

# STATE OF NEW YORK

6859--A

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 -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- 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;

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

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

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

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

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

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

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

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

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

10 § 3. This act shall take effect immediately.