

DATE: March 10, 2026  
TO: Senate Finance Committee  
FROM: The Entertainment Software Association  
RE: SB 827 – Oppose Unless Amended

Dear Chair Beidle and Members of the Senate Finance Committee,

On behalf of the Entertainment Software Association (ESA), which represents the leading publishers and developers of interactive entertainment in the United States, we write to express serious concerns with Senate Bill 827, legislation that seeks to regulate “chatbots.” While we appreciate the Committee’s interest in responsible innovation and consumer protection, SB 827, as currently drafted, is overly broad and would have significant unintended consequences for video games and the Marylanders who enjoy them.

Video games have long incorporated chatbot-like technologies to enhance gameplay, storytelling, and player engagement. Interactive non-player characters (NPCs), AI-driven dialogue systems, and adaptive voice interactions are integral to modern games. These features are low-risk, entertainment-focused, and fundamentally different from chatbots deployed in high-risk contexts such as housing, employment, healthcare, or financial services. Yet SB 827 draws no meaningful distinctions among these uses.

### **Overbroad Definitions**

The bill’s definition of “chatbot” is sweeping and would capture virtually every AI-enabled character or dialogue system in a video game. “Input data” includes user-provided text, audio, video, and images, while “training data” encompasses data used to modify a chatbot, with only narrow exceptions. As drafted, this could plausibly cover ordinary gameplay interactions—such as a player’s voice or text exchange with an in-game character. Developers routinely test and refine such systems for quality, narrative consistency, and player experience—not solely for “user safety.” Because those standard development practices fall outside the bill’s limited exceptions, ESA members could be prohibited from making games available in Maryland absent separate, affirmative consent and ongoing warnings during gameplay.

The result would be gameplay interruptions, additional consent flows beyond existing terms and conditions, and heightened compliance burdens that are untethered from actual privacy risks. At minimum, the bill should be amended to narrow the definitions of “input data” and “training data” to focus on personal data in the privacy-law sense, or to provide a clear exemption for in-game, entertainment-based AI systems.

### **Mandated Warnings**

Senate Bill 827 would require state-prescribed warnings at the beginning of every chatbot interaction and every hour thereafter, disclosing that the chatbot is AI-generated. In video games, players knowingly and reasonably expect to interact with AI-driven characters. There is no meaningful risk of deception in this context. AI is not masquerading as a real human making consequential decisions about a player’s employment, housing, or finances. Rather, it is a creative and expressive component of fictional gameplay. Players understand that NPCs are artificial. Requiring immersion-breaking warnings would degrade the user experience without advancing consumer protection.

### **Data Security and Privacy Provisions**

SB 827 mandates a “comprehensive” data security program, monthly testing, public written descriptions, and recurring safety reports. ESA members already maintain robust data security programs consistent with applicable state and federal privacy laws. Imposing continuous testing and disclosure obligations designed for high-risk AI systems onto low-risk entertainment uses would create significant compliance burdens without corresponding public benefit. If such requirements are deemed necessary, they should be limited to high-risk AI applications—not interactive fictional characters in games.

Additionally, the bill’s provisions concerning chat logs and data processing do not align with how in-game NPC interactions function. Video game chatbots typically do not create persistent, user-accessible “chat logs” in the manner contemplated by the bill and should not be subject to this requirement.

### **Liability and First Amendment Concerns**

Perhaps most concerning, SB 827 creates a private right of action and authorizes Attorney General enforcement while designating chatbots as “products” for purposes of products liability law. It imposes an “affirmative duty” to ensure that a chatbot does not injure or harm a user.

This approach conflicts with decades of established law. Courts have consistently recognized that expressive works—including video games—are protected by the First Amendment. Content and speech are not treated as physical “products” subject to strict liability. There is no strict liability for books, films, music, or other media based on the ideas they convey. At minimum, SB 827 should include an explicit exemption for expressive and artistic works or clarify that the statute does not apply where doing so would infringe First Amendment protections.

### **Existing Consumer Protections**

The video game industry has long demonstrated leadership in consumer transparency and parental empowerment. The Entertainment Software Rating Board (ESRB) provides comprehensive ratings, content descriptors, and parental controls that give families meaningful information about game content. These voluntary, widely recognized tools already serve the consumer notice function that SB 827 seeks to address.

ESA and its member companies share the Committee’s commitment to innovation, consumer trust, and responsible technology development. However, SB 827’s sweeping definitions, mandatory warnings, expansive liability framework, and onerous compliance requirements would inadvertently capture low-risk, entertainment-based uses of AI in video games. We respectfully urge the Committee to vote no on SB 827 as currently drafted.

We welcome the opportunity to work with the Committee to ensure that any legislation carefully targets genuine risks without undermining creative expression or Maryland’s vibrant video game community.

Sincerely,

Jennifer Gibbons  
VP, State Government Affairs  
Entertainment Software Association