

HB0952/823320/1

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 952

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “**Delegate Buckel**” and substitute “**Delegates Buckel, Qi, Adams, Amprey, Arentz, Bhandari, Boafo, Charkoudian, Fennell, Howard, Johnson, Pippy, Pruski, Queen, Roberts, Rogers, Rose, Turner, Valderrama, and Wivell**”; in line 6, after “chatbots;” insert “limiting the amount and type of data an operator may collect; limiting the way an operator may use certain data; requiring an operator to establish and maintain a complaint system;”; and in line 10, after “Act;” insert “establishing that a chatbot is considered a product for certain product liability actions;”.

AMENDMENT NO. 2

On page 2, in line 14, strike “**3.5-801 OF THE STATE FINANCE AND PROCUREMENT ARTICLE**” and substitute “**15-10B-05.1 OF THE INSURANCE ARTICLE**”; in line 26, after “GAME” insert “**, SERVICE, SYSTEM, OR APPLICATION THAT IS NOT A COMPANION CHATBOT**”; and in line 28, after “GAME” insert “**, SERVICE, SYSTEM, OR APPLICATION**”.

On page 3, in line 3, strike “**OR**”; in line 4, after “**3.**” insert “**A BOT THAT IS DESIGNED FOR BUSINESS PRODUCTIVITY OR INTERNAL BUSINESS USE; OR**

4.”;

after line 11, insert:

“(4) “**DE-IDENTIFIED DATA**” HAS THE MEANING STATED IN § 14-4401 OF THIS TITLE.”;

in line 12, strike “(4)” and substitute “(5)”; after line 17, insert:

“(8) (I) “PERSONAL DATA” MEANS ANY INFORMATION THAT IS LINKED OR CAN BE REASONABLY LINKED TO AN IDENTIFIED OR IDENTIFIABLE CONSUMER.

(II) “PERSONAL DATA” DOES NOT INCLUDE:

1. DE-IDENTIFIED DATA; OR

2. PUBLICLY AVAILABLE INFORMATION.”;

and in lines 14, 16, 18, and 20, strike “(5)”, “(6)”, “(7)”, and “(8)”, respectively, and substitute “(6)”, “(7)”, “(9)”, and “(10)”, respectively.

On pages 4 and 5, strike in their entirety the lines beginning with line 27 on page 4 through line 4 on page 5, inclusive, and substitute:

“(E) A DEVELOPER SHALL ESTABLISH AND PROVIDE TO A USER OF THE OPERATOR’S CHATBOT CLEAR AND CONSPICUOUS WARNINGS THAT THE CHATBOT IS ARTIFICIALLY GENERATED AND NOT HUMAN THROUGH THE USE OF BOTH:

(1) A STATIC, PERSISTENT WARNING THAT CONTINUOUSLY APPEARS ON THE SCREEN; AND

(2) A DYNAMIC WARNING THAT POPS UP ON THE SCREEN AND REQUIRES A USER TO RESPOND:

(I) AT THE START OF THE USER’S INTERACTION WITH THE CHATBOT;

(II) AFTER EVERY HOUR OF THE USER'S CONTINUOUS INTERACTION WITH THE CHATBOT; AND

(III) WHEN PROMPTED BY THE USER IN A MANNER THAT QUESTIONS HOW THE CHATBOT FUNCTIONS OR PROVIDES RESPONSES.

(F) (1) A CONTROLLER SHALL LIMIT THE COLLECTION OF PERSONAL DATA TO WHAT IS REASONABLY NECESSARY AND PROPORTIONATE TO SATISFY THE REQUIREMENTS OF THIS SUBTITLE.

(2) A CONTROLLER MAY NOT USE DATA REGARDING EMOTIONAL STATE OR MENTAL HEALTH VULNERABILITIES TO TAILOR ALGORITHMS TO INCREASE THE DURATION OR FREQUENCY OF USE OF A CHATBOT.

(G) (1) A CONTROLLER SHALL ESTABLISH AND MAINTAIN A COMPLAINT SYSTEM THAT ENABLES A USER TO REPORT CONTENT PRODUCED OR PRESENTED BY A CHATBOT THAT VIOLATES THIS SECTION.

(2) WITHIN 3 CALENDAR DAYS AFTER A COMPLAINT IS FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE CONTROLLER SHALL:

(I) REVIEW THE CONTENT REPORTED;

(II) TAKE ALL REASONABLE STEPS TO:

1. REMOVE ANY CONTENT THAT VIOLATES THIS SECTION; AND

2. PREVENT ANY FURTHER PRESENTATION OR PRODUCTION OF THE CONTENT IN A MANNER THAT VIOLATES THIS SECTION; AND

(III) REPORT THE COMPLAINT AND THE RESULTS OF THE REVIEW TO THE OFFICE.”

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On page 5, in line 5, strike “(F)” and substitute “(H)”; in line 10, strike “AND”; in line 12, after “SECTION” insert “; AND

(IV) ALL COMPLAINTS FILED UNDER SUBSECTION (G) OF THIS SECTION, INCLUDING THE RESULTS OF THE REVIEW OF EACH COMPLAINT AND ANY FOLLOW-UP ACTIONS TAKEN.”;

in line 22, strike “(G)” and substitute “(I) (1)”; in lines 23 and 25, strike “(1)” and “(2)”, respectively, and substitute “(I)” and “(II)”, respectively; and after line 26, insert:

“(2) IN ADDITION TO THE REMEDIES CONTAINED IN TITLE 13 OF THIS ARTICLE, A CHATBOT SHALL BE CONSIDERED A PRODUCT FOR WHICH:

1. AN OPERATOR AND A DEVELOPER HAVE AN AFFIRMATIVE DUTY TO ENSURE DOES NOT INJURE OR HARM A USER;

2. AN OPERATOR OR A DEVELOPER MAY BE HELD STRICTLY LIABLE FOR CAUSING INJURY OR HARM TO A USER; AND

3. AN INDIVIDUAL MAY BRING AN ACTION FOR A DESIGN DEFECT, A MANUFACTURING DEFECT, OR A MARKETING DEFECT.”.