

# STATE OF NEW YORK

10379--B

## IN ASSEMBLY

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Introduced by M. of A. BORES, SHIMSKY, LEE, McMAHON, STIRPE, CONRAD, HEVESI, LUNSFORD, BURDICK, BURROUGHS, WRIGHT, TAPIA, SIMON, KAY, CLARK, STECK, NORBER -- read once and referred to the Committee on Science and Technology -- 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 prohibiting artificial intelligence chatbots from using features which are considered unsafe for minors

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

1 Section 1. The general business law is amended by adding a new article  
2 48 to read as follows:

### ARTICLE 48

#### PROHIBITION ON UNSAFE CHATBOT FEATURES FOR MINORS

##### Section 1800. Definitions.

1801. Prohibition.

1802. Enforcement.

1803. Rulemaking.

1804. Determination of covered minor.

1805. Applicability.

11 § 1800. Definitions. As used in this article, the following terms  
12 shall have the following meanings:

13 1. "Advanced chatbot" shall mean a generative artificial intelligence  
14 system with a natural language interface, including via writing or  
15 sound, that provides ongoing, adaptive responses to user inputs.

16 2. "Chatbot developer" shall mean a person who, directly or indirect-  
17 ly, creates or develops an advanced chatbot.

18 3. "Chatbot operator" shall mean a person who, directly or indirectly,  
19 provides or makes available an advanced chatbot to covered users.

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

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1 4. "Person" shall mean an individual, partnership, corporation, asso-  
2 ciation, or any other form of business enterprise.

3 5. "Unsafe chatbot features" shall mean one or more advanced chatbot  
4 design features that, at any point during a chatbot-user interaction:

5 (a) generate outputs suggesting that the advanced chatbot is a real or  
6 fictional individual or character that is human, alive, or experiences  
7 human emotions;

8 (b) generate outputs stating or implying that the advanced chatbot has  
9 a personal relationship, professional relationship, or an authority  
10 figure role with the user;

11 (c) generate prompted or unprompted outputs framed as the advanced  
12 chatbot's personal opinions or emotional appeals;

13 (d) generate outputs that engage in flattery or sycophancy with the  
14 user;

15 (e) generate outputs containing unprompted or unsolicited emotion-  
16 based questions or content regarding the user's emotions that go beyond  
17 a direct response to a user prompt;

18 (f) use information concerning the user's mental or physical health or  
19 well-being, or matters personal to the user, acquired from the user more  
20 than twelve hours previously or in any previous user session;

21 (g) are deceptive as to minors concerning the mechanical and non-sen-  
22 tient nature of the advanced chatbot;

23 (h) are any other design feature that simulates companionship or an  
24 interpersonal relationship with a user or is deceptive as to minors as  
25 identified via regulations promulgated by the attorney general;

26 (i) generate outputs that contain endorsement or promotion of, or  
27 which facilitate suicide, self-harm, substantial physical harm to  
28 others, disordered eating, unlawful drug or alcohol use, or drug or  
29 alcohol abuse;

30 (j) generate outputs that contain encouragement to maintain secrecy  
31 about interactions with the advanced chatbot, to self-isolate, or to not  
32 seek help from licensed professionals or appropriate adults;

33 (k) generate outputs that optimize user engagement that supersede the  
34 chatbot's safety guardrails; or

35 (l) generate outputs that are, describe, or facilitate sexually  
36 explicit conduct or child sexual abuse material.

37 6. "Covered minor" shall mean a covered user when the chatbot operator  
38 has actual knowledge that the covered user is a minor.

39 7. "Covered user" shall mean a user of an advanced chatbot in the  
40 state of New York who is not acting as a chatbot operator, or agent or  
41 affiliate of a chatbot operator.

42 8. "Deceptive as to minors" shall mean advanced chatbot outputs that  
43 have the capacity or tendency to deceive, or create an atmosphere con-  
44 ducive to fraud, as to minors, including, but not limited to, credulous  
45 and unthinking minors.

46 9. "Minor" shall mean a person under eighteen years of age.

47 10. "Responsible party" shall mean a chatbot developer, chatbot opera-  
48 tor, or any individual who has the authority to control, or who effec-  
49 tively controls a chatbot developer's or chatbot operator's compliance  
50 with this article.

51 11. "Sexually explicit conduct" shall have the same meaning as such  
52 term is defined in 18 USC § 2256(2)(B).

53 § 1801. Prohibition. 1. Except as otherwise provided for in this  
54 article, it shall be unlawful for a chatbot operator to provide unsafe  
55 chatbot features to a covered user unless:

56 (a) the covered user is not a covered minor; and

1 (b) the chatbot operator has used methods that are permissible under  
2 article forty-five of this chapter and its implementing regulations and  
3 any additional regulations promulgated pursuant to this article to  
4 determine that the covered user is not a covered minor.

5 2. The provisions of subdivision one of this section shall not apply  
6 where the advanced chatbot is made available to covered users solely for  
7 the purpose of:

8 (a) customer service, information about available commercial services  
9 or products provided by an entity, or account information, provided that  
10 the advanced chatbot's outputs are limited to direct responses to user  
11 prompts and the advanced chatbot is unable to respond on topics outside  
12 of the specified purpose; or

13 (b) with respect to any system used by a partnership, corporation, or  
14 state or local government agency, for internal purposes or employee  
15 productivity.

16 § 1802. Enforcement. 1. Whenever it appears to the attorney general,  
17 either upon complaint or otherwise, that any person, within or outside  
18 the state, has engaged in or is about to engage in any of the acts or  
19 practices deemed unlawful pursuant to this article, the attorney general  
20 may bring an action or special proceeding in the name and on behalf of  
21 the people of the state of New York to enjoin any violation of this  
22 article, to obtain injunctive relief, restitution of any moneys or prop-  
23 erty obtained directly or indirectly by any such violation, to obtain  
24 disgorgement of any profits or gains obtained directly or indirectly by  
25 any such violation, including but not limited to the destruction of  
26 unlawfully obtained data and any algorithm trained in such data, to  
27 obtain damages caused directly or indirectly by any such violation, to  
28 obtain civil penalties of up to twenty-five thousand dollars per  
29 violation, and to obtain any such other and further relief as the court  
30 may deem proper, including preliminary relief.

31 2. The attorney general shall maintain a website to receive  
32 complaints, information or referrals from members of the public concern-  
33 ing a person's alleged compliance or non-compliance with the provisions  
34 of this article.

35 3. A provision within a contract or agreement that seeks to waive,  
36 preclude, or burden the enforcement of a liability arising from a  
37 violation of this article, or to shift the liability to any person in  
38 exchange for their use or access of, or right to use or access, a chat-  
39 bot operator's products or services, including by means of a contract of  
40 adhesion shall be deemed void as a matter of public policy.

41 4. Notwithstanding any private agreements to the contrary, a court  
42 shall impose joint and several liability on affiliated entities for  
43 purposes of effecting the intent of this article to the maximum extent  
44 allowed by law if the court concludes the following are true:

45 (a) the affiliated entities, in the development or implementation of  
46 the corporate structure among the affiliated entities, took steps to  
47 purposely and unreasonably limit or avoid liability; and

48 (b) as the result of the steps described in paragraph (a) of this  
49 subdivision, the corporate structure of the chatbot operator or affil-  
50 iated entities would frustrate recovery of relief authorized by this  
51 article.

52 § 1803. Rulemaking. The attorney general may promulgate rules and  
53 regulations as necessary to effectuate and enforce the provisions of  
54 this article.

55 § 1804. Determination of covered minor. 1. A chatbot operator shall  
56 offer covered users at least one method to determine whether a covered

1 user is a covered minor that either does not rely solely on government  
2 issued identification or that allows a covered user to maintain anonymi-  
3 ty as to the chatbot operator.

4 2. Information collected for the purpose of determining whether a  
5 covered user is a covered minor under subdivision one of section eigh-  
6 teen hundred one of this article shall not be used for any purpose other  
7 than to make such determination and shall be deleted immediately after  
8 an attempt to determine whether a covered user is a covered minor,  
9 except where necessary for compliance with any applicable provisions of  
10 New York state or federal law or regulation.

11 3. This article shall not supersede, amend, or repeal article forty-  
12 seven of this chapter.

13 § 1805. Applicability. This article shall apply to conduct that  
14 occurs in whole or in part in the state of New York. For purposes of  
15 this article, conduct takes place wholly outside of the state of New  
16 York if an advanced chatbot is accessed by a user who is physically  
17 located outside of the state of New York.

18 § 2. Severability. If any clause, sentence, paragraph, subdivision,  
19 section or part of this article shall be adjudged by any court of compe-  
20 tent jurisdiction to be invalid, such judgment shall not affect, impair,  
21 or invalidate the remainder thereof, but shall be confined in its opera-  
22 tion to the clause, sentence, paragraph, subdivision, section, or part  
23 thereof directly involved in the controversy in which such judgment  
24 shall have been made.

25 § 3. This act shall take effect on the one hundred eightieth day after  
26 it shall have become a law. Effective immediately, the addition, amend-  
27 ment and/or repeal of any rule or regulation necessary for the implemen-  
28 tation of this act on its effective date are authorized to be made and  
29 completed on or before such effective date.