

HB0452S02 compared with HB0452

~~{Omitted text}~~ shows text that was in HB0452 but was omitted in HB0452S02

inserted text shows text that was not in HB0452 but was inserted into HB0452S02

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1

Artificial Intelligence Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor:

2

3 LONG TITLE

4 General Description:

5 This bill enacts provisions relating to the regulation of mental health chatbots that use
6 artificial intelligence technology.

7 Highlighted Provisions:

8 This bill:

- 9 ▶ defines terms;
- 10 ▶ establishes protections for users of mental health chatbots that use artificial intelligence
11 technology;
- 12 ▶ prohibits certain uses of personal information by a mental health chatbot;
- 13 ▶ requires a mental health chatbot to make certain disclosures to users;
- 14 ▶ provides enforcement authority to the Division of Consumer Protection;
- 15 ▶ establishes requirements for creating and maintaining policies for mental health chatbots;
- 16 ▶ creates rebuttable presumptions for suppliers who comply with policy requirements; and
- 17 ▶ provides a severability clause.

18 Money Appropriated in this Bill:

HB0452

HB0452 compared with HB0452S02

19 None

20 **Other Special Clauses:**

21 None

23 AMENDS:

24 **13-2-1** , as last amended by Laws of Utah 2024, Chapter 132 , as last amended by Laws of Utah
2024, Chapter 132

25 ENACTS:

26 **13-72a-101** , Utah Code Annotated 1953 , Utah Code Annotated 1953

27 **13-72a-201** , Utah Code Annotated 1953 , Utah Code Annotated 1953

28 **13-72a-202** , Utah Code Annotated 1953 , Utah Code Annotated 1953

29 **13-72a-203** , Utah Code Annotated 1953 , Utah Code Annotated 1953

30 **13-72a-204** , Utah Code Annotated 1953 , Utah Code Annotated 1953

31 **13-72a-301** , Utah Code Annotated 1953 , Utah Code Annotated 1953

32 **58-60-118** , Utah Code Annotated 1953 , Utah Code Annotated 1953

33

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **13-2-1** is amended to read:

36 **13-2-1. Consumer protection division established -- Functions.**

37 (1) There is established within the Department of Commerce the Division of Consumer Protection.

39 (2) The division shall administer and enforce the following:

40 (a) Chapter 10a, Music Licensing Practices Act;

41 (b) Chapter 11, Utah Consumer Sales Practices Act;

42 (c) Chapter 15, Business Opportunity Disclosure Act;

43 (d) Chapter 20, New Motor Vehicle Warranties Act;

44 (e) Chapter 21, Credit Services Organizations Act;

45 (f) Chapter 22, Charitable Solicitations Act;

46 (g) Chapter 23, Health Spa Services Protection Act;

47 (h) Chapter 25a, Telephone and Facsimile Solicitation Act;

48 (i) Chapter 26, Telephone Fraud Prevention Act;

49 (j) Chapter 28, Prize Notices Regulation Act;

50

HB0452 compared with HB0452S02

- (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- 52 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
- 53 (m) Chapter 41, Price Controls During Emergencies Act;
- 54 (n) Chapter 42, Uniform Debt-Management Services Act;
- 55 (o) Chapter 49, Immigration Consultants Registration Act;
- 56 (p) Chapter 51, Transportation Network Company Registration Act;
- 57 (q) Chapter 52, Residential Solar Energy Disclosure Act;
- 58 (r) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 59 (s) Chapter 54, Ticket Website Sales Act;
- 60 (t) Chapter 56, Ticket Transferability Act;
- 61 (u) Chapter 57, Maintenance Funding Practices Act;
- 62 (v) Chapter 61, Utah Consumer Privacy Act;
- 63 [~~(w) Chapter 63, Utah Social Media Regulation Act;~~]
- 64 [~~(x)~~ (w) Chapter 64, Vehicle Value Protection Agreement Act;
- 65 [~~(y)~~ (x) Chapter 65, Utah Commercial Email Act;
- 66 [~~(z)~~ (y) Chapter 67, Online Dating Safety Act;
- 67 [~~(aa)~~ (z) Chapter 68, Lawyer Referral Consultants Registration Act;
- 68 [~~(bb)~~ (aa) Chapter 70, Automatic Renewal Contracts Act~~[-and]~~ ;
- 69 [~~(ee)~~ (bb) Chapter 71, Utah Minor Protection in Social Media Act~~[-]~~ ; and
- 70 (cc) Chapter 72a, Artificial Intelligence Applications Relating to Mental Health.
- 71 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to establish:
- 73 (a) a public list that identifies a person who:
- 74 (i) violates a chapter described in Subsection (2);
- 75 (ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal process issued by:
- 77 (A) the division; or
- 78 (B) a court of competent jurisdiction; or
- 79 (iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument signed by the person and the division; and

HB0452 compared with HB0452S02

81 (b) a process by which a person may be removed from the list the division establishes as described in
Subsection (3)(a).

83 Section 2. Section 2 is enacted to read:

84 **CHAPTER 72a. ARTIFICIAL INTELLIGENCE**

APPLICATIONS RELATING TO MENTAL HEALTH.

86 **Part 1. General Provisions**

87 **13-72a-101. Definitions.**

As used in this chapter:

89 (1) "Artificial intelligence" means the same as that term is defined in Section 13-72-101.

90 (2) "Artificial intelligence technology" means the same as that term is defined in Section 13-72-101.

92 (3) "Confidential communications" means the same as that term is defined in Section 58-60-102.

94 (4) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

94 ~~{(4)}~~ (5) "Division" means the Division of Consumer Protection created in Section 13-2-1.

95 ~~{(5)}~~ (6) "Generative artificial intelligence" means an artificial system that:

96 (a) is trained on data;

97 (b) interacts with a person using text, audio, or visual communication; and

98 (c) generates non-scripted outputs similar to outputs created by a human, with limited or no human oversight.

100 ~~{(6)} {"Health care plan" means the same as that term is defined in 45 C.F.R. Sec. 160.103.} }~~

101 (7) "Health care provider" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

102 (8) "Health plan" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

102 ~~{(8)}~~ (9) "Individually identifiable health information" means any information, whether oral or recorded in any form or medium, that relates to the physical or mental health or condition of an individual.

105 ~~{(9)}~~ (10)

(a) "Mental health chatbot" means an artificial intelligence technology that:

106 (i) uses generative artificial intelligence to engage in interactive conversations with a user of the mental health chatbot similar to the confidential communications that an individual would have with a licensed mental health therapist; and

HB0452 compared with HB0452S02

- 109 (ii) a supplier represents, or a reasonable person would believe, can or will provide mental health
110 therapy or help a user manage or treat mental health conditions.
- 111 (b) "Mental health chatbot" does not include artificial intelligence technology that only:
- 112 (i) provides scripted output, such as guided meditations or mindfulness exercises; or
- 113 (ii) analyzes an individual's input for the purpose of connecting the individual with a human mental
114 health therapist.
- 115 ~~{(10)}~~ (11) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- 117 (12) "Personal data" means the same as term is defined Section 63A-19-101.
- 116 ~~{(11)}~~ (13) "Scientific research development" means research:
- 117 (a) conducted by a researcher affiliated with:
- 118 (i) an institution of higher education;
- 119 (ii) a research organization; or
- 120 (iii) a healthcare facility; and
- 121 (b) that is:
- 122 (i) approved by an institutional review board; and
- 123 (ii) conducted in accordance with applicable ethics requirements for human subject research.
- 125 ~~{(12)}~~ (14) "Supplier" means the same as that term is defined in Section 13-11-3.
- 126 ~~{(13)}~~ (15) "Utah user" means an individual located in the state at the time the individual accesses or
127 uses a mental health chatbot.
- 128 ~~{(14)}~~ (16) "User input" means content provided to a mental health chatbot by a Utah user.

131 Section 3. Section 3 is enacted to read:

130 Part 2. Protections for Users of Mental Health Chatbots

133 13-72a-201. Protection of personal information.

- 132 (1) A supplier of a mental health chatbot may not sell to or share with any third party any:
- 133 (a) individually identifiable health information of a Utah user; or
- 134 (b) user input of a Utah user.
- 137 (2) Subsection (1) does not apply to:
- 135 ~~{(2)}~~ (a) {Subsection (1) does not apply to} individually identifiable health information:
- 136 {(a) {provided solely for purposes of scientific research development, testing, and evaluation, designed
to develop or contribute to generalizable knowledge, provided that the supplier exercises reasonable

HB0452 compared with HB0452S02

~~care in determining what information is to be shared and ensures that the information is only provided to bona fide researchers; } }~~

- 140 ~~{(b)}~~ (i) requested by a health care provider with consent of the Utah user; or
141 ~~{(c)}~~ (ii) provided to a health plan of a Utah user upon request of the Utah user{ : } ; or
141 (b) personal data provided by a supplier to an associated third party in the ordinary course of business, provided that the supplier complies with the security and privacy provisions of 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A, C, and E, to the same extent as is required of a covered entity.

145 Section 4. Section 4 is enacted to read:

146 **13-72a-202. Restrictions on advertising.**

- 144 (1) A supplier may not use a mental health chatbot to advertise a specific product or service to a Utah user in a conversation between the Utah user and the mental health chatbot unless the mental health chatbot:
- 147 (a) clearly and conspicuously identifies the advertisement as an advertisement; and
148 (b) clearly and conspicuously discloses to the Utah user any:
- 149 (i) sponsorship;
150 (ii) business affiliation; or
151 (iii) agreement that the supplier has with a third party to promote, advertise, or recommend the product or service.
- 153 (2) A supplier of a mental health chatbot may not use a Utah user's input to:
- 154 (a) determine whether to display an advertisement for a product or service to the Utah user, unless the advertisement is for the mental health chatbot itself;
156 (b) determine a product, service, or category of product or service, to advertise to the Utah user; or
158 (c) customize how an advertisement is presented to the Utah user.
- 159 (3) This section does not prohibit a mental health chatbot from recommending that a Utah user seek counseling, therapy, or other assistance from a licensed professional, including a specific licensed professional.

165 Section 5. Section 5 is enacted to read:

166 **13-72a-203. Disclosure requirements.**

- 164 (1) A supplier of a mental health chatbot shall cause the mental health chatbot to clearly and conspicuously disclose to a Utah user that the mental health chatbot is an artificial intelligence technology and not a human.

HB0452 compared with HB0452S02

- 167 (2) The disclosure described in Subsection (1) shall be made:
168 (a) before the Utah user may access the features of the mental health chatbot;
169 (b) at the beginning of any interaction with the Utah user if the Utah user has not accessed the mental
health chatbot within the previous seven days; and
171 (c) any time a Utah user asks or otherwise prompts the mental health chatbot about whether artificial
intelligence is being used.
- 176 Section 6. Section 6 is enacted to read:
177 **13-72a-204. Violations -- Enforcement authority.**
- 175 (1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter
2, Division of Consumer Protection.
- 177 (2) The attorney general shall:
178 (a) upon request, give legal advice to the division; and
179 (b) act as counsel for the division in the exercise of the division's responsibilities under this chapter.
- 181 (3) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:
183 (a) the division director may impose an administrative fine of up to \$2,500 for each violation of this
chapter; and
185 (b) the division may bring an action in a court of competent jurisdiction to enforce a provision of this
chapter.
- 187 (4) In a court action by the division to enforce a provision of this chapter, the court may:
188 (a) declare that an act or practice violates a provision of this chapter;
189 (b) issue an injunction for a violation of this part;
190 (c) order disgorgement of money received in violation of this chapter;
191 (d) order payment of disgorged money to an injured purchaser or consumer;
192 (e) impose a fine of up to \$2,500 for each violation of this chapter; or
193 (f) award other relief that the court determines reasonable and necessary.
- 194 (5) If a court awards judgment or injunctive relief to the division, the court shall award the division:
196 (a) reasonable attorney fees;
197 (b) court costs; and
198 (c) investigative fees.
- 199 (6) A court may impose a civil penalty of no more than \$5,000 for each violation of an administrative or
court order issued for a violation of this chapter.

HB0452 compared with HB0452S02

- 201 (7) The attorney general may bring a civil action on behalf of the division to collect a civil penalty
imposed under this section.
- 203 (8) The division shall deposit all fines and civil penalties collected under this section into the Consumer
Protection Education and Training Fund created in Section 13-2-8.

208 Section 7. Section 7 is enacted to read:

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Part 3. Severability

210 **13-72a-301. Severability.**

208 (1) If any provision of this chapter or the application of any provision of this chapter to any person or
circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of
this chapter shall be given effect without the invalid provision or application.

212 (2) The provisions of this chapter are severable.

216 Section 8. Section 8 is enacted to read:

217 **58-60-118. Mental health chatbots -- {Rebuttable presumption} Affirmative defense.**

215 (1) As used in this section:

216 (a) "Mental health chatbot" means the same as that term is defined in Section 13-72a-101.

217 (b) "Supplier" means the same as that term is defined in Section 13-11-3.

218 (2) {~~A supplier of a mental health chatbot shall be entitled~~} It is an affirmative defense to {~~the~~
rebuttable presumptions described} liability in {~~Subsections (3) and (5) if~~} an action brought under
Subsection 58-1-501(1) or Subsection 58-1-501(2) if the supplier demonstrates that the supplier:

220 (a) {~~creates~~} created, {~~maintains~~} maintained, and {~~implements~~} implemented a policy that{:} meets
the requirements of Subsection (3);

225 (b) maintains documentation regarding the development and implementation of the mental health
chatbot that describes:

227 (i) foundation models used in development;

228 (ii) training data used;

229 (iii) compliance with federal health privacy regulations;

230 (iv) user data collection and sharing practices; and

231 (v) ongoing efforts to ensure accuracy, reliability, fairness, and safety;

232 (c) filed the policy with the division as described in Subsection (4); and

233 (d) complied with all requirements of the filed policy at the time of the alleged violation.

234 (3) A policy described in Subsection (2)(a) must:

HB0452 compared with HB0452S02

- 221 ~~{(i)}~~ (a) ~~is~~ be in writing;
- 222 ~~{(ii)}~~ (b) clearly ~~{states}~~ state;
- 223 ~~{(A)}~~ (i) the intended purposes of the mental health chatbot; and
- 224 ~~{(B)}~~ (ii) the abilities and limitations of the mental health chatbot; and
- 225 ~~{(iii)}~~ (c) ~~{describes}~~ describe the procedures by which the supplier:
- 226 ~~{(A)}~~ (i) ensures that licensed mental health therapists are involved in the development and review process;
- 228 ~~{(B)}~~ (ii) ensures the mental health chatbot is developed and monitored in a manner consistent with clinical best practices;
- 230 ~~{(C)}~~ (iii) conducts testing, prior to making the mental health chatbot publicly available and regularly thereafter, to ensure that the output of the mental health chatbot poses no greater risk to a user than that posed to an individual in therapy with a licensed mental health therapist;
- 234 ~~{(D)}~~ (iv) identifies reasonably foreseeable adverse outcomes to, and potentially harmful interactions with, users that could result from using the mental health chatbot;
- 236 ~~{(E)}~~ (v) provides a mechanism for a user to report any potentially harmful interactions from use of the mental health chatbot;
- 238 ~~{(F)}~~ (vi) implements protocols to assess and respond to risk of harm to users or other individuals;
- 240 ~~{(G)}~~ (vii) details actions taken to prevent or mitigate any such adverse outcomes or potentially harmful interactions;
- 242 ~~{(H)}~~ (viii) implements protocols to respond in real time to acute risk of physical harm;
- 243 ~~{(I)}~~ (ix) reasonably ensures regular, objective reviews of safety, accuracy, and efficacy, which may include internal or external audits;
- 245 ~~{(J)}~~ (x) provides users any necessary instructions on the safe use of the mental health chatbot;
- 247 ~~{(K)}~~ (xi) ensures users understand they are interacting with artificial intelligence;
- 248 ~~{(L)}~~ (xii) ensures users understand the intended purpose, capabilities, and limitations of the mental health chatbot;
- 250 ~~{(M)}~~ (xiii) prioritizes user mental health and safety over engagement metrics or profit;
- 251 ~~{(N)}~~ (xiv) implements measures to prevent discriminatory treatment of users; and
- 252 ~~{(O)}~~ (xv) ensures compliance with the security and privacy provisions of 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A, C, and E, as if the supplier were a covered entity, and applicable

HB0452 compared with HB0452S02

consumer protection requirements, including Sections 13-72a-201, 13-72a-202, and 13-72a-203{
and}.

254 ~~{(b) {maintains documentation describing:}}~~

255 ~~{(i) {foundation models used in development:}}~~

256 ~~{(ii) {training data used:}}~~

257 ~~{(iii) {compliance with federal health privacy regulations:}}~~

270 (4) To file a policy with the division under this section, a supplier of a mental health chatbot:

272 (a) shall provide to the division:

258 ~~{(iv)}~~ (i) {user data collection} the name and {sharing practices} address of the supplier; {and}

259 ~~{(v) {ongoing efforts to ensure accuracy, reliability, fairness, and safety:}}~~

260 ~~{(3)}~~ (ii) {A supplier} the name of {a} the mental health chatbot {that exercises reasonable care to
comply with a written policy described in Subsection (2) is entitled to a rebuttable presumption that
} supplied by the supplier {has not engaged in:} ;

263 ~~{(a) {unlawful conduct as defined in Subsection 58-1-501(1); or}}~~

264 ~~{(b) {unprofessional conduct as defined in Subsection 58-1-501(2).}}~~

265 ~~{(4)}~~ (iii) {The presumption} the written policy described in Subsection (3){:} ; and

276 (iv) a fee set in accordance with Section 63J-1-504;

277 (b) shall file in a manner established by the division; and

278 (c) may provide to the division:

279 (i) any revisions to a policy filed under this section; or

280 (ii) any other documentation the supplier elects to provide.

281 (5) The division:

266 ~~(a) {may be rebutted by clear and convincing evidence that the} shall provide a means for a supplier of
a mental health chatbot {failed} to {exercise reasonable care in complying with the written policy
described in Subsection (2)} file under this section; and~~

284 (b) may impose an annual filing fee set in accordance with Section 63J-1-504.

269 ~~{(b)}~~ (6) The affirmative defense described in this section applies only in an administrative or civil
action alleging a violation of:

270 ~~{(i)}~~ (a) Subsection 58-1-501(1); or

271 ~~{(ii)}~~ (b) Subsection 58-1-501(2).

272

HB0452 compared with HB0452S02

~~{(5) {A supplier of a mental health chatbot that complies with Subsection (2) is entitled to a rebuttable presumption that the supplier was not negligent in:} }~~

274 ~~{(a) {developing the mental health chatbot;} }~~

275 ~~{(b) {deploying the mental health chatbot; or} }~~

276 ~~{(c) {monitoring the mental health chatbot;} }~~

277 ~~{(6) {The presumption described in Subsection (5);} }~~

278 ~~{(a) {may be rebutted by clear and convincing evidence that the supplier of a mental health chatbot failed to exercise reasonable care in developing, deploying, or monitoring the mental health chatbot; and} }~~

281 ~~{(b) {applies only in a civil action alleging the supplier of a mental health chatbot was negligent in:} }~~

283 ~~{(i) {the development of a mental health chatbot;} }~~

284 ~~{(ii) {the deployment of a mental health chatbot; or} }~~

285 ~~{(iii) {the monitoring of a mental health chatbot;} }~~

286 (7) Nothing in this section shall be construed to:

287 (a) bar the division from bringing an action under Subsection 58-1-501(1) or Subsection 58-1-501(2) against the supplier of a mental health chatbot; or

289 (b) recognize a mental health chatbot as a licensed mental health therapist.

293 Section 9. **Effective date.**

This bill takes effect on May 7, 2025.

2-20-25 10:31 AM