



Texas Has an AI Law: Does Your Business Need a Plan?

Client Advisories

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By: Brian M. Gargano

Why This Matters

If your business uses artificial intelligence to screen job applicants, serve customers, make decisions, or build products that Texans use, a new state law — the Texas Responsible Artificial Intelligence Governance Act (H.B. 149) — now applies to you, even if your headquarters is in another state. The Act is narrower than many feared, and it gives businesses a real way to protect themselves, but only if they act before the Attorney General comes asking.

What Is Changing, And When

The Act took effect on January 1, 2026. It reaches anyone who promotes or conducts business in Texas, produces a product or service used by Texas residents, or develops or deploys AI here. Its heaviest duties fall on government agencies. For private businesses, the core of the Act is a short list of prohibited uses, and every one of them requires proof of intent. A business may not develop or deploy AI with the intent to unlawfully discriminate against a protected class, build a system that intentionally aims to incite self-harm, harm to others, or criminal activity, or act with the sole intent of infringing a person's constitutional rights. These are demanding standards, ordinary, unintentional bias or error does not meet them, and they are much of why the Act is narrower than many feared.

Several features make the law more business-friendly than other states' approaches:

- Only the Attorney General can enforce it. Individuals and competitors cannot sue under the Act.
- You get a 60-day chance to fix a problem after the Attorney General's written notice, before an enforcement action can be brought.
- Penalties are tiered. A violation the court treats as curable runs \$10,000 to \$12,000; an incurable violation runs \$80,000 to \$200,000; and a continuing violation runs \$2,000 to \$40,000 for each day it continues.

- There is a strong defense to liability for businesses that substantially comply with the NIST AI Risk Management Framework (Generative AI Profile) or another nationally or internationally recognized AI risk-management framework. The Act also protects businesses that catch problems through internal review, adversarial or “red-team” testing, or following state-agency guidance, and it gives a company that follows these practices a rebuttable presumption of reasonable care.
- Disparate impact alone is not enough to show discrimination under the Act.
- A state-approved testing program lets companies try out new AI systems with certain rules temporarily set aside, but the prohibited uses above can never be set aside, so participants stay fully exposed for those.

The Attorney General’s complaint portal and enforcement process were still taking shape as of mid-2026, so the first enforcement actions have yet to show how aggressively the law will be applied.

What This Means for Your Business

The Act adds a state enforcer to the exposure you already have under federal anti-discrimination law and the Texas Data Privacy and Security Act. The biggest practical risk is often a vendor’s tool that your business uses without fully understanding it, such as a hiring or screening product. You are responsible for how it is used in your business.

The best protection is also the least expensive: a written AI governance program that follows the NIST framework. It establishes the compliance-based defense to liability, positions you to use the 60-day cure period quickly if a notice ever arrives, and costs far less than responding to an investigation. Keep in mind that testing results, vendor audits and AI records created for compliance can be requested in other disputes, such as employment or consumer claims, so they should be prepared with that in mind.

What You Should Consider

Consider taking these steps now:

- List every AI tool your business uses.
- Name one person accountable for AI oversight.
- Adopt a policy aligned to the NIST framework.
- Ask your vendors for written compliance documentation.

We are advising clients on AI governance programs, vendor contract terms, and employee-use policies, and we can help you prepare responses if a notice arrives.

For more information, or for questions about where your business stands, please contact **Brian Gargano** at 281.968.5215 or bgargano@archerlaw.com.

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Brian M. Gargano

Partner

✉ bgargano@archerlaw.com

☎ 281.968.5215

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