

STATE OF NEW YORK

216--C

2023-2024 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2023

Introduced by M. of A. L. ROSENTHAL, GLICK, GUNTHER, LEVENBERG, SHIMSKY, SIMON, ZACCARO, SANTABARBARA, BRONSON -- 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 -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- 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 a synthetic performer

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

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

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

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

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

LBD01400-08-4

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

3 (v) An artificial system designed to act rationally, including an
4 intelligent software agent or embodied robot that achieves goals using
5 perception, planning, reasoning, learning, communicating, decision
6 making, and acting.

7 (b) For purposes of this section, "synthetic performer" means a
8 digitally created asset created, reproduced, or modified by computer,
9 using generative artificial intelligence or a software algorithm, that
10 is intended to create the impression that the asset is a natural
11 performer who is not recognizable as any identifiable natural performer.

12 2. Any person, firm, corporation or association, or agent or employee
13 thereof, hereinafter called person, who, being engaged in the business
14 of dealing in any property, makes, publishes, disseminates, circulates
15 or places before the public or causes, directly or indirectly, to be
16 made, published, disseminated, circulated or placed before the public,
17 in this state, any advertisement respecting any such property, in any
18 newspaper, magazine, or other publication, or over any radio station or
19 television station, unless it is stated in any such advertisement that
20 the advertiser is a dealer in such property or from the context of any
21 such advertisement, it plainly appears that such person is a dealer in
22 such property so offered for sale in any such advertisement; or when
23 placing or causing any such advertisement to appear in any newspaper,
24 magazine or other publication or radio or television station as
25 described in this section, if requested by the publisher of any such
26 newspaper, magazine or other publication or owner or operator of such
27 radio or television station or any agent or representative thereof to
28 file with such owner or operator, publisher, agent or representative
29 thereof [~~his~~] such person's true name, or where [~~he~~] such person is
30 transacting business under a name other than the true name pursuant to
31 law, then the name under which such business is transacted, and each
32 business address wherein any business is transacted by [~~him~~] such
33 person, in the class of property advertised or to be advertised for sale
34 in such advertisement, shall make any false statement in relation to any
35 of such items; or if requested by the publisher of any such newspaper,
36 magazine or other publication or owner or operator of such radio or
37 television station or any agent or representative thereof to file with
38 such owner, operator, publisher, agent or representative thereof a
39 statement showing whether [~~he~~] such person is causing such advertisement
40 to appear or is offering to make such sale or disposition or trans-
41 action, as herein set forth, as principal or agent, and if as agent, to
42 set forth such information as is specified in this section, in relation
43 to [~~his~~] such person's principal as well as in relation to [~~himself~~]
44 such person, shall make any false statement in relation to any of such
45 items; is guilty of a misdemeanor.

46 3. Any person engaged in the business of dealing in any property or
47 service who for any commercial purpose makes, publishes, disseminates,
48 circulates or places before the public or causes, directly or indirect-
49 ly, to be made, published, disseminated, circulated or placed before the
50 public any advertisement respecting any such property or service, in any
51 medium or media in which such advertisement appears, shall disclose in
52 such advertisement if a synthetic performer is in such advertisement,
53 where such person has actual knowledge. A violation of this subdivision
54 shall result in a civil penalty of one thousand dollars for a first
55 violation, and five thousand dollars for any subsequent violation.

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

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

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

17 § 3. This act shall take effect immediately.