

Michael K. McKell proposes the following substitute bill:

Unauthorized Artificial Intelligence Impersonation Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions relating to the unauthorized use of an individual's personal identity, including use through artificial intelligence technology.

Highlighted Provisions:

This bill:

- defines terms;
- expands the scope of what constitutes abuse of personal identity to include unauthorized commercial use of simulated or artificially recreated personal identities;
- prohibits the distribution of technology primarily designed for unauthorized creation of content using personal identities for commercial purposes;
- creates exemptions for certain fair uses of personal identity; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

45-3-2, as last amended by Laws of Utah 1999, Chapter 146

45-3-3, as last amended by Laws of Utah 2023, Chapter 424

45-3-4, as enacted by Laws of Utah 1981, Chapter 95

45-3-5, as enacted by Laws of Utah 1981, Chapter 95

ENACTS:

45-3-7, Utah Code Annotated 1953

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

30 Section 1. Section **45-3-2** is amended to read:

31 **45-3-2 . Definitions.**

32 As used in this act:

33 (1) "Advertisement" means a notice designed to attract public attention or patronage and
34 includes a list of supporters for a particular cause.

35 (2) "Cause the publication" means[-] :

36 (a) that a person;

37 (i) prepares or requests another to prepare;

38 (A) an advertisement of the type described in Subsection 45-3-3(1)[-] ; or

39 (B) ~~[and that person]~~ content that uses, simulates, or recreates an individual's
40 personal identity; and

41 (ii) submits or requests another to submit the advertisement ~~[to a publisher,]~~ or
42 content for publication; and

43 (b) the advertisement or content has been published.

44 (3)(a) "Consent" means ~~[a person's]~~ an individual's voluntary agreement to the use of that [
45 person's name, title, picture, or portrait] individual's personal identity.

46 (b) "Consent" may not be inferred by the failure of the ~~[person-]~~ individual to request that
47 the ~~[person's name, title, picture, or portrait]~~ individual's personal identity not be used
48 or that the ~~[person's]~~ individual's name be removed from a mailing or supporter list.

49 (4) "Content" means audio, video, image, text, or other media, regardless of format.

50 ~~[(4)]~~ (5) "Generative artificial intelligence" means an artificial intelligence technology
51 system that:

52 (a) is trained on data;

53 (b) is designed to simulate human conversation with a consumer through one or more of
54 the following:

55 (i) text;

56 (ii) audio; or

57 (iii) visual communication; and

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

60 (6) "Individual" means a natural person.

61 ~~[(5)]~~ (7) "Person" means any natural person, firm, partnership, association, corporation, joint
62 venture, or any other form of business organization or arrangement, and the agents or

representatives of such persons.

[(6)] (8)(a) "Personal identity" means an individual's:

(i) name[;] ;

(ii) title[;] ;

(iii) picture[,-or] ;

(iv) portrait[;] ;

(v) video likeness;

(vi) voice; or

(vii) audiovisual appearance.

(b) "Personal identity" includes any simulation, reproduction, or artificial recreation of the content described in Subsection (8)(a), whether created through:

(i) generative artificial intelligence;

(ii) computer animation;

(iii) digital manipulation; or

(iv) any other technological means.

[(7)] (9) "Publish" means that a person provides the instrumentality through which an advertisement or content is communicated to the public at large or to a significant portion thereof.

(10) "Voice" means the actual or simulated sound of an individual's speech that is readily identifiable as attributable to that individual, regardless of the method used to create or simulate the voice.

Section 2. Section **45-3-3** is amended to read:

45-3-3 . Acts constituting abuse -- Permitting prosecution.

(1) Except for purposes of the criminal penalty in Section 76-9-407, the personal identity of an individual is abused if:

[(a) an advertisement is published in which the personal identity of that individual is used in a manner which expresses or implies that the individual approves, endorses, has endorsed, or will endorse the specific subject matter of the advertisement; and]

[(b) consent has not been obtained for such use from the individual, or if the individual is a minor, then consent of one of the minor's parents or consent of the minor's legally appointed guardian.]

(a)(i) content containing the personal identity of an individual is used for purposes of:

(A) advertising products, merchandise, goods, or services;

(B) fundraising;

- 97 (C) solicitation of donations; or
98 (D) purchases of products, merchandise, goods, or services;
99 (ii) the use:
100 (A) expresses or implies that the individual approves, endorses, has endorsed, or
101 will endorse the specific subject matter;
102 (B) creates a likelihood of confusion as to the participation, association, or
103 connection of the individual; or
104 (C) creates a false impression that the individual participated in or approved the
105 use; and
106 (iii) consent has not been obtained from the individual.
107 (b) the person knowingly distributes, sells, or licenses any technology, software, or tool
108 whose primary purpose is the unauthorized creation or modification of content that
109 includes an individual's personal identity for commercial purposes.
110 (2) Nothing in this part prohibits prosecution of abuse of personal identity under Section
111 76-9-407.
112 (3) The personal identity of an individual is not abused if the individual's personal data or
113 publicly available information:
114 (a) was lawfully obtained;
115 (b) is used to preview, advertise, or promote the sale of a product, service, or
116 subscription, including the sale of a product, service, or subscription of which the
117 individual's personal data or publicly available information is or may be a part; and
118 (c) is not used in a way that expresses or implies that the individual approves, endorses,
119 has endorsed, or will endorse the product, service, or subscription being previewed,
120 advertised, or promoted.

121 Section 3. Section **45-3-4** is amended to read:

122 **45-3-4 . Cause of action for abuse -- Remedies.**

123 An individual whose personal identity has been abused under Section 45-3-3 of this
124 act may bring an action against a person who caused the publication of the advertisement or
125 content, and is entitled to injunctive relief, damages alleged and proved, exemplary damages,
126 and reasonable attorney's fees and costs.

127 Section 4. Section **45-3-5** is amended to read:

128 **45-3-5 . Action against publisher -- Grounds -- Remedies.**

- 129 (1) An individual whose personal identity has been abused under Section 45-3-3 of this act
130 may bring an action against a person who published the advertisement or content:

(a) if the advertisement or content, on its face is such that a reasonable person would conclude that it is unlikely that an individual would consent to such use; and

(b) the publisher did not take reasonable steps to assure that consent was obtained.

(2) In an action under this section, the plaintiff shall be entitled to injunctive relief, damages alleged and proved, exemplary damages, and reasonable attorney's fees and costs.

Section 5. Section **45-3-7** is enacted to read:

45-3-7 . Exemptions.

(1) A person does not violate Section 45-3-3 or Section 45-3-4 if the person uses an individual's personal identity in:

(a) connection with a news, public affairs, or sports broadcast, including the promotion of and advertising for a sports broadcast, an account of public interest, or a political campaign;

(b) a play, book, magazine, newspaper, musical composition, visual work, work of art, audiovisual work, radio or television program if it is fictional or nonfictional entertainment, or a dramatic, literary, or musical work;

(c) a work of political, public interest, or newsworthy value, including a comment, criticism, parody, satire, or a transformative creation of a work of authorship; or

(d) an advertisement or commercial announcement for a work described in this Subsection (1).

(2) The use of personal identity in a commercial medium does not constitute a use for purposes of advertising or solicitation solely because the material containing such use is commercially sponsored or contains paid advertising.

Section 6. **Effective Date.**

This bill takes effect on May 7, 2025.