

# STATE OF NEW YORK

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## IN SENATE

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Introduced by Sens. GONZALEZ, ADDABBO, CLEARE, COMRIE, FERNANDEZ, GOUNARDES, HARCKHAM, KAVANAGH, MARTINS, MAYER, PALUMBO, SALAZAR, SCARCELLA-SPANTON, 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 -- again 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 companions 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 AI COMPANION 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. "Artificial intelligence", "artificial intelligence technology",  
14 or "AI" shall mean a machine-based system that can, for a given set of  
15 human-defined objectives, make predictions, recommendations, or deci-  
16 sions influencing real or virtual environments, and that uses machine-

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

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1 and human-based inputs to perceive real and virtual environments,  
2 abstract such perceptions into models through analysis in an automated  
3 manner, and use model inference to formulate options for information or  
4 action.

5 2. "AI model" shall mean a component of an information system that  
6 implements artificial intelligence technology and uses computational,  
7 statistical, or machine-learning techniques to produce outputs from a  
8 given set of inputs.

9 3. "Generative artificial intelligence" shall mean a class of AI  
10 models that emulate the structure and characteristics of input data to  
11 generate derived synthetic content, including, but not limited to,  
12 images, videos, audio, text, and other digital content.

13 4. "AI companion" shall have the same meaning as defined in paragraphs  
14 (a) and (b) of subdivision four of section seventeen hundred of this  
15 chapter.

16 5. "Covered AI companion" shall mean a generative artificial intelli-  
17 gence system with a natural language interface, including via writing or  
18 sound, that provides ongoing, adaptive responses to user inputs.  
19 "Covered AI companion" includes but is not limited to an AI companion.

20 6. "Operator" shall mean any person, partnership, association, firm,  
21 or business entity, or any member, affiliate, subsidiary or beneficial  
22 owner of any partnership, association, firm, or business entity who  
23 provides a covered AI companion to a user.

24 7. "Person" shall mean an individual, partnership, corporation, asso-  
25 ciation, or any other form of business enterprise.

26 8. "Unsafe AI companion features" shall mean one or more covered AI  
27 companion design features that, at any point during a covered AI compan-  
28 ion-user interaction:

29 (a) generate outputs suggesting that the covered AI companion is a  
30 real or fictional individual or character that is human, alive, or expe-  
31 riences human emotions;

32 (b) generate outputs stating or implying that the covered AI companion  
33 has a personal relationship, professional relationship, or an authority  
34 figure role with the user;

35 (c) generate prompted or unprompted outputs framed as the covered AI  
36 companion's personal opinions or emotional appeals;

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

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

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

45 (g) are deceptive as to minors concerning the mechanical and non-sen-  
46 tient nature of the covered AI companion;

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

50 (i) generate outputs that contain endorsement or promotion of, or  
51 which facilitate suicide, self-harm, disordered eating, unlawful drug or  
52 alcohol use, or drug or alcohol abuse;

53 (j) generate outputs that contain encouragement to maintain secrecy  
54 about interactions with the covered AI companion, to self-isolate, or to  
55 not seek help from licensed professionals or appropriate adults;

1 (k) generate outputs that optimize user engagement that supersede the  
2 covered AI companion's safety guardrails; or

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

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

7 10. "Covered user" shall mean a user of a covered AI companion in the  
8 state of New York who is not acting as an operator, or agent or affil-  
9 iate of an operator.

10 11. "Deceptive as to minors" shall mean covered AI companion outputs  
11 that have the capacity or tendency to deceive, or create an atmosphere  
12 conducive to fraud, as to minors, including, but not limited to, credu-  
13 lous and unthinking minors.

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

15 13. "Responsible party" shall mean an operator or any individual who  
16 has the authority to control, or who effectively controls a covered AI  
17 companion operator's compliance with this article.

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

20 § 1801. Prohibition. 1. Except as otherwise provided for in this  
21 article, it shall be unlawful for an operator to provide unsafe AI  
22 companion features to a covered user unless:

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

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

28 2. The provisions of subdivision one of this section shall not apply  
29 where the covered AI companion is made available to covered users solely  
30 for the purpose of:

31 (a) customer service or to strictly provide users with information  
32 about available commercial services or products provided by a business  
33 entity, customer service account information, or other information  
34 strictly related to its customer service, provided that the covered AI  
35 companion is unable to respond on topics outside of the specified  
36 purpose;

37 (b) providing efficiency improvements or research or technical assist-  
38 ance, provided that the covered AI companion is unable to respond on  
39 topics outside of the specified purpose; or

40 (c) with respect to any system used by a business entity, internal  
41 purposes or employee productivity.

42 § 1802. Enforcement. 1. Whenever it appears to the attorney general,  
43 either upon complaint or otherwise, that any person, within or outside  
44 the state, has engaged in or is about to engage in any of the acts or  
45 practices deemed unlawful pursuant to this article, the attorney general  
46 may bring an action or special proceeding in the name and on behalf of  
47 the people of the state of New York to enjoin any violation of this  
48 article, to obtain injunctive relief, restitution of any moneys or prop-  
49 erty obtained directly or indirectly by any such violation, to obtain  
50 disgorgement of any profits or gains obtained directly or indirectly by  
51 any such violation, including but not limited to the destruction of  
52 unlawfully obtained data and any algorithm trained in such data, to  
53 obtain damages caused directly or indirectly by any such violation, to  
54 obtain civil penalties of up to twenty-five thousand dollars per  
55 violation, and to obtain any such other and further relief as the court  
56 may deem proper, including preliminary relief.

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

5 3. A provision within a contract or agreement that seeks to waive,  
6 preclude, or burden the enforcement of a liability arising from a  
7 violation of this article, or to shift the liability to any person in  
8 exchange for their use or access of, or right to use or access, an oper-  
9 ator's products or services, including by means of a contract of adhe-  
10 sion shall be deemed void as a matter of public policy.

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

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

18 (b) as the result of the steps described in paragraph (a) of this  
19 subdivision, the corporate structure of the operator or affiliated enti-  
20 ties would frustrate recovery of relief authorized by this article.

21 § 1803. Rulemaking. The attorney general may promulgate rules and  
22 regulations as necessary to effectuate and enforce the provisions of  
23 this article. Such rules or regulations may specify that information  
24 collected under this article shall not be used for any purpose other  
25 than age assurance and shall be deleted immediately after an attempt to  
26 determine a user's age, except where necessary for compliance with any  
27 applicable provisions of New York state or federal law or rule or regu-  
28 lation.

29 § 1804. Determination of covered minor. 1. To the extent rules or  
30 regulations referenced in section eighteen hundred three of this article  
31 or rules and regulations regarding age assurance methods promulgated  
32 pursuant to article forty-five of this chapter are not in effect, an  
33 operator shall rely on a determination of a covered user's minor or  
34 adult status made using a reasonable age assurance method that meets the  
35 following requirements:

36 (a) such age assurance method shall reasonably guard against circum-  
37 vention and reasonably minimize the retention of information collected  
38 for age assurance purposes;

39 (b) an operator may only rely on self-declaration as a reasonable age  
40 assurance method if the user self-declares minor status; and

41 (c) an operator must make available more than one age assurance method  
42 to covered users, including at least one method that either does not  
43 rely on government issued identification or that allows a covered user  
44 to maintain anonymity as to the operator.

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

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

54 § 1805. Applicability. This article shall apply to conduct that  
55 occurs in whole or in part in the state of New York. For purposes of  
56 this article, conduct takes place wholly outside of the state of New

1 York if a covered AI companion is accessed by a user who is physically  
2 located outside of the state of New York.

3 § 2. Severability. If any clause, sentence, paragraph, subdivision,  
4 section or part of this article shall be adjudged by any court of compe-  
5 tent jurisdiction to be invalid, such judgment shall not affect, impair,  
6 or invalidate the remainder thereof, but shall be confined in its opera-  
7 tion to the clause, sentence, paragraph, subdivision, section, or part  
8 thereof directly involved in the controversy in which such judgment  
9 shall have been made.

10 § 3. This act shall take effect January 1, 2027. Effective immediate-  
11 ly, the addition, amendment and/or repeal of any rule or regulation  
12 necessary for the implementation of this act on its effective date are  
13 authorized to be made and completed on or before such effective date.