STATE OF NEW YORK

216--B

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. L. ROSENTHAL, GLICK -- 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 -- again reported from said committee with amendments, 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:

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

§ 396-b. Advertisements. 1. (a) For the purposes of this section, "generative artificial intelligence" means the use of machine learning technology, software, automation, and algorithms to perform tasks, to make rules and/or predictions based on existing data sets and instructions, including, but not limited to:

(i) Any artificial system that performs tasks under varying and unpredictable circumstances without significant human oversight, or that can learn from experience and improve performance when exposed to data sets;

(ii) An artificial system developed in computer software, physical hardware, or other context that solves tasks requiring human-like perception, cognition, planning, learning, communication, or physical action;

(iii) An artificial system designed to think or act like a human, including cognitive architectures and neural networks;

(iv) A set of techniques, including machine learning, that is designed to approximate a cognitive task; and/or

(v) An artificial system designed to act rationally, including an intelligent software agent or embodied robot that achieves goals using

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

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perception, planning, reasoning, learning, communicating, decision making, and acting.

(b) For purposes of this section, "synthetic media" means any human voice, photograph, image, video or other human likeness created, reproduced, or modified by computer, using generative artificial intelligence or a software algorithm, to produce or reproduce a human likeness.

2. Any person, firm, corporation or association, or agent or employee thereof, hereinafter called person, who, being engaged in the business of dealing in any property, makes, publishes, disseminates, circulates or places before the public or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, any advertisement respecting any such property, in any newspaper, magazine, or other publication, or over any radio station or television station, unless it is stated in any such advertisement that the advertiser is a dealer in such property or from the context of any such advertisement, it plainly appears that such person is a dealer in such property so offered for sale in any such advertisement; or when placing or causing any such advertisement to appear in any newspaper, magazine or other publication or radio or television station as described in this section, if requested by the publisher of any such newspaper, magazine or other publication or owner or operator of such radio or television station or any agent or representative thereof to file with such owner or operator, publisher, agent or representative thereof his true name, or where he is transacting business under a name other than the true name pursuant to law, then the name under which such business is transacted, and each business address wherein any business is transacted by him, in the class of property advertised or to be advertised for sale in such advertisement, shall make any false statement in relation to any of such items; or if requested by the publisher of any such newspaper, magazine or other publication or owner or operator of such radio or television station or any agent or representative thereof to file with such owner, operator, publisher, agent or representative thereof a statement showing whether he is causing such advertisement to appear or is offering to make such sale or disposition or transaction, as herein set forth, as principal or agent, and if as agent, to set forth such information as is specified in this section, in relation to his principal as well as in relation to himself, shall make any false statement in relation to any of such items; is guilty of a misdemeanor.

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

(a) If synthetic media has been used in any commercial advertisement under this section to create a likeness that depicts a natural person engaged in any action or expression in which the natural person did not actually engage, such advertisement shall include a disclaimer which clearly and conspicuously states that such likeness featured in such advertisement is synthetic, does not depict a natural person, and is generated to create a human likeness.

(b) It shall not be a defense to an action under this or any other law that the disclaimer required under paragraph (a) of this subdivision has

not been included because the synthetic media depicts a natural person with such natural person's consent.

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

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

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

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

§ 3. This act shall take effect immediately.