this section shall be   194
used only to pay for the following: 195

(1) Processing of applications for independent   196
verification organization licensure;   197

(2) Auditing of licensed independent verification   198
organizations;   199

(3) Payment of members of the artificial intelligence   200
safety advisory council;   201

(4) Other costs arising from the administration of this   202
chapter.   203

Sec. 3755.06. (A) The artificial intelligence safety   204
advisory council is established in the office of the attorney   205
general, in conjunction with the auditor of state. The attorney   206
general shall, after consulting with the auditor of state,   207
determine the appropriate size of the council and appoint all   208
members.   209

(B) The attorney general may convey powers and duties   210
provided to the attorney general under this chapter to the   211
advisory council, including licensing independent verification   212
organizations.   213

(C) The advisory council shall include at least one member   214
representing the interests of civil society, including non-   215
governmental organizations, educational and research   216
institutions, public policy institutes, or consumer and business   217
advocacy organizations.   218

(D) All members of the advisory council shall do all of   219

the following: 220

(1) Remain free from undue influence and from taking any   221
action that could compromise their ability to carry out their   222
responsibilities under this chapter or otherwise cast doubt on   223
their ability to independently assess artificial intelligence   224
models or artificial intelligence applications;   225

(2) Refrain from any action or occupation, whether gainful   226
or not, incompatible with their duties, including employment by   227
a developer or deployer of an artificial intelligence model or   228
artificial intelligence application;   229

(3)(a) Refrain from owning or acquiring any equity or   230
other interest, directly or indirectly, in any company whose   231
business consists in significant part of developing or deploying   232
artificial intelligence models or artificial intelligence   233
applications.   234

(b) Division (D)(3)(a) of this section does not apply to   235
equity acquired via a mutual fund or an exchange traded fund.   236

(4) Be precluded from accepting employment from an entity   237
licensed or seeking licensure as an independent verification   238
organization, or from an artificial intelligence model or   239
artificial intelligence application developer or deployer, for a   240
period of one year after leaving the advisory council;   241

(5) Have the required qualifications, experience, and   242
skills to perform their duties, including evaluating whether the   243
plan provided by an applicant for an independent verification   244
organization license ensures acceptable risk mitigation, and   245
determining standards for evaluating the plans of applicants.   246

(E) No member of the advisory council may serve for more   247
than two consecutive terms.   248

(F) Each member of the advisory council shall receive the   249
member's actual and necessary expenses incurred in the discharge   250
of the member's duties. Each member may also receive a salary   251
for carrying out their duties under this chapter.   252

(G) Members of the advisory council may be removed by the   253
attorney general for inefficiency, neglect of duty, or   254
malfeasance of office.   255

(H) A majority of the members of the advisory council   256
constitute a quorum, and a concurrence of a majority of a quorum   257
is sufficient for its determination.   258

(I) The advisory council shall keep a record of its   259
proceedings, including all considerations relating to the   260
issuance, refusal, renewal, and revocation of independent   261
verification organization licensure.   262

(J) The advisory council shall publish redacted versions   263
of reports issued by independent verification organizations to   264
the attorney general's web site.   265

  Sec. 3755.07. (A) An independent verification organization   266
licensed pursuant to this chapter shall implement the plan   267
submitted to the attorney general to verify artificial   268
intelligence models' or artificial intelligence applications'   269
ongoing mitigation of risks for which the independent   270
verification organization is licensed to verify.   271

(B) Nothing in this chapter requires an artificial   272
intelligence model or artificial intelligence application to   273
seek verification from an independent verification organization.   274

  Sec. 3755.08. An independent verification organization   275
licensed pursuant to this chapter shall revoke the verification   276
of any artificial intelligence model or artificial intelligence   277

application whose developer or deployer fails to do any of the following: 278 279

(A) Meet the requirements prescribed by the independent verification organization; 280 281

(B) Cooperate with the independent verification organization's ongoing monitoring; 282 283

(C) Adhere to its artificial intelligence governing policies or plans; 284 285

(D) Implement corrective actions prescribed by the independent verification organization. 286 287

Sec. 3755.09. (A) An independent verification organization licensed pursuant to this chapter may, at any time, do any of the following: 288 289 290

(1) Update or modify: 291

(a) Technical and operational requirements; 292

(b) Evaluation benchmarks; 293

(c) Audit methodologies; 294

(d) Governance plans; 295

(e) Any other element of its plan in order to take advantage of improved technology. 296 297

(2) Address issues previously discovered; 298

(3) Otherwise enhance the efficacy of its verification activities. 299 300

(B) An independent verification organization shall provide written notice to the attorney general of any material changes under division (A) of this section. The independent verification 301 302 303

organization shall describe the proposed changes, the rationale 304
for the proposed changes, and an explanation of how the proposed 305
changes will better enable the independent verification 306
organization to ensure acceptable mitigation of the relevant 307
risks. 308

(C) An independent verification organization may implement 309
changes proposed under division (A) of this section upon 310
delivery of the written notice required by division (B) of this 311
section. 312

Sec. 3755.091. (A) The attorney general may, within six 313
months after receiving notice of proposed changes under division 314
(B) of section 3755.09 of the Revised Code, request additional 315
information from the independent verification organization 316
regarding the proposed changes or may issue a written notice 317
denying the changes in whole or in part, if the attorney general 318
determines that the proposed changes are inadequate to ensure 319
acceptable mitigation of the relevant risks or are otherwise 320
inconsistent with the goals of this chapter. 321

(B) If the attorney general rejects the changes under 322
division (A) of this section, the independent verification 323
organization has 30 days to modify its plan to comply with the 324
attorney general's determination and to assess whether 325
artificial intelligence models or artificial intelligence 326
applications assessed under the previous plan must be 327
reassessed. 328

Sec. 3755.10. (A) An independent verification organization 329
shall submit an annual report to the general assembly, the 330
attorney general, and the auditor of state. The report shall be 331
filed at the time and in the form prescribed by the attorney 332
general, shall be duly verified, and shall cover the yearly 333

period fixed by the attorney general. The report shall include 334
all of the following: 335

(1) Aggregated information on the capabilities of the 336
artificial intelligence models and artificial intelligence 337
applications evaluated by the independent verification 338
organization, the observed societal risks and benefits 339
associated with those capabilities, and the potential societal 340
risks and benefits associated with those capabilities; 341

(2) The adequacy of existing evaluation resources and 342
mitigation measures to address observed and potential risks; 343

(3) Aggregated results of verification assessments; 344

(4) Remedial measures prescribed by the independent 345
verification organization and whether the developer or deployer 346
complied with those measures; 347

(5) Anonymized descriptions of additional risks beyond 348
those the independent verification organization is licensed to 349
verify and the adequacy of existing mitigation measures to 350
address those risks; 351

(6) A list of all artificial intelligence models or 352
artificial intelligence applications verified by the independent 353
verification organization; 354

(7) A description of the independent verification 355
organization's methods, technologies, and administrative 356
procedures for evaluating risk mitigation by artificial 357
intelligence models and artificial intelligence applications; 358

(8) A description of any changes to the independent 359
verification organization's governance policies, sources of 360
funding, or any other changes that would call into question its 361

independence in carrying out its responsibilities under this   362
chapter.   363

(B) Nothing in this section shall be construed to prohibit   364
an independent verification organization from redacting any   365
material that the independent verification organization   366
determines, in good faith, would risk revealing any of the   367
following: 368

(1) Trade secrets;   369

(2) Competitively sensitive information;   370

(3) Personal identifying information;   371

(4) Information that otherwise presents a risk to the   372
security of an artificial intelligence model or artificial   373
intelligence application if publicly disclosed.   374

(C) An independent verification organization shall retain   375
all documentation used for the preparation of the report   376
required under division (A) of this section for ten years   377
following the submission of the report.   378

Sec. 3755.11. (A) In a civil action asserting claims for   379
personal injury or property damage caused by an artificial   380
intelligence model or artificial intelligence application, there   381
is a rebuttable presumption against liability if all of the   382
following apply: 383

(1) The artificial intelligence model or artificial   384
intelligence application in question was verified by a licensed   385
independent verification organization at the time of the   386
plaintiff's alleged injuries.   387

(2) The plaintiff's alleged injury arose from a risk that   388
the independent verification organization was licensed to verify   389

and for which the independent verification organization did   390

verify the artificial intelligence model or artificial   391

intelligence application.   392

(3) The artificial intelligence model or artificial   393

intelligence application fell within the specified market   394

segment, if any, for which the independent verification   395

organization was licensed to conduct verification.   396

(B) The presumption against liability described in   397

division (A) of this section may be rebutted upon showing, by   398

clear and convincing evidence, both of the following: 399

(1) The defendant did any of the following: 400

(a) Engaged in intentional, willful, or reckless   401

misconduct;   402

(b) Induced the independent verification organization to   403

verify based on material misrepresentations or omissions about   404

the artificial intelligence model or artificial intelligence   405

application or the risks such artificial intelligence model or   406

artificial intelligence application poses;   407

(c) Failed to adhere to representations made to the   408

independent verification organization;   409

(d) Failed to satisfy a condition upon which the   410

verification was expressly based;   411

(e) Failed to disclose to the independent verification   412

organization newly identified risks, known shortcomings of   413

existing mitigation measures, material changes to the risk   414

profile of the verified artificial intelligence model or   415

artificial intelligence application, or any other information   416

required to be disclosed to the independent verification   417

organization under the independent verification organization's   418

verification requirements;   419

(f) Failed to implement corrective action prescribed by   420

the independent verification organization to address identified   421

risks.   422

(2) The conduct described in division (B)(1) of this   423

section was a proximate cause of the plaintiff's alleged   424

injuries.   425

Sec. 3755.12. (A) The attorney general shall adopt rules   426

pursuant to Chapter 119. of the Revised Code to implement and   427

administer this section.   428

(B) Rules adopted under division (A) of this section shall   429

do at least all of the following: 430

(1) Establish conflict of interest rules for independent   431

verification organizations, including reporting requirements   432

regarding the independent verification organization's funding   433

sources, revenue generation and self-audit requirements   434

regarding the independent verification organization's board   435

composition, to ensure adequate independence from the artificial   436

intelligence industry;   437

(2) Identify any additional elements required for an   438

applicant's independent verification organization's plan to   439

ensure acceptable mitigation of risk from any independent   440

verification organization-verified artificial intelligence   441

models or artificial intelligence applications;   442

(3) Specify the circumstances in which corrective action,   443

including loss of licensure, is mandated, such as the failure to   444

adhere to representations made to the independent verification   445

organization to obtain licensure;   446

(4) Subject to section 3755.06 of the Revised Code,   447
establish the composition of the artificial intelligence safety   448
advisory council, including the procedure for appointing   449
additional members, and the term length of members;   450

(5) Establish the per diem salary of members of the   451
artificial intelligence safety advisory council;   452

(6) Provide the information, materials, and forms required   453
to apply for an independent verification organization license   454
under section 3755.02 of the Revised Code.   455

(C) The attorney general shall consider input received   456
from stakeholders in adopting rules pursuant to this section.   457