# STATE OF NEW YORK

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# IN SENATE

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Introduced by Sens. GONZALEZ, CLEARE, FERNANDEZ, KAVANAGH, MARTINS, MAYER, PALUMBO, SALAZAR, WEBER -- read twice and ordered printed, and when printed to be committed to the Committee on Internet and Technology -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:**

Section 1. The general business law is amended by adding a new article 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.**


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

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

**2. "Chatbot developer" shall mean a person who, directly or indirectly, creates or develops an advanced chatbot.**

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

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

4. "Person" shall mean an individual, partnership, corporation, association, or any other form of business enterprise.

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

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

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

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

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

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

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

(g) are deceptive as to minors concerning the mechanical and non-sentient nature of the advanced chatbot;

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

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

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

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

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

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

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

8. "Deceptive as to minors" shall mean advanced chatbot outputs that have the capacity or tendency to deceive, or create an atmosphere conducive to fraud, as to minors, including, but not limited to, credulous and unthinking minors.

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

10. "Responsible party" shall mean a chatbot developer, chatbot operator, or any individual who has the authority to control, or who effectively controls a chatbot developer's or chatbot operator's compliance with this article.

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

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

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

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

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

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

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

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

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

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

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

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

(b) as the result of the steps described in paragraph (a) of this subdivision, the corporate structure of the chatbot operator or affiliated entities would frustrate recovery of relief authorized by this article.

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

§ 1804. Determination of covered minor. 1. A chatbot operator shall offer covered users at least one method to determine whether a covered user is a covered minor that either does not rely solely on government issued identification or that allows a covered user to maintain anonymity as to the chatbot operator.

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

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

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

§ 2. Severability. If any clause, sentence, paragraph, subdivision, section or part of this article 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 made.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.