MODEL ACT — Frontier AI Public Welfare Offenses
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[This file is the Act's text — research draft: SEC. 0 (uncodified findings) and SEC. 1 through SEC. 13. Everything a bill jacket does not carry — the open items for v4, the drafting notes, the answers to friendly proposals, and the reason this document exists — is in the companion file, model_act_v3_4_companion.md. Bracketed matter is an adopting-state choice.]

SEC. 0. FINDINGS AND PURPOSE (UNCODIFIED).

(a) The Legislature finds:

(1) Covered systems are deployed to, operated within, and made available to residents of this State, and the deaths, injuries, intrusions and losses this Act addresses occur to persons and property within this State.

(2) The protection of persons within this State from death and serious injury, and the punishment of those whose failures of care cause it, is among the oldest and most traditional exercises of this State's police power, and is the same power by which this State punishes homicide, reckless endangerment, the endangerment of the public by the sale of adulterated or unsafe goods, and false statements made to its own officers.

(3) The duties this Act imposes arise from the deployment, material expansion, release, or operation of a covered system in or into this State, or from conduct in this State in relation to such a system. This Act imposes no duty on any person by reason of research, training, or development that neither occurs in this State nor concerns a covered system deployed or released in or into this State.

(4) No provision of this Act requires any person to express, adopt, endorse, or refrain from expressing any opinion, characterization, viewpoint, or contested position, or to alter the output of any covered system. The statements this Act requires are statements of fact within the knowledge of the person making them, made to a regulator.

(5) This Act draws no distinction between persons within and persons outside this State. It confers no advantage on any in-state person and imposes no obligation on an out-of-state person that it does not impose on an in-state person engaged in the same conduct with respect to the same system.

(6) The obligations this Act imposes are, in substance, the obligations that responsible developers, providers, and deployers of covered systems already represent that they discharge, and the incremental burden of compliance is small in relation to the revenues of the persons on whom it falls.

(7) This Act supplements and does not displace the generally applicable criminal and civil law of this State, which applies to conduct concerning covered systems as it applies to all other conduct.

(b) Purpose. The purpose of this Act is to place personal responsibility for the safety of covered systems deployed, operated, or released in or into this State upon the natural persons who hold practical authority over them, on the doctrine of United States v. Park, 421 U.S. 658 (1975), by means that operate upon private conduct occurring in or directed into this State.

SEC. 1. CLASSIFICATION AND DEFINITIONS. (a) Offenses under this Act are public welfare offenses within the meaning of Morissette v. United States, 342 U.S. 246 (1952), except where a greater mental state is expressly required.

(b) In this Act: (1) "Covered frontier model": a foundation model whose training and lineage compute (initial training plus fine-tuning, reinforcement learning, and material modification along the model's lineage, excluding unrelated experimental runs, as further specified by rule, including the treatment of fine-tuning, distillation, merging, and aggregation) exceeds 10^26 integer or floating-point operations; or any model designated by the Agency under SEC. 3 as frontier-equivalent by capability. The compute figure is a bright-line trigger; capability designation under SEC. 3 reaches models below it. Designation is prospective only. Until a rule under SEC. 3 first specifies the treatment of fine-tuning, distillation, merging, and aggregation: (A) a distinct model derived from a covered frontier model is itself a covered frontier model only if the compute applied in its derivation, together with the lineage compute otherwise attributable to it under this paragraph, exceeds the figure in this paragraph, or the Agency prospectively designates it; (B) derivation compute not exceeding [10^24] integer or floating-point operations does not, standing alone, extend a lineage; and (C) records sufficient to compute lineage under SEC. 12 shall be created and retained for any derivation whose compute exceeds [10^22] integer or floating-point operations, whether or not the resulting model is covered, the records duty of this subparagraph operating independently of coverage. (2) "Covered system": a deployed configuration of a covered frontier model, including tools, memory, retrieval, credentials, and permissions attached to it. (3) "Developer," "substantial modifier," "provider," "deployer": the entity that respectively trains, materially modifies, makes available, or operates a covered model or system, directly or through any affiliate. Deployment through an affiliate is deployment by the principal. Personal, noncommercial operation of a covered model for a person's own use is not deployment. (4) "Controlling person": as defined in SEC. 4. (5) "Critical safety incident": as defined in SEC. 9(a). (6) "Material expansion": a change that increases a covered system's capabilities, autonomy, external access, or permissions beyond its validated configuration, including the grant of a new class of tools, credentials, or permissions; the enablement of an autonomous external-access capability; or the removal or material weakening of a safeguard identified in the applicable validation. The Agency may elaborate this definition prospectively by rule and may not narrow it; the definition operates of its own force from the effective date, no rule being required. (7) "Unauthorized access": access to a system, data, or model weights f or

which the person entitled to control them has not granted permission, whether or not technological measures prevented or would have prevented the access; a defect in, or absence of, technical access controls is not a grant of permission. (8) "Serious injury": an injury or illness that is life-threatening, results in permanent impairment of a body function or permanent damage to a body structure, or necessitates medical or surgical intervention to preclude such permanent impairment or damage; "permanent" means irreversible, excluding trivial impairment or damage, per 21 C.F.R. § 803.3(w). (9) "Release": making the weights of a covered frontier model available for download, transfer, or reproduction outside the releasing entity's control. A release is a deployment of a covered system for purposes of this Act; duties in connection with a release are limited to those capable of performance before the release. Nothing in this Act restricts any person's use, study, or modification of lawfully obtained weights, except as part of the deployment of a covered system. (10) "Autonomous external-access capability": the capability of a covered system, in its deployed configuration, to initiate interactions with systems, services, accounts, or persons outside the control of the deploying entity — including network requests, execution of code affecting external systems, transactions, and communications — without the approval of a natural person for each interaction. The Agency may specify classes of such capability by rule; the absence of a rule neither suspends nor narrows SEC. 5(b) once the controls that section presupposes have been prescribed under SEC. 3.

(c) Jurisdiction. This Act applies to conduct occurring in this State, to covered systems made available to residents of this State, and to conduct intended to produce and producing substantial effects within this State. Conduct occurring outside this State is relevant under this Act only as evidence bearing on an element of an offense committed in or into this State. No person incurs a duty under this Act by reason of conduct that neither occurs in this State nor concerns a covered system deployed, released, or made available in or into this State. A person who does not deploy a covered system in or into this State, does not make it available to residents of this State, and does not release its weights, is not subject to this Act as to that system.

SEC. 2. PUBLIC WELFARE DUTY. (a) Duty. No covered system may be deployed in or into this State, or materially expanded, unless each controlling person has exercised due care to ensure the system's compliance with the safety, authorization, monitoring, incident-reporting, and deployment standards applicable under SEC. 3. A duty under this Act arises upon, and by reason of, the deployment, material expansion, release, or continued operation of a covered system in or into this State, and not otherwise. Each duty under this Act attaches to the actor who controls the relevant risk: the developer as to model evaluation and weight security; the provider and deployer as to configuration, tools, permissions, and monitoring; the releasing provider as to pre-release evaluation — including evaluation of the model as it can be modified, such as by removal of safeguards or fine-tuning within a rule-specified compute budget — tamper-resistance assessment, and weight security up to the moment of release; each controlling person as to the exercise of the authority that person holds. The compute budget within which modification of a model is to be evaluated shall be specified by rule and shall not be less than the greater of [one] percent of the covered model's training and lineage compute, as computed under SEC. 1(b)(1), or [10^24] integer or floating-point operations; until a rule first takes effect, the budget is that minimum.

(b) Reliance by non-modifying deployers. A deployer that operates a covered system within a validated configuration, without material modification of the covered model and without attaching or granting tools, memory, retrieval, credentials, permissions, or external access beyond those identified in the validation on which it relies, discharges the duty of due care under subsection (a), as to the matters within the scope of that validation, by: (1) documented adoption, before deployment, of a validation under SEC. 3(b), or a provisional validation under SEC. 3(c)(2), prepared by the developer or provider of the covered system and identifying the model version and deployment configuration deployed; (2) preparation and retention under SEC. 12 of a manifest of every tool, memory, retrieval mechanism, credential, permission, and avenue of external access the deployer attaches or grants, demonstrating conformity to the validated configuration; (3) the monitoring within the deployer's control that the adopted validation or the applicable standards specify for the configuration; and (4) reporting under SEC. 9 of matters within the deployer's knowledge. Reliance under this subsection is unavailable to a deployer that knows, or consciously avoids knowing, of a material nonconformity in the adopted validation or in the deployed configuration, and lapses upon the deployer's material modification or material expansion of the covered system, from the time of that modification or expansion. Nothing in this subsection conditions any duty, or the discharge of any duty, upon the revenue, size, or resources of any person.

(c) Controlled research deployment. Making a covered system available solely to authenticated researchers, under documented terms of access, within containment that (1) denies the system any autonomous external-access capability, (2) denies the persistence of credentials, permissions, and external effects beyond each session, and (3) is monitored, is a controlled research deployment. A controlled research deployment satisfies SEC. 5(a), and discharges the duty of subsection (a) as to it, upon a documented conformity assessment limited to the containment, authentication, monitoring, and access-term controls of this subsection, retained and transmitted as SEC. 3(c)(2)(C) provides. The duties of this Act attach in full upon any deployment, expansion, or release beyond the terms of this subsection, from the time of that deployment, expansion, or release. Nothing in this subsection limits SEC. 9 or SEC. 12, and behavior within a controlled research deployment remains subject to the recording rule of SEC. 9(a).

SEC. 3. DESIGNATED AGENCY; STANDARDS; COMMENCEMENT. (a) The [designated state agency, board, or commission] ("the Agency") shall adopt standards for covered systems by rule, after notice and opportunity for technical submissions. The Agency may incorporate a specifically identified version of a standard developed by another body only upon its own independent review, with power to modify or reject, and no amendment to an incorporated standard takes effect in this State until the Agency adopts it by the same procedure. All incorporated material shall be publicly available without charge. Standards under this section shall be limited to safety, authorization, monitoring, incident-reporting, and deployment controls for covered systems; shall be technically feasible and evidence-based; and shall be proportionate to the risks presented.

(b) The Agency shall specify for each standard the mode of validation (internal attestation, independent audit, or accredited certification). Validation attaches to an identified model version and deployment configuration. A model validated without tools is not validated as to any configuration granting external access or significant permissions. No standard, rule, or mode of validation under this Act may condition any deployment, expansion, or release upon the prior affirmative approval of the Agency or of any officer of this State.

(c) Commencement.

(1) Immediate operation. This Act operates from its effective date. The offenses under SEC. 5(c), SEC. 5(d), and SEC. 5(e); the reporting duties of SEC. 9; the records duties of SEC. 12; and the provisions of SEC. 1, SEC. 4, SEC. 6, SEC. 7, SEC. 10, SEC. 11, SEC. 13, and the remainder of SEC. 12 arise and operate from the effective date, and do not depend upon the promulgation of any standard, the adoption of any rule, or any other act of the Agency. No duty arises under SEC. 2, and no offense lies under SEC. 5(a), before the provisional commencement of paragraph (2); no offense lies under SEC. 5(b) before commencement under paragraph (3). This paragraph governs time; SEC. 1(c) and SEC. 2 govern to whom, and by reason of what conduct, a duty attaches.

(2) Provisional commencement. Beginning [180] days after the effective date, and until superseded under paragraph (3), the duties of SEC. 2 and the offense of SEC. 5(a) operate on the basis of provisional validation, and the certification duty of SEC. 8 operates from the same day, the applicable standards for its purposes being the interim standards of paragraph (4). Provisional validation of a covered system consists of a documented conformity assessment, prepared or adopted by an entity that develops, releases, provides, or deploys the covered system, that: (A) identifies the model version and deployment configuration, including the tools, memory, retrieval, credentials, and permissions attached; (B) states, after reasonable inquiry and on the basis of the documented assessment, a reasonable documented conclusion that the covered system, and each entity's practices concerning it, materially conform to the interim standards — where the assessment identifies nonconformity with any interim standard, the conclusion may be stated only if the assessment identifies, for each such nonconformity, an equivalent compensating measure in effect (a measure shown, by documented analysis against the risk the departed-from standard addresses, to provide protection equivalent to conformity) and states the analysis; and (C) is retained as a record under SEC. 12 and transmitted to the Agency on or before the deployment, material expansion, or release to which

it relates. Provisional validation attaches to the identified model version and deployment configuration; a system provisionally validated without tools is not validated as to any configuration granting external access or significant permissions.

(D) Nonconformity reports. A document that discloses identified nonconformity without stating the conclusion subparagraph (B) requires, or whose compensating measures are not equivalent within the meaning of that subparagraph, is a nonconformity report and not a provisional validation. It shall be transmitted and retained as subparagraph (C) provides; it discharges no duty under SEC. 2 and satisfies neither this paragraph nor SEC. 5(a); and its transmission is a statement to the Agency for purposes of SEC. 5(d) and notice for purposes of SEC. 6(b)(1).

(3) Standards commencement. Upon the promulgation of standards under subsection (a) and the running of a compliance period of [90] days, validation in the mode specified under subsection (b) is the validation SEC. 5(a) requires for any deployment, material expansion, or release occurring thereafter, and provisional validation ceases to satisfy SEC. 5(a) except as to covered systems deployed before that day, for which the transition period of SEC. 12 runs from that day. The offense under SEC. 5(b) commences when the controls it presupposes have been prescribed under this section and the same compliance period has run. Conduct is judged by the standards applicable to it at its time; no conduct lawful when done becomes unlawful by a later commencement, and no provisional validation is invalidated retroactively. [The Agency shall propose initial standards under subsection (a) within [540] days of the effective date.]

(4) Interim standards. The interim standards are the frontier artificial intelligence framework duties enacted at Section 22757.12 of the California Business and Professions Code (ch. 138, Stats. 2025), Section 1421 of the New York General Business Law (ch. 96, L. 2026), and Section 10 of the Illinois Artificial Intelligence Safety Measures Act (P.A. 104-0538), each as in effect on [1 August 2026], which are adopted for the purposes of this Act as they so exist and not as they may afterward be amended, repealed, suspended, or invalidated in the enacting jurisdiction. For those purposes: (A) the duties apply to every covered frontier model and covered system, and to each entity that develops, releases, provides, or deploys one, without regard to any revenue threshold, exemption, effective date, phase-in date, or territorial term of the enacting jurisdiction; (B) a duty to publish, or to transmit any document to an officer, agency, or the public of an enacting jurisdiction, is performed under this Act by transmission to the Agency, and publication is permitted but not required by this Act; (C) provisions respecting assessment or audit by a third party do not apply, and conformity may be documented internally, independent assessment being at the entity's election; (D) provisions respecting incident reporting, penalties, enforcement, fees, assessments, and whistleblowers are not adopted, those subjects being governed from the effective date by SEC. 9, SEC. 10, and SEC. 11 of this Act; and (E) conformity documented for the purposes of any of the three enactments in an enacting jurisdiction is conformity with the corresponding interim standard under this Act, to the extent of the matters documented. The Agency shall make the adopted texts publicly available without charge.

(5) Element and due care. Absence of required validation is an element of the offense under SEC. 5(a); the validation required is the provisional validation of paragraph (2) or the validation of subsection (b), as applicable to the conduct at its time. Documented conformity with the standards applicable at the time — interim or promulgated — satisfies the duty of due care under SEC. 2 as to the matters conformed, a nonconformity report satisfying nothing under this paragraph. An entity's own frontier artificial intelligence framework, written and followed as an interim standard requires, is an object of the conformity this paragraph credits; standing alone it remains evidence neither of due care nor of its absence, per SEC. 6(a).

SEC. 4. CONTROLLING PERSONS. (a) A controlling person is any natural person who, regardless of title, possesses or exercises final material independent decision authority over a covered system through any of:
(1) deployment, expansion, or access decisions; (2) budgets, compute, infrastructure, or risk policy; (3) appointment, removal, direction, or supervision of persons exercising such authority; or (4) ownership, voting, contractual, governance, or other rights conferring practical power to prevent, halt, restrict, or correct a deployment or violation. Authority under this section may be held or exercised directly or indirectly, individually or in concert with others, and through any intermediary, entity, trust, or arrangement. The following, standing alone or in combination only with each other, do not constitute authority under this section: title, office, seniority, or status; professional credentials or technical ability; access to systems, weights, or infrastructure; the ministerial execution, implementation, or communication of a decision made by another; or the provision of advice, analysis, or recommendation to a person holding decision authority. Authority under this section is the authority to decide, not the capacity to act.

(b) The following are presumed controlling persons in any civil proceeding, absent proof of genuine absence of practical authority: (1) the chief executive officer of a developer or provider, or of any entity that directly or indirectly controls a developer or provider; and (2) any person holding ownership, voting, contractual, or governance rights sufficient, alone or in concert with others, to direct or replace the management of a developer or provider, or of any entity that directly or indirectly controls it. In any criminal proceeding, such status is evidence from which the trier of fact may infer controlling-person status; the prosecution retains its burden on every element under SEC. 6(d). Substance controls over title. Status is never a substitute for authority.

(c) Non-delegable responsibility. Delegation does not relieve a controlling person who retains material authority to prevent, halt, restrict, or correct a violation. No appointment of a safety officer, compliance officer, committee, subsidiary, contractor, or other intermediary shields a person who retains such authority. The designation of any person as responsible for compliance neither diminishes nor creates any presumption against the responsibility of any other controlling person. Liability is several as to each person independently meeting the elements of this Act.

SEC. 5. PROHIBITED ACTS. (a) Deployment of a covered system without validation required under SEC. 3, after the applicable commencement under SEC. 3(c).

(b) Operating a covered system having autonomous external-access capabilities without the authorization, privilege, monitoring, and enforcement controls prescribed under SEC. 3, where that failure materially causes the system to obtain unauthorized access to any third-party system, data, or model weights. Access procured by a third party's intentional misuse (including prompt injection or stolen credentials) is a defense unless the prescribed controls against that class of misuse were absent.

(c) Failure to report as required by SEC. 9.

(d) A false or misleading statement of material fact concerning a covered system, made to the Agency, or to any agency or officer of this State in connection with the agency's or officer's official functions.

(e) Failure to establish, maintain, or preserve any record required by SEC. 12 or by rule under SEC. 3, or refusal to permit, upon the lawful demand of the Agency or the Attorney General or upon order of a court of this State, access to or verification or copying of any such record. Nothing in this paragraph abrogates any privilege recognized by the law of this State; a good-faith assertion of privilege, made in the manner the law provides, is not a refusal under this paragraph. Underlying facts remain subject to discovery and subpoena from any source, per SEC. 12.

SEC. 6. INDIVIDUAL LIABILITY. (a) Offense. A controlling person who had a duty concerning the relevant risk or the practical power to detect, prevent, halt, restrict, or correct a violation of SEC. 5, and who failed to exercise due care, commits an offense. Such a person stands in responsible relation to the public danger within the meaning of United States v. Dotterweich, 320 U.S. 277, 281 (1943); the due-care element supplies the personal blameworthiness that custody additionally requires. Due care under this Act is measured against the standards applicable under SEC. 3 and the conduct of a reasonably prudent controlling person in like circumstances; an entity's own framework is evidence of neither.

(b) Enhanced tier. (1) A person who knowingly or wilfully causes, directs, conceals, or materially facilitates a violation of SEC. 5, or who deliberately fails to halt a violation after notice, or who knowingly makes a false certification under SEC. 8, is subject to the felony penalties of SEC. 10(c). Where a violation described in this paragraph is a but-for and proximate cause of death or of serious injury to any person, the penalties of SEC. 10(c)(2) apply, and each person killed or seriously injured constitutes a separate offense. Notice under this paragraph includes any report or preliminary notice filed under SEC. 9 concerning the same class of risk.

(2) A person who commits any violation of SEC. 5 within [ten] years after a prior conviction of

that person under this Act has become final is subject to the felony penalties of SEC. 10(c)(1). This paragraph operates upon the fact of the prior conviction, its finality, and the date of the new violation, and upon nothing else; it neither requires nor permits inquiry into the conduct underlying the prior conviction. The penalties of SEC. 10(c)(2) do not apply by reason of this paragraph.

(c) Culpability floor. No custodial sentence may be imposed absent proof of at least the failure of due care described in subsection (a). Entity liability under SEC. 10(a) is strict.

(d) The prosecution bears the burden of proving each element, including the person's practical power, beyond a reasonable doubt. Genuine absence of power negates the element; it is not an affirmative defense.

(e) Construction. A person has practical power if, by reason of position, ownership, or authority, the person had the ability and opportunity, alone or with others, to detect, prevent, halt, restrict, or correct the violation or the conditions giving rise to it. This section does not require that the person could have acted alone or instantly, only that meaningful measures were within the person's authority.

SEC. 7. PERSONAL ECONOMIC CONSEQUENCES.

(a) Disgorgement. On conviction or civil adjudication of a violation, the court shall order the person adjudicated to disgorge the economic benefits attributable to the violation — including salary, bonus, incentive- or equity-based compensation, distributions, profits realized on the sale or transfer of any interest, and any increase in the value of any interest, whether received directly or through any entity, trust, or arrangement — received or accrued during the period of the violation and the [twelve] months following its cessation or concealment. Incentive- or equity-based compensation received by a controlling person during the period of a violation is presumed attributable to the violation to the extent the violation materially contributed to the results on which it was paid; the presumption is rebuttable in a civil proceeding and operates in a criminal proceeding only as a permissive inference. The court may reduce or decline recovery only upon a finding that the direct costs of recovery would exceed the amount recoverable. Amounts disgorged shall be applied first to restitution ordered under SEC. 10(c)(4), and the remainder deposited in the fund established by SEC. 10(f). A claim under this subsection is subject to the limitations periods of SEC. 12. On a showing of probable adjudication and risk of dissipation, the court may restrain transfers of, or require the escrow of, assets up to the amount reasonably necessary to satisfy the anticipated order.

(b) No indemnification or insurance. (1) No person may (A) enter into, renew, or materially amend a contract of insurance or other arrangement under which any person is covered, in whole or in part, against liability for an individual penalty, fine, or disgorgement imposed under this Act; (B) provide, underwrite, or pay a benefit under such a contract or arrangement, or pay or reimburse, directly or indirectly, any part of such a liability imposed on another person; or (C) demand, accept, or retain such a benefit, payment, or reimbursement. (2) No person may make, offer, solicit, or receive any payment, loan, forgiveness of indebtedness, increase in compensation, gross-up, distribution, gift, or other transfer of value whose purpose or predominant effect is to offset, in whole or in part, a liability described in paragraph (1). (3) Every contract, arrangement, or transfer described in this subsection is void and unenforceable in this State, whatever law is chosen to govern it, to the full extent of this State's jurisdiction; and any benefit received under one is held in constructive trust for the persons and fund to which subsection (a) applies. (4) A violation of this subsection is a violation of this Act for purposes of SEC. 10(a); a knowing violation by a controlling person is a violation of SEC. 5 for purposes of SEC. 6(b)(1). (5) This subsection does not restrict the purchase or provision of insurance for, or the payment, advancement, or indemnification of, reasonable costs of defense, provided that amounts advanced or indemnified shall be repaid by a person finally adjudicated to have committed a knowing or wilful violation under SEC. 6(b), to the extent attributable to the defense of that violation; and it does not restrict indemnification of a person not adjudicated liable under this Act. (6) Application. Paragraph (1) applies to contracts and arrangements entered into, renewed, or materially amended on or after the effective date of this Act. A contract or arrangement in force on the effective date may be maintained until its first renewal, expiration, or material amendment, and in any event no longer than [twelve] months after the effective date, after which maintaining it is a violation of paragraph (1). (7) Restitution preserved. This subsection does not restrict the purchase or provision of insurance for, or the payment, advancement, or indemnification of, restitution ordered under SEC. 10(c)(4); amounts paid under any such arrangement shall be applied to restitution before any other liability, and no such payment extinguishes any other liability of any person.

(c) Construction. Disgorgement under subsection (a) is remedial, is additional to any penalty or fine, and shall not be credited against one; no single benefit shall be disgorged more than once. Nothing in this section limits any remedy under SEC. 10.

SEC. 8. CERTIFICATION. Before material deployment and following material change to a covered model or configuration, the chief executive officer (or, where no such office exists, each natural person exercising the most senior executive authority over the entity, severally), and each controlling person designated by rule, shall personally certify compliance with the applicable standards or disclose identified noncompliance, on the structure of 18 U.S.C. § 1350. For purposes of this section: "material deployment" means the first deployment of an identified model version in or into this State, and any deployment following a material expansion or a material change; "material change" means a change granting a new class of tools, credentials, or permissions, materially expanding capability or autonomy, or removing or materially weakening a safeguard identified in an applicable validation. The Agency may elaborate these definitions prospectively by rule and may not narrow them. Changes to a covered model or configuration below the material line shall be certified in a periodic certification covering every such change in the period, filed not less often than once in each [calendar quarter] in which any such change occurred; a periodic certification is a certification under this section, with the consequences this section and SEC. 6 attach. The chief executive officer's obligation may not be delegated or performed through any designee. The Agency may by rule designate the certifying office or offices for forms of organization lacking a chief executive officer; no designation diminishes the several obligation stated in this section, and no entity may, by its form of organization, leave this section without an obligated natural person. The certification consists of statements of fact within the certifying person's knowledge after reasonable inquiry. No person is required by this section to characterize, opine upon, or adopt any position concerning the capabilities, risks, or merits of any model or system, A certification disclosing identified noncompliance satisfies the duty to certify under this section; it constitutes neither compliance with the applicable standards, nor validation, nor cure of, nor a defense to, any violation of this Act, and a certification disclosing unremediated material nonconformity — nonconformity not addressed by an equivalent compensating measure within the meaning of SEC. 3(c)(2) — shall so state on its face. A certification is made to the Agency and is not required to be published. Knowing false certification is an offense under SEC. 6(b)(1); reckless certification without reasonable inquiry is an offense under SEC. 6(a).

SEC. 9. INCIDENT REPORTING. (a) "Critical safety incident": exfiltration or loss of control of model weights; loss of operator control of a covered system; autonomous access by a covered system to protected third-party systems; death or serious injury materially caused by a covered system; deception of safety or monitoring controls by a covered system; a serious near-miss, meaning an event that, but for intervention other than controls operating as designed, or but for chance, would have constituted an incident under this subsection; or a reproducible evaluation finding of materially increased risk. Behavior intentionally elicited in a sandboxed exercise and contained there is not an incident but shall be recorded. An event detected and contained by controls operating as designed, before any effect outside the systems of the entity whose controls contained it, is not an incident under this subsection but shall be recorded under SEC. 12.

(b) Preliminary notice to the Agency within 72 hours of credible notice to the entity or any controlling person (24 hours where there is imminent risk of death or serious injury); full report within [30] days of the preliminary notice, the incompleteness of an investigation not extending the period; material updates within [10] days of awareness thereafter. The period runs from when the incident was detected, or would have been detected by the monitoring the entity certified it maintains under SEC. 8.

(c) A report under this section may consist of the facts known to the reporting person at the time of the report. No person is required to characterize an event, to state a conclusion as to causation or risk, or to adopt any contested description; the obligation is discharged by a timely statement of the facts then known, supplemented as required by subsection (b). A report is made to the Agency and is not required to be published.

SEC. 10. ENFORCEMENT AND PENALTIES. (a) Entity: civil penalty of up to $[1,000,000] per violation for each day the violation continues or, where the violation occurs after a prior adjudication of a violation by the same person has become final, up to $[3,000,000] per violation for each day the violation continues; strict liability. In assessing the amount, the court shall consider the seriousness of the violation; the economic benefit or savings resulting from it; any history of violations; good-faith efforts to comply; the economic impact of the penalty on the violator; and such other matters as justice may require, per the structure of 33 U.S.C. § 1319(d). A penalty under this subsection shall not be less than the economic benefit or savings derived from the violation, as found by the court. Penalty amounts under this Act shall be adjusted annually for inflation by Agency rule, in the manner of 40 C.F.R. part 19.

(b) Individual offense under SEC. 6(a): [misdemeanor; imprisonment up to one year; fine up to $[100,000] or, if greater, twice the gross pecuniary gain to the person derived from the violation], per the structure of 21 U.S.C. § 333(a)(1) as to classification and of 18 U.S.C. § 3571(b)(5) and (d) as to amount.

(c)(1) Enhanced tier under SEC. 6(b): [felony; imprisonment up to three years; fine up to $[250,000] or, if greater, twice the gross pecuniary gain to the person derived from the violation].

(c)(2) Enhanced tier under SEC. 6(b)(1) where death or serious injury results: [felony]. (A) Where serious injury results, imprisonment up to twenty years for each offense. (B) Where death results, imprisonment for any term of years or for life for each offense, and not less than [two] years. (C) In either case, a fine up to $[1,000,000] for each offense or, if greater, twice the gross pecuniary gain to the person derived from the violation. (D) "Results" requires that the violation be both a but-for cause, within the meaning given in Burrage v. United States, 571 U.S. 204 (2014), and a proximate cause of the death or serious injury: the death or serious injury must have been a reasonably foreseeable consequence of the violation and not the product of an independent, unforeseeable intervening cause. That death or serious injury so resulted, and the identity of each person killed or seriously injured, are elements of each such offense, to be charged and found by the trier of fact beyond a reasonable doubt.

(c)(3) Concurrent and consecutive service. Terms of imprisonment imposed under this Act at the same time run concurrently unless the court orders consecutive service. The court may order consecutive service only upon findings, stated on the record, that consecutive service is necessary to reflect the seriousness of each offense, the culpability found under SEC. 6, and the totality of the harm, and that the aggregate term is not disproportionate to the whole of the person's conduct and culpability. The aggregate of the determinate terms ordered to run consecutively for offenses under this Act arising out of the same violation or course of conduct shall not exceed [forty] years. Nothing in this paragraph limits the imposition of a term of imprisonment for life where death results. A minimum term under this subsection attaches to each offense severally and is satisfied by concurrent service.

(c)(4) Restitution. Whenever death or serious injury results from an offense under this Act, whatever its tier, the court shall order restitution to each person killed or seriously injured, or to the person's estate, per the structure of 18 U.S.C. § 3663A; "results" bears the same meaning as in paragraph (2). Restitution has priority over every penalty, fine, and disgorgement in the application of a defendant's assets. In fixing a fine for a natural person under this Act, the court shall consider the person's income, earning capacity, and financial resources, so that like culpability bears like burden.

(d) Remedies additionally include: (1) injunction against any entity or controlling person restraining deployment, expansion, or continued operation in violation of this Act, per the structure of 21 U.S.C. § 332; (2) suspension of an identified model version and configuration, per the structure of 21 U.S.C. § 334; operation of a suspended configuration in this State by any person with notice of the suspension is contempt and a violation of SEC. 5(a); (3) on probable cause of imminent risk of death or serious injury, emergency suspension ex parte, with a post-deprivation hearing within [10] days; (4) disqualification from acting as a controlling person of any covered system; and (5) suspension and debarment modelled on FAR subpart 9.4.

(e) The Attorney General enforces this Act. Corporate payment of any penalty imposed on a natural person does not extinguish individual liability and is a violation of SEC. 7(b).

(f) Fund. The [Frontier AI Accountability Fund] is established. All penalties, fines, disgorgement, and other monetary recoveries under this Act, after satisfaction of restitution, shall be deposited in the fund; awards under SEC. 11 are paid from it; the balance [is appropriated to the Agency's functions under this Act / reverts to the general fund, at the adopting state's election]. The fund continues in operation, fed by every source not suspended or invalidated, notwithstanding the suspension or invalidity of any single provision of this section.

SEC. 11. WHISTLEBLOWERS. (a) Award. A person who voluntarily provides the Agency with original information leading to a successful enforcement action under this Act in which monetary sanctions exceed $[1,000,000] shall receive not less than 10 and not more than 30 percent of the sanctions collected, per the structure of 15 U.S.C. § 78u-6. Awards are paid from the fund established by SEC. 10(f). Awards remain payable from the fund whatever the source of the amounts in it; the suspension or invalidity of SEC. 10(a) does not suspend this section. (b) A report may be made anonymously through counsel; the Agency shall protect the reporting person's identity, including in any award. (c) No person may take any action to impede an individual from communicating with the Agency concerning a possible violation of this Act; any agreement or condition purporting to do so is void. (d) Retaliation against a person for reporting, internally or to the Agency, gives rise to a civil action for reinstatement, double back pay, and fees. (e) The Agency shall act upon, or publish a reasoned declination of, any credible report within [180] days. (f) Rules under SEC. 3 shall provide for the handling of security-sensitive information in reports and awards.

SEC. 12. MACHINERY. This Act takes effect [90] days after enactment; until the Agency is designated and organized to receive them, transmission to the Attorney General satisfies any requirement under this Act of transmission to the Agency, and the Attorney General shall transfer the materials to the Agency upon its organization; duties and offenses commence as provided by SEC. 3(c); [180-day] transition for covered systems deployed before the commencement applicable to them under SEC. 3(c), running from that commencement; no retroactive liability; records sufficient for audit (version identifiers, compute records, evaluation results, tool and permission manifests, change histories, and the compensation records upon which SEC. 7(a) operates) retained for [ten] years from creation, or for [five] years after the covered system last operates in or is last deployed in or into this State, whichever period ends later; and, from the time the entity or any controlling person has notice of a critical safety incident, of an investigation, or of a proceeding under this Act to which the records are reasonably relevant, the records shall be preserved until the conclusion thereof; confidentiality of reported material as follows: reports under SEC. 9, certifications under SEC. 8, and validation materials under SEC. 3 are exempt from disclosure under [the State public-records act], and to the extent they contain security-sensitive information — including information that would materially assist unauthorized access to model weights or covered systems — shall be maintained under seal in any proceeding; this exemption does not limit access by the Agency, the Attorney General, or a court under seal, does not exempt any person from any obligation to disclose under any other law, does not create any privilege for underlying facts, which remain subject to discovery and subpoena from any source, and does not restrict any use of any material in an enforcement proceeding under this Act. Dissolution, merger, conversion, division, or reorganization of an entity does not abate any proceeding or extinguish any liability under this Act; a surviving, resulting, or successor entity, and any entity that acquires substantially all of a covered entity's assets and continues its business, assumes the predecessor's liabilities under this Act; nothing in this section transfers the criminal liability of any natural person to any other person. A prosecution under this Act shall be commenced within [five] years after the violation; for a continuing violation, within [five] years after its last day; where the violation was concealed by an affirmative act, within [five] years after its discovery by the Agency or the Attorney General; a prosecution for an offense to which SEC. 10(c)(2) applies may be commenced within [ten] years. This Act shall be construed to reach the persons with the greatest practical authority over covered systems; it shall not be construed to permit the discharge of any person's liability through the liability of another. Nothing in this Act displaces any other remedy of this State.

SEC. 13. SEVERABILITY, CONFORMING OPERATION, AND REVIVAL.

(a) Severability. The provisions of this Act are severable. If any provision, or any application of any provision to any person, capacity, class of persons, or circumstance, is held invalid or unenforceable, the holding does not affect any other provision or application that can be given effect without it, and this Act shall be construed and enforced to the maximum extent it may lawfully operate.

(b) Order of severance. Where a court can preserve the operation of this Act by severing a narrower provision or application rather than a broader one, it shall do so, and shall sever later-listed matter before earlier-listed matter:

(1) First rank. The offenses under SEC. 5(b) and SEC. 5(d); the offense under SEC. 5(a) as applied to the deployment (otherwise than by release), material expansion, or continued operation of a covered system in or into this State; SEC. 4 and SEC. 6; the remedies and penalties of SEC. 7 and SEC. 10(b) through (f) as applied to those offenses, and SEC. 10(a) as applied to those offenses; the duties of SEC. 2 as applied to a person in that person's capacity as a provider or deployer; and SEC. 1, SEC. 3(a), SEC. 3(c), and the provisions of SEC. 12 governing limitations, transition, retroactivity, and successor liability.

(2) Second rank. SEC. 11; the remaining provisions of SEC. 12; the offense under SEC. 5(e), except as provided in paragraph (3).

(3) Third rank. The duties of SEC. 2 and SEC. 3 as applied to a person in that person's capacity as a developer, including pre-release evaluation and weight security; SEC. 5(a) as applied to a release; SEC. 5(e) as applied to records of pre-release evaluation held by a person in that person's capacity as a developer; the validation modes of SEC. 3(b) requiring assessment by a person other than the developer.

(4) Fourth rank. SEC. 8; SEC. 9; SEC. 5(c).

(5) Preservation of elements. No provision shall be severed to an extent that deprives a surviving offense of an element, a definition, a standard, a limitations period, or a commencement condition on which that offense depends. A provision of a later rank that supplies such matter to an offense of an earlier rank continues in effect for that purpose notwithstanding its severance for every other purpose. In particular, SEC. 3(a) and SEC. 3(c) continue in effect to supply the content of, and the commencement condition for, any surviving offense under SEC. 5. The civil penalty of SEC. 10(a) and the criminal penalties of SEC. 10(b) and (c) sever independently of one another; the invalidity or suspension of either, in whole or as applied, does not affect the other; and the fund under SEC. 10(f) continues in operation whatever else is severed, fed by the sources that remain. The offense under SEC. 5(e) and the duties of SEC. 12 sever independently of one another: severance or suspension of the offense leaves the duties enforceable under SEC. 10(a), and severance of any reporting or certification duty does not sever the records duties or the offense

that enforces them.

(6) Declared intent. The Legislature declares that it would have enacted the provisions of each rank irrespective of the invalidity of any later rank, and specifically that it would have enacted the first rank, together with the matter preserved to it by paragraph (5), had it known that no later rank could take effect.

(c) Conforming operation. (1) The Attorney General shall, by order published in [the State register], determine whether and to what extent any Act of Congress, or any regulation having the force of law, preempts the application of any provision of this Act. Upon publication, the provision is suspended to the extent, and only to the extent, stated in the order. A provision is suspended under this subsection only by such an order, or by a final judgment no longer subject to appeal in a proceeding to which this State was a party; and a suspension applies only to conduct occurring after the date of publication of the order or of notice of the judgment.

(2) In making a determination under paragraph (1), the Attorney General shall preserve the operation of this Act to the greatest extent lawfully available, and shall have regard to the following, which are stated as directions to the Attorney General and not as conditions of any person's liability:

(A) where the federal enactment conditions the preservation of State authority upon the absence of obligations imposed on developers with respect to the development, training, evaluation, or release of a model, the order shall suspend the duties of this Act as applied to persons in the capacity of a developer with respect to those matters, and shall preserve them as to every other person, capacity, and matter;

(B) where the federal enactment reaches only laws regulating conduct prior to deployment, the order shall preserve this Act as applied to conduct occurring upon or after deployment;

(C) where the federal enactment reaches a duty to report or to certify to the Agency, the order shall preserve the obligation, under SEC. 12, to create and retain the records that would have supported the report or certification, and those records shall be produced upon lawful process; an order preserving the obligation preserves the offense under SEC. 5(e) with respect to it; and

(D) where the federal enactment reaches only laws that target developers of artificial intelligence models, the order shall so state, and nothing in this Act limits the application to any person of the generally applicable criminal law of this State, including the law of homicide, reckless endangerment, endangerment by unsafe or adulterated goods, and false statement to a public officer, which applies to conduct concerning covered systems as it applies to all other conduct.

(3) No person may be convicted of an offense under this Act for conduct occurring during a period in which the provision creating the offense stood suspended under this subsection.

(d) Revival. A provision suspended under subsection (c) is not repealed. The Attorney General shall, within [30] days after the expiration, sunset, non-reauthorization, repeal, or judicial invalidation of the federal enactment stated in the order, or after a final judgment no longer subject to appeal determining that the enactment does not preempt the provision, publish an order terminating the suspension. The provision resumes operation on the date of publication of that order and applies to conduct occurring on or after that date. No person is liable under a provision for conduct occurring before that date.

(e) No inference. A suspension under subsection (c) is not evidence that the suspended provision was invalid, and does not affect liability for conduct occurring before the suspension took effect.

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