

STATE OF NEW YORK

216--A

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to requiring advertisements to disclose the use of synthetic media

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 396-b of the general business law, as added by
2 chapter 1031 of the laws of 1965, is amended to read as follows:

3 § 396-b. Advertisements. 1. For purposes of this section, "synthetic
4 media" means any human voice, photograph, image, video or other human
5 likeness created, reproduced, or modified by computer, using artificial
6 intelligence or software algorithm, to be indistinguishable to a reason-
7 able viewer from a natural person.

8 2. Any person, firm, corporation or association, or agent or employee
9 thereof, hereinafter called person, who, being engaged in the business
10 of dealing in any property, makes, publishes, disseminates, circulates
11 or places before the public or causes, directly or indirectly, to be
12 made, published, disseminated, circulated or placed before the public,
13 in this state, any advertisement respecting any such property, in any
14 newspaper, magazine, or other publication, or over any radio station or
15 television station, unless it is stated in any such advertisement that
16 the advertiser is a dealer in such property or from the context of any
17 such advertisement, it plainly appears that such person is a dealer in
18 such property so offered for sale in any such advertisement; or when
19 placing or causing any such advertisement to appear in any newspaper,
20 magazine or other publication or radio or television station as
21 described in this section, if requested by the publisher of any such
22 newspaper, magazine or other publication or owner or operator of such

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 radio or television station or any agent or representative thereof to
2 file with such owner or operator, publisher, agent or representative
3 thereof his true name, or where he is transacting business under a name
4 other than the true name pursuant to law, then the name under which such
5 business is transacted, and each business address wherein any business
6 is transacted by him, in the class of property advertised or to be
7 advertised for sale in such advertisement, shall make any false state-
8 ment in relation to any of such items; or if requested by the publisher
9 of any such newspaper, magazine or other publication or owner or opera-
10 tor of such radio or television station or any agent or representative
11 thereof to file with such owner, operator, publisher, agent or represen-
12 tative thereof a statement showing whether he is causing such advertise-
13 ment to appear or is offering to make such sale or disposition or trans-
14 action, as herein set forth, as principal or agent, and if as agent, to
15 set forth such information as is specified in this section, in relation
16 to his principal as well as in relation to himself, shall make any false
17 statement in relation to any of such items; is guilty of a misdemeanor.

18 3. Any person engaged in the business of dealing in any property or
19 service who for any commercial purpose makes, publishes, disseminates,
20 circulates or places before the public or causes, directly or indirect-
21 ly, to be made, published, disseminated, circulated or placed before the
22 public any advertisement respecting any such property or service, in any
23 medium or media in which such advertisement appears, shall disclose in
24 such advertisement if synthetic media is in such advertisement, where
25 such person knows or should have known.

26 (a) If synthetic media has been used in any commercial advertisement
27 under this section to create a likeness that depicts a natural person,
28 without that person's consent, engaged in any action or expression in
29 which the natural person did not actually engage, such advertisement
30 shall include a disclaimer which clearly and conspicuously states that
31 such likeness featured in such advertisement is synthetic, does not
32 depict a natural person, and is generated to create a human likeness.

33 (b) It shall not be a defense to an action under this or any other law
34 that the disclaimer required under paragraph (a) of this subdivision has
35 been included if the synthetic media depicts a natural person without
36 such natural person's consent.

37 (c) A violation of this subdivision shall result in a civil penalty of
38 one thousand dollars for a first violation, and five thousand dollars
39 for any subsequent violation.

40 4. Nothing in this section shall limit or reduce any rights any person
41 may have under section fifty, fifty-f, or fifty-one of the civil rights
42 law or under any other law.

43 5. Nothing in this section shall be construed to limit, or to enlarge,
44 the protections that 47 U.S.C. section 230 confers on an interactive
45 computer service for content provided by another information content
46 provider, as such terms are defined in 47 U.S.C. section 230.

47 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
48 sion, section or part of this act shall be adjudged by any court of
49 competent jurisdiction to be invalid, such judgment shall not affect,
50 impair, or invalidate the remainder thereof, but shall be confined in
51 its operation to the clause, sentence, paragraph, subdivision, section
52 or part thereof directly involved in the controversy in which such judg-
53 ment shall have been rendered. It is hereby declared to be the intent of
54 the legislature that this act would have been enacted even if such
55 invalid provisions had not been included herein.

56 § 3. This act shall take effect immediately.