



Written Testimony in Support of Senate Bill 827

March 12, 2026

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The Alliance for Secure AI is a bipartisan organization working to ensure AI is built and deployed safely, responsibly, and in the public interest. We are one of more than 70 organizations spanning consumer protection, digital rights, labor, and child safety that endorsed the language on which SB 827 is based.

By establishing chatbots as products and setting clear legal liability standards for harm, this bill provides urgent accountability while simultaneously offering companies clarity around their responsibilities. We respectfully urge a favorable report.

AI chatbots are products. The law should treat them accordingly.

While AI chatbots have real potential to improve how people access information, learn, and work, their benefits depend on whether companies build and deploy them responsibly. When a product injures someone, we don't ask the consumer to bear the cost alone. We hold the manufacturer accountable. SB 827 applies that same logic to chatbot technology and brings Maryland's consumer protection framework in line with the reality of how these products actually work.

The product liability provisions close a real gap in existing law.

SB 827 does not invent a novel legal theory. It simply extends product liability principles that have served American consumers for decades. A chatbot that provides dangerous medical advice is, in legal terms, no different from a medical device that malfunctions. A chatbot that manipulates a vulnerable user through companion-like features is no different from a product with a foreseeable design defect. The companies building these systems know their products carry risks. SB 827 ensures those risks are allocated to the parties best positioned to manage them.

Clear liability standards don't stifle innovation; they reward the companies investing in safety. When companies know what is expected, they can design accordingly. When users know they have recourse, trust grows. That alignment of incentives is what makes product liability work for every other consumer product in Maryland.

The bill takes a privacy-focused approach, which makes it smarter and more durable.

One of the most important features of SB 827 is what it does not do: it does not restrict or regulate content. Instead, it targets the data practices and business model incentives that drive chatbot harms. This is a critical distinction, both as a matter of policy design and constitutional durability.

The bill prohibits using chat logs for targeted advertising, profiling users based on personality and behavioral characteristics beyond what is necessary to respond to a prompt, and using minors' input data for model training without parental consent. It requires affirmative consent before companies can use any user's input data for training, and it bans the sale of chat logs entirely. By targeting data practices rather than speech, the bill avoids the First Amendment vulnerabilities that have weakened other approaches to technology regulation.

The enhanced protections for children under 13 deserve particular attention. By requiring parental consent before operators can use a minor's data, the bill draws a bright line that parents across the political spectrum are demanding. We have learned from the experience with social media that we cannot rely on voluntary commitments from technology companies to protect children. We need enforceable safeguards.

Responding to industry objections.

The tech industry has opposed this bill for a variety of reasons, yet none should dissuade the committee from moving forward.

The bill does not conflict with the Maryland Online Data Privacy Act. SB 827 was drafted to complement MODPA, not displace it. Section 14-5110 explicitly provides that the duties and remedies under this subtitle are in addition to existing federal, state, and local law, and may not be construed to impair or deny other applicable obligations. The argument that Maryland should have only one privacy framework assumes that a general-purpose privacy law can adequately address the specific risks of a technology that simulates interpersonal conversation, collects extraordinarily sensitive personal disclosures, and is increasingly marketed as a companion or advisor. It cannot. Chatbot-specific safeguards are necessary precisely because the risks are specific.

Strict liability is not "unprecedented" for these products. Opponents argue that chatbots are fundamentally different from physical products because user inputs are infinite and unpredictable. But SB 827 does not impose liability for every unexpected output. It establishes claims for design defects, manufacturing defects, and marketing defects, which are well-established legal categories with decades of case law defining their boundaries. The bill also gives the Attorney General rulemaking authority to define the specific safety metrics and testing parameters, ensuring the

standards are calibrated to how the technology actually works. This is not an all-or-nothing framework; it is an adaptable one.

The ad prohibition does not threaten free services. The bill does not ban advertising. It bans using chat logs to target and customize advertisements. The argument that consumers must accept the exploitation of their most sensitive conversations as the price of free access is the same argument the social media industry has made for a decade. Maryland already rejected that logic when it passed MODPA and banned the sale of sensitive data and targeted advertising to minors. SB 827 extends that same principle to chatbot interactions.

The “advice” prohibition is narrower than opponents suggest. Section 14-5104(A)(5) prohibits providing advice or services that an individual cannot lawfully provide without a license, “in violation of applicable state licensing laws.” That qualifier is doing significant work. A chatbot that explains a billing statement is providing information; a chatbot that diagnoses a medical condition and recommends treatment is practicing medicine. The bill targets the latter, preventing chatbots from holding themselves out as licensed professionals. California and Illinois enacted similar provisions as standalone bills last year.

The private right of action is essential. Product liability without a private enforcement mechanism is product liability in name only. No Attorney General’s office has the resources to pursue every consumer harmed by a defective chatbot. The private right of action, paired with a knowing-violation standard for punitive damages, strikes the right balance between deterrence and restraint. It targets bad actors, not good-faith companies that are investing in safety.

SB 827 balances consumer protection with innovation. It creates clear legal standards that prioritize the safety of Marylanders while giving responsible companies the certainty they need to build AI products people can trust. We urge a favorable report.

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