

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:

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.

6 1801. Prohibition.

7 1802. Enforcement.

8 1803. Rulemaking.

9 1804. Determination of covered minor.

10 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 § 1803. Rulemaking. The attorney general may promulgate rules and
2 regulations as necessary to effectuate and enforce the provisions of
3 this article.

4 § 1804. Determination of covered minor. 1. A chatbot operator shall
5 offer covered users at least one method to determine whether a covered
6 user is a covered minor that either does not rely solely on government
7 issued identification or that allows a covered user to maintain anonymi-
8 ty as to the chatbot operator.

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

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

18 § 1805. Applicability. This article shall apply to conduct that
19 occurs in whole or in part in the state of New York. For purposes of
20 this article, conduct takes place wholly outside of the state of New
21 York if an advanced chatbot is accessed by a user who is physically
22 located outside of the state of New York.

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

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