

# STATE OF NEW YORK

6859

2023-2024 Regular Sessions

## IN SENATE

May 11, 2023

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

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  
23 radio or television station or any agent or representative thereof to  
24 file with such owner or operator, publisher, agent or representative  
25 thereof his true name, or where he is transacting business under a name

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

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

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

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

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

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

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

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

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

53 § 3. This act shall take effect immediately.