

# **Aligning Incentives for Leadership, Excellence, and Advancement in Development (AI LEAD) Act—Section-by-Section Summary**

## **Senator Dick Durbin (D-IL), Senator Josh Hawley (R-MO)**

### **Section 1. Short Title.**

This section specifies that the bill may be cited as the “Aligning Incentives for Leadership, Excellence, and Advancement in Development Act” or the “AI LEAD Act”.

### **Section 2. Findings.**

### **Section 3. Definitions.**

This section defines terms used throughout the bill. Notably, the Act defines an “artificial intelligence system” (AI system) as “any software, data system, application, tool, or utility—(i) that is capable of making or facilitating predictions, recommendations, actions, or decisions for a given set of human- or machine-defined objectives; and (ii) that uses machine learning algorithms, statistical or symbolic models, or other algorithmic or computational methods (whether dynamic or static) that affect or facilitate actions or decision-making in real or virtual environments”. An “artificial intelligence system” may be integrated into or operate in conjunction with other hardware or software.

A “developer” is defined as “a person who designs, codes, produces, owns, or substantially modifies a covered product for—(A) the person’s own personal or commercial use; or (B) use by a third party”.

A “deployer” is defined as “a person, including a developer, who uses or operates a covered product for—(A) the person’s own personal or commercial use; or (B) use by a third party”.

## **Title I. Aligning Incentives for Safety, Innovation, and United States Competitiveness.**

### **Section 101. Developer Liability for Harm to Business or Consumer.**

This section establishes liability for AI system developers for defective design, failure to warn, express warranty, or unreasonably dangerous or defective covered product claims.

### **Section 102. Deployer Liability for Harm to Business or Consumer.**

AI system deployers shall be treated as a developer if they make a substantial modification to an AI system or intentionally misuse an AI system contrary to its intended use.

## **Title II. Unconscionable Liability Limitations.**

### **Section 201. Unconscionable Liability Limitations.**

This section makes unenforceable language in a contract between a developer and a deployer or between a developer or deployer and a consumer that waives any right, proscribes any forum or

procedure, or unreasonably limits liability under the AI LEAD Act or applicable State law related to harm caused by an AI system.

### **Title III. Enforcement.**

#### **Section 301. Federal Cause of Action.**

A civil action for a violation of Sections 101, 102, or 201 may be brought in United States District Court by the Attorney General, a State attorney general, an individual, or a class of individuals.

#### **Section 302. Special Rule for Deployers.**

A deployer may stand in for a developer and be held liable to the same extent that the developer would have been liable under Section 101 if the developer is not a party to the action because they are not subject to the court's jurisdiction, are insolvent, or cannot otherwise be made to answer for the harm. A deployer may seek indemnification from the developer in these circumstances.

If the developer is a party to the action and subject to the court's jurisdiction, and not insolvent, and the deployer is otherwise not liable under section 102, the deployer shall be dismissed from the action. The developer and deployer may be held jointly and severally liable if each contributed to the harm under Sections 101 and 102.

#### **Section 303. Period of Limitations.**

An action may be filed not later than four years after the date on which the claimant discovered, or should have discovered, the harm that is the subject of the action and its cause. The period of limitations may be tolled in the case of a person who is under a legal disability, such as a minor.

#### **Section 304. Preemption.**

The AI LEAD Act supersedes State law only where State law conflicts with the provisions of this Act. It does not prevent a State from enacting or enforcing protections that align with the AI LEAD Act's principles that are stronger than such protections under the AI LEAD Act.

#### **Section 305. Severability.**

If any provision of the AI LEAD Act is found to be unenforceable or invalid, the remaining provisions shall not be affected.

### **Title IV. Registration of Foreign Artificial Intelligence System Developers.**

#### **Section 401. Foreign Agent Registration Requirement.**

Before making an AI system available in the United States, a foreign developer shall designate an agent for service of process.

#### **Section 402. Enforcement.**

A foreign developer of an AI system that fails to designate an agent may not deploy any AI system in the United States. The Attorney General may seek injunctive relief to prevent a violation of this section.

#### **Section 403. Public Registry.**

The Attorney General shall maintain a publicly accessible registry of designated agents of foreign developers of AI systems.

#### **Title V. Effective Date.**

##### **Section 501. Effective Date.**

The AI LEAD Act shall apply with respect to any liability action commenced on or after the date of its enactment, without regard to whether the harm that is the subject of the liability action or the conduct that caused the harm occurred before the date of enactment.