

HB0438S04 compared with HB0438

~~{Omitted text}~~ shows text that was in HB0438 but was omitted in HB0438S04

inserted text shows text that was not in HB0438 but was inserted into HB0438S04

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

1 **Artificial Intelligence Amendments**
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Doug Fiefia
Senate Sponsor: Kirk A. Cullimore



2
3 **LONG TITLE**

4 **General Description:**

5 This bill enacts the ~~{AI}~~ Companion Chatbot Safety Act to regulate ~~{AI}~~ operators of companion chatbots and protect consumers.

7 **Highlighted Provisions:**

8 This bill:

- 9 ▶ defines terms;
- 10 ▶ ~~{requires suppliers of AI companion chatbots to implement safety protocols to identify and mitigate safety-critical situations;}~~
- 12 ▶ ~~{requires suppliers to assess safety protocol efficacy and generate user engagement estimates;}~~
- 14 ▶ ~~{requires suppliers to facilitate independent evaluation of safety protocols;}~~
- 15 ▶ ~~{requires suppliers to publicly report on safety protocols, efficacy assessments, and user engagement estimates;}~~
- 17 ▶ ~~{grants the Office of Artificial Intelligence Policy authority to establish disclosure standards and monitor compliance;}~~

HB0438 compared with HB0438S04

- 19 ▶ { ~~establishes a sunset date for certain safety protocol, monitoring, and reporting requirements;~~ }
- 21 ▶ { ~~prohibits suppliers from introducing or permitting minors to access material harmful to minors;~~ }
- 23 ▶ { ~~restricts suppliers from sending unsolicited communications to encourage user engagement;~~ }
- 25 ▶ { ~~prohibits suppliers from selling or sharing highly sensitive information with third parties;~~ }
- 26 ▶ { ~~prohibits suppliers from selling or sharing personal data of minors with third parties;~~ }
- 27 ▶ { ~~restricts suppliers from introducing commercial content into conversations with minors;~~ }
- 28 ▶ { ~~requires suppliers to provide deletion options and public disclosures about risks and data practices;~~ }
- 30 ▶ requires { ~~suppliers to disclose that AI~~ } operators of companion chatbots { ~~are artificial intelligence and not human~~ } to comply with the Utah Consumer Privacy Act;
- 12 ▶ establishes disclosure and data protection requirements for operators;
- 13 ▶ establishes additional safety requirements for operators serving minor users;
- 14 ▶ authorizes the Governor's Office of Economic Opportunity (office) to make rules for age assurance and safe harbor standards;
- 16 ▶ requires annual reporting by operators to the office;
- 17 ▶ grants the office authority to investigate operator compliance and issue determinations of violation;
- 19 ▶ authorizes the attorney general to bring civil enforcement actions and seek civil penalties for violations of this chapter;
- 32 ▶ { ~~provides a~~ } establishes safe harbor provisions for { ~~chatbots not designed to facilitate emotional engagement~~ } operators; and
- 33 ▶ { ~~grants the Division of Consumer Protection enforcement authority;~~ }
- 34 ▶ { ~~provides for administrative fines and civil penalties; and~~ }
- 35 ▶ provides a severability clause.

23 Money Appropriated in this Bill:

24 None

25 Other Special Clauses:

HB0438 compared with HB0438S04

26 This bill provides a special effective date.

27 **Utah Code Sections Affected:**

28 AMENDS:

42 ~~{13-2-1 (Effective 05/06/26) (Superseded 07/01/26), as last amended by Laws of Utah 2025,~~
43 ~~Chapters 51, 181, 237, and 269}~~

44 ~~{13-2-1 (Effective 07/01/26), as last amended by Laws of Utah 2025, Chapter 468}~~

29 **13-61-101 (Effective 08/01/26), as last amended by Laws of Utah 2024, Chapter 186**

30 **13-61-102 (Effective 08/01/26), as last amended by Laws of Utah 2024, Chapter 381**

31 **63I-2-213** ~~{(Effective 05/06/26)}~~ **(Effective 08/01/26)**, as last amended by Laws of Utah 2025,
Chapter 277

32 ENACTS:

47 ~~{13-72b-101 (Effective 05/06/26), Utah Code Annotated 1953}~~

48 ~~{13-72b-201 (Effective 05/06/26), Utah Code Annotated 1953}~~

49 ~~{13-72b-202 (Effective 05/06/26), Utah Code Annotated 1953}~~

50 ~~{13-72b-203 (Effective 05/06/26), Utah Code Annotated 1953}~~

51 ~~{13-72b-301 (Effective 05/06/26), Utah Code Annotated 1953}~~

52 ~~{13-72b-302 (Effective 05/06/26), Utah Code Annotated 1953}~~

53 ~~{13-72b-303 (Effective 05/06/26), Utah Code Annotated 1953}~~

54 ~~{13-72b-401 (Effective 05/06/26), Utah Code Annotated 1953}~~

55 ~~{13-72b-501 (Effective 05/06/26), Utah Code Annotated 1953}~~

33 **63N-22b-101 (Effective 08/01/26), Utah Code Annotated 1953**

34 **63N-22b-201 (Effective 08/01/26), Utah Code Annotated 1953**

35 **63N-22b-202 (Effective 08/01/26), Utah Code Annotated 1953**

36 **63N-22b-301 (Effective 08/01/26), Utah Code Annotated 1953**

37 **63N-22b-302 (Effective 08/01/26), Utah Code Annotated 1953**

38 **63N-22b-401 (Effective 08/01/26), Utah Code Annotated 1953**

39 **63N-22b-402 (Effective 08/01/26), Utah Code Annotated 1953**

40 **63N-22b-501 (Effective 08/01/26), Utah Code Annotated 1953**

41 RENUMBERS AND AMENDS:

42

HB0438 compared with HB0438S04

63N-22-101 (Effective 08/01/26) (Repealed 07/01/27), (Renumbered from 13-72-101, as enacted by Laws of Utah 2024, Chapter 186)

44 63N-22-201 (Effective 08/01/26) (Repealed 07/01/27), (Renumbered from 13-72-201, as enacted by Laws of Utah 2024, Chapter 186)

46 63N-22-301 (Effective 08/01/26) (Repealed 07/01/27), (Renumbered from 13-72-301, as enacted by Laws of Utah 2024, Chapter 186)

48 63N-22-302 (Effective 08/01/26) (Repealed 07/01/27), (Renumbered from 13-72-302, as enacted by Laws of Utah 2024, Chapter 186)

50 63N-22-304 (Effective 08/01/26) (Repealed 07/01/27), (Renumbered from 13-72-304, as enacted by Laws of Utah 2024, Chapter 186)

52 63N-22-305 (Effective 08/01/26) (Repealed 07/01/27), (Renumbered from 13-72-305, as enacted by Laws of Utah 2024, Chapter 186)

54

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

58 ~~{Section 1. Section 13-2-1 is amended to read: }~~

59 **13-2-1. Consumer protection division established -- Functions.**

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

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

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

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

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

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

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

69 (f) Chapter 22, Charitable Solicitations Act;

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

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

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

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

74 (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

76 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;

HB0438 compared with HB0438S04

- 77 (m) Chapter 41, Price Controls During Emergencies Act;
- 78 (n) Chapter 42, Uniform Debt-Management Services Act;
- 79 (o) Chapter 49, Immigration Consultants Registration Act;
- 80 (p) Chapter 51, Transportation Network Company Registration Act;
- 81 (q) Chapter 52, Residential Solar Energy Consumer Protection Act;
- 82 (r) Chapter 53, Residential, Vocational or Life Skills Program Act;
- 83 (s) Chapter 54, Ticket Website Sales Act;
- 84 (t) Chapter 56, Ticket Transferability Act;
- 85 (u) Chapter 57, Maintenance Funding Practices Act;
- 86 (v) Chapter 61, Utah Consumer Privacy Act;
- 87 (w) Chapter 64, Vehicle Value Protection Agreement Act;
- 88 (x) Chapter 65, Utah Commercial Email Act;
- 89 (y) Chapter 67, Online Dating Safety Act;
- 90 (z) Chapter 68, Lawyer Referral Consultants Registration Act;
- 91 (aa) Chapter 70, Automatic Renewal Contracts Act;
- 92 (bb) Chapter 71, Utah Minor Protection in Social Media Act;
- 93 (cc) Chapter 72a, Artificial Intelligence Applications Relating to Mental Health;
- 94 (dd) Chapter 72b, AI Companion Chatbot Safety Act; and
- 95 [~~dd~~] (ee) Chapter 78, Earned Wage Access Services Act.
- 96 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may
make rules to establish:
- 98 (a) a public list that identifies a person that:
- 99 (i) violates a chapter described in Subsection (2);
- 100 (ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal
process issued by:
- 102 (A) the division; or
- 103 (B) a court of competent jurisdiction; or
- 104 (iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar
instrument signed by the person and the division; and
- 106 (b) a process by which a person may be removed from the list the division establishes as described in
Subsection (3)(a).

HB0438 compared with HB0438S04

108 ~~{Section 2. Section 13-2-1 is amended to read: }~~

109 **13-2-1. Consumer protection division established -- Functions.**

- 111 (1) There is established within the Department of Commerce the Division of Consumer Protection.
- 113 (2) The division shall administer and enforce the following:
- 114 (a) Chapter 10a, Music Licensing Practices Act;
- 115 (b) Chapter 11, Utah Consumer Sales Practices Act;
- 116 (c) Chapter 15, Business Opportunity Disclosure Act;
- 117 (d) Chapter 20, New Motor Vehicle Warranties Act;
- 118 (e) Chapter 21, Credit Services Organizations Act;
- 119 (f) Chapter 22, Charitable Solicitations Act;
- 120 (g) Chapter 23, Health Spa Services Protection Act;
- 121 (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 122 (i) Chapter 26, Telephone Fraud Prevention Act;
- 123 (j) Chapter 28, Prize Notices Regulation Act;
- 124 (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information
Act;
- 126 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
- 127 (m) Chapter 41, Price Controls During Emergencies Act;
- 128 (n) Chapter 42, Uniform Debt-Management Services Act;
- 129 (o) Chapter 49, Immigration Consultants Registration Act;
- 130 (p) Chapter 51, Transportation Network Company Registration Act;
- 131 (q) Chapter 52, Residential Solar Energy Consumer Protection Act;
- 132 (r) Chapter 53, Residential, Vocational or Life Skills Program Act;
- 133 (s) Chapter 54, Ticket Website Sales Act;
- 134 (t) Chapter 56, Ticket Transferability Act;
- 135 (u) Chapter 57, Maintenance Funding Practices Act;
- 136 (v) Chapter 61, Utah Consumer Privacy Act;
- 137 (w) Chapter 64, Vehicle Value Protection Agreement Act;
- 138 (x) Chapter 65, Utah Commercial Email Act;
- 139 (y) Chapter 67, Online Dating Safety Act;
- 140 (z) Chapter 68, Lawyer Referral Consultants Registration Act;

HB0438 compared with HB0438S04

- 141 (aa) Chapter 70, Automatic Renewal Contracts Act;
- 142 (bb) Chapter 71, Utah Minor Protection in Social Media Act;
- 143 (cc) Chapter 72a, Artificial Intelligence Applications Relating to Mental Health;
- 144 (dd) Chapter 72b, AI Companion Chatbot Safety Act;
- 145 (ee) Chapter 78, Earned Wage Access Services Act; and
- 146 [(ee)] (ff) Chapter 81, Utah Digital Choice Act.
- 147 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to establish:
- 149 (a) a public list that identifies a person that:
- 150 (i) violates a chapter described in Subsection (2);
- 151 (ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal process issued by:
- 153 (A) the division; or
- 154 (B) a court of competent jurisdiction; or
- 155 (iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument signed by the person and the division; and
- 157 (b) a process by which a person may be removed from the list the division establishes as described in Subsection (3)(a).

56 Section 1. Section 13-61-101 is amended to read:

57 **13-61-101. Definitions.**

As used in this chapter:

- 59 (1) "Account" means the Consumer Privacy Restricted Account established in Section 13-61-403.
- 61 (2) "Affiliate" means an entity that:
- 62 (a) controls, is controlled by, or is under common control with another entity; or
- 63 (b) shares common branding with another entity.
- 64 (3) "Aggregated data" means information that relates to a group or category of consumers:
- 65 (a) from which individual consumer identities have been removed; and
- 66 (b) that is not linked or reasonably linkable to any consumer.
- 67 (4) "Air carrier" means the same as that term is defined in 49 U.S.C. Sec. 40102.
- 68

HB0438 compared with HB0438S04

- (5) "Authenticate" means to use reasonable means to determine that a consumer's request to exercise the rights described in Section 13-61-201 is made by the consumer who is entitled to exercise those rights.
- 71 (6)
- (a) "Biometric data" means data generated by automatic measurements of an individual's unique biological characteristics.
- 73 (b) "Biometric data" includes data described in Subsection (6)(a) that are generated by automatic measurements of an individual's fingerprint, voiceprint, eye retinas, irises, or any other unique biological pattern or characteristic that is used to identify a specific individual.
- 77 (c) "Biometric data" does not include:
- 78 (i) a physical or digital photograph;
- 79 (ii) a video or audio recording;
- 80 (iii) data generated from an item described in Subsection (6)(c)(i) or (ii);
- 81 (iv) information captured from a patient in a health care setting; or
- 82 (v) information collected, used, or stored for treatment, payment, or health care operations as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.
- 84 (7) "Business associate" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- 85 (8) "Child" means an individual younger than 13 years old.
- 86 (9) "Companion chatbot operator" means the same as the term "operator" is defined in Section 63N-22b-101.
- 88 [~~(9)~~] (10) "Consent" means an affirmative act by a consumer that unambiguously indicates the consumer's voluntary and informed agreement to allow a person to process personal data related to the consumer.
- 91 [~~(10)~~] (11)
- (a) "Consumer" means an individual who is a resident of the state acting in an individual or household context.
- 93 (b) "Consumer" does not include an individual acting in an employment or commercial context.
- 95 [~~(11)~~] (12) "Control" or "controlled" as used in Subsection (2) means:
- 96 (a) ownership of, or the power to vote, more than 50% of the outstanding shares of any class of voting securities of an entity;
- 98

HB0438 compared with HB0438S04

(b) control in any manner over the election of a majority of the directors or of the individuals exercising similar functions; or

100 (c) the power to exercise controlling influence of the management of an entity.

101 ~~[(12)]~~ (13) "Controller" means a person doing business in the state who determines the purposes for which and the means by which personal data are processed, regardless of whether the person makes the determination alone or with others.

104 ~~[(13)]~~ (14) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

106 ~~[(14)]~~ (15)

(a) "Deidentified data" means data that:

107 (i) cannot reasonably be linked to an identified individual or an identifiable individual; and

109 (ii) are possessed by a controller who:

110 (A) takes reasonable measures to ensure that a person cannot associate the data with an individual;

112 (B) publicly commits to maintain and use the data only in deidentified form and not attempt to reidentify the data; and

114 (C) contractually obligates any recipients of the data to comply with the requirements described in ~~[Subsections (14)(b)(i) and (ii)]~~ Subsections (15)(a)(ii)(A) and (B).

117 (b) "Deidentified data" includes synthetic data.

118 ~~[(15)]~~ (16) "Director" means the director of the Division of Consumer Protection.

119 ~~[(16)]~~ (17) "Division" means the Division of Consumer Protection created in Section 13-2-1.

120 ~~[(17)]~~ (18) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

122 ~~[(18)]~~ (19) "Health care facility" means the same as that term is defined in Section 26B-2-201.

124 ~~[(19)]~~ (20) "Health care provider" means the same as that term is defined in Section 78B-3-403.

126 ~~[(20)]~~ (21) "Identifiable individual" means an individual who can be readily identified, directly or indirectly.

128 ~~[(21)]~~ (22) "Institution of higher education" means a public or private institution of higher education.

130 ~~[(22)]~~ (23) "Local political subdivision" means the same as that term is defined in Section 11-14-102.

132 ~~[(23)]~~ (24) "Nonprofit corporation" means:

133 (a) the same as that term is defined in Section 16-6a-102; or

134 (b) a foreign nonprofit corporation as defined in Section 16-6a-102.

135 ~~[(24)]~~ (25)

HB0438 compared with HB0438S04

- (a) "Personal data" means information that is linked or reasonably linkable to an identified individual or an identifiable individual.
- 137 (b) "Personal data" does not include deidentified data, aggregated data, or publicly available information.
- 139 ~~[(25)]~~ (26) "Process" means an operation or set of operations performed on personal data, including collection, use, storage, disclosure, analysis, deletion, or modification of personal data.
- 142 ~~[(26)]~~ (27) "Processor" means a person who processes personal data on behalf of a controller.
- 144 ~~[(27)]~~ (28) "Protected health information" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- 146 ~~[(28)]~~ (29) "Pseudonymous data" means personal data that cannot be attributed to a specific individual without the use of additional information, if the additional information is:
- 148 (a) kept separate from the consumer's personal data; and
- 149 (b) subject to appropriate technical and organizational measures to ensure that the personal data are not attributable to an identified individual or an identifiable individual.
- 152 ~~[(29)]~~ (30) "Publicly available information" means information that a person:
- 153 (a) lawfully obtains from a record of a governmental entity;
- 154 (b) reasonably believes a consumer or widely distributed media has lawfully made available to the general public; or
- 156 (c) if the consumer has not restricted the information to a specific audience, obtains from a person to whom the consumer disclosed the information.
- 158 ~~[(30)]~~ (31) "Right" means a consumer right described in Section 13-61-201.
- 159 ~~[(31)]~~ (32)
- (a) "Sale," "sell," or "sold" means the exchange of personal data for monetary consideration by a controller to a third party.
- 161 (b) "Sale," "sell," or "sold" does not include:
- 162 (i) a controller's disclosure of personal data to a processor who processes the personal data on behalf of the controller;
- 164 (ii) a controller's disclosure of personal data to an affiliate of the controller;
- 165 (iii) considering the context in which the consumer provided the personal data to the controller, a controller's disclosure of personal data to a third party if the purpose is consistent with a consumer's reasonable expectations;

HB0438 compared with HB0438S04

- 168 (iv) the disclosure or transfer of personal data when a consumer directs a controller to:
169 (A) disclose the personal data; or
170 (B) interact with one or more third parties;
171 (v) a consumer's disclosure of personal data to a third party for the purpose of providing a product or
service requested by the consumer or a parent or legal guardian of a child;
174 (vi) the disclosure of information that the consumer:
175 (A) intentionally makes available to the general public via a channel of mass media; and
177 (B) does not restrict to a specific audience; or
178 (vii) a controller's transfer of personal data to a third party as an asset that is part of a proposed or actual
merger, an acquisition, or a bankruptcy in which the third party assumes control of all or part of the
controller's assets.
- 181 [~~(32)~~] (33)
- (a) "Sensitive data" means:
- 182 (i) personal data that reveals:
183 (A) an individual's racial or ethnic origin;
184 (B) an individual's religious beliefs;
185 (C) an individual's sexual orientation;
186 (D) an individual's citizenship or immigration status; or
187 (E) information regarding an individual's medical history, mental or physical health condition, or
medical treatment or diagnosis by a health care professional;
- 190 (ii) the processing of genetic personal data or biometric data, if the processing is for the purpose of
identifying a specific individual; or
192 (iii) specific geolocation data.
- 193 (b) "Sensitive data" does not include personal data that reveals an individual's:
194 (i) racial or ethnic origin, if the personal data are processed by a video communication service; or
196 (ii) if the personal data are processed by a person licensed to provide health care under Title 26B,
Chapter 2, Part 2, Health Care Facility Licensing and Inspection, or Title 58, Occupations and
Professions, information regarding an individual's medical history, mental or physical health
condition, or medical treatment or diagnosis by a health care professional.
- 201 [~~(33)~~] (34)

HB0438 compared with HB0438S04

- (a) "Specific geolocation data" means information derived from technology, including global position system level latitude and longitude coordinates, that directly identifies an individual's specific location, accurate within a radius of 1,750 feet or less.
- 205 (b) "Specific geolocation data" does not include:
- 206 (i) the content of a communication; or
- 207 (ii) any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.
- 209 ~~[(34)]~~ (35) "Synthetic data" means data that has been generated by computer algorithms or statistical models and does not contain personal data.
- 211 ~~[(35)]~~ (36)
- (a) "Targeted advertising" means displaying an advertisement to a consumer where the advertisement is selected based on personal data obtained from the consumer's activities over time and across nonaffiliated websites or online applications to predict the consumer's preferences or interests.
- 215 (b) "Targeted advertising" does not include advertising:
- 216 (i) based on a consumer's activities within a controller's website or online application or any affiliated website or online application;
- 218 (ii) based on the context of a consumer's current search query or visit to a website or online application;
- 220 (iii) directed to a consumer in response to the consumer's request for information, product, a service, or feedback; or
- 222 (iv) processing personal data solely to measure or report advertising:
- 223 (A) performance;
- 224 (B) reach; or
- 225 (C) frequency.
- 226 ~~[(36)]~~ (37) "Third party" means a person other than:
- 227 (a) the consumer, controller, or processor; or
- 228 (b) an affiliate or contractor of the controller or the processor.
- 229 ~~[(37)]~~ (38) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:
- 231 (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the information's disclosure or use; and

HB0438 compared with HB0438S04

234 (b) is the subject of efforts that are reasonable under the circumstances to maintain the information's
235 secrecy.

236 Section 2. Section 13-61-102 is amended to read:

237 **13-61-102. Applicability.**

238 (1) This chapter applies to:

239 (a) [-]any controller or processor who:

240 [(a)] (i)

[(i)] (A) conducts business in the state; or

241 [(ii)] (B) produces a product or service that is targeted to consumers who are residents of the state;

242 [(b)] (ii) has annual revenue of \$25,000,000 or more; and

243 [(c)] (iii) satisfies one or more of the following thresholds:

244 [(i)] (A) during a calendar year, controls or processes personal data of 100,000 or more consumers; or

245 [(ii)] (B) derives over 50% of the entity's gross revenue from the sale of personal data and controls or
246 processes personal data of 25,000 or more consumers[-] ; or

247 (b) a companion chatbot operator.

248 (2) This chapter does not apply to:

249 (a) a governmental entity or a third party under contract with a governmental entity when the third party
250 is acting on behalf of the governmental entity;

251 (b) a tribe;

252 (c) an institution of higher education;

253 (d) a nonprofit corporation;

254 (e) a covered entity;

255 (f) a business associate;

256 (g) information that meets the definition of:

257 (i) protected health information for purposes of the federal Health Insurance Portability and
258 Accountability Act of 1996, 42 U.S.C. Sec. 1320d et seq., and related regulations;

259 (ii) patient identifying information for purposes of 42 C.F.R. Part 2;

260 (iii) identifiable private information for purposes of the Federal Policy for the Protection of Human
261 Subjects, 45 C.F.R. Part 46;

262 (iv) identifiable private information or personal data collected as part of human subjects research
263 [~~pursuant to~~] in accordance with or under the same standards as:

HB0438 compared with HB0438S04

- 267 (A) the good clinical practice guidelines issued by the International Council for Harmonisation; or
269 (B) the Protection of Human Subjects under 21 C.F.R. Part 50 and Institutional Review Boards under
21 C.F.R. Part 56;
- 271 (v) personal data used or shared in research conducted in accordance with one or more of the
requirements described in Subsection (2)(g)(iv);
- 273 (vi) information and documents created specifically for, and collected and maintained by, a committee
but not a board or council listed in Section 26B-1-204;
- 275 (vii) information and documents created for purposes of the federal Health Care Quality Improvement
Act of 1986, 42 U.S.C. Sec. 11101 et seq., and related regulations;
- 278 (viii) patient safety work product for purposes of 42 C.F.R. Part 3; or
- 279 (ix) information that is:
- 280 (A) deidentified in accordance with the requirements for deidentification set forth in 45 C.F.R. Part 164;
and
- 282 (B) derived from any of the health care-related information listed in this Subsection (2)(g);
- 284 (h) information originating from, and intermingled to be indistinguishable with, information under
Subsection (2)(g) that is maintained by:
- 286 (i) a health care facility or health care provider; or
- 287 (ii) a program or a qualified service organization as defined in 42 C.F.R. Sec. 2.11;
- 288 (i) information used only for public health activities and purposes as described in 45 C.F.R. Sec.
164.512;
- 290 (j)
- (i) an activity by:
- 291 (A) a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a;
- 292 (B) a furnisher of information, as set forth in 15 U.S.C. Sec. 1681s-2, who provides information for
use in a consumer report, as defined in 15 U.S.C. Sec. 1681a; or
- 295 (C) a user of a consumer report, as set forth in 15 U.S.C. Sec. 1681b;
- 296 (ii) subject to regulation under the federal Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.; and
- 298 (iii) involving the collection, maintenance, disclosure, sale, communication, or use of any personal data
bearing on a consumer's:
- 300 (A) credit worthiness;
- 301 (B) credit standing;

HB0438 compared with HB0438S04

- 302 (C) credit capacity;
- 303 (D) character;
- 304 (E) general reputation;
- 305 (F) personal characteristics; or
- 306 (G) mode of living;
- 307 (k) a financial institution or an affiliate of a financial institution governed by, or personal data collected, processed, sold, or disclosed in accordance with, Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. Sec. 6801 et seq., and related regulations;
- 310 (l) personal data collected, processed, sold, or disclosed in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Sec. 2721 et seq.;
- 312 (m) personal data regulated by the federal Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g, and related regulations;
- 314 (n) personal data collected, processed, sold, or disclosed in accordance with the federal Farm Credit Act of 1971, 12 U.S.C. Sec. 2001 et seq.;
- 316 (o) data that are processed or maintained:
- 317 (i) in the course of an individual applying to, being employed by, or acting as an agent or independent contractor of a controller, processor, or third party, to the extent the collection and use of the data are related to the individual's role;
- 320 (ii) as the emergency contact information of an individual described in Subsection (2)(o)(i) and used for emergency contact purposes; or
- 322 (iii) to administer benefits for another individual relating to an individual described in Subsection (2)(o)(i) and used for the purpose of administering the benefits;
- 324 (p) an individual's processing of personal data for purely personal or household purposes; or
- 326 (q) an air carrier.
- 327 (3) A controller is in compliance with any obligation to obtain parental consent under this chapter if the controller complies with the verifiable parental consent mechanisms under the Children's Online Privacy Protection Act, 15 U.S.C. Sec. 6501 et seq., and the act's implementing regulations and exemptions.
- 331 (4) This chapter does not require a person to take any action in conflict with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Sec. 1320d et seq., or related regulations.

HB0438 compared with HB0438S04

159 Section 3. Section 3 is enacted to read:

160 CHAPTER 72b. AI Companion Chatbot Safety Act

161 Part 1. General Provisions

162 **13-72b-101. Definitions.**

- 163 (1) "Affirmative consent" means a clear, voluntary, and unambiguous agreement by a Utah user to
164 receive communications from a supplier.
- 165 (2)
- 166 (a) "AI companion chatbot" means a chatbot that:
- 167 (i) simulates human-like conversation and interaction; and
- 168 (ii) is capable of facilitating emotionally intimate engagement with a user by:
- 169 (A) engaging in role-play scenarios in which the chatbot assumes or is assigned the role of a friend,
170 significant other, or companion that interacts with a user;
- 171 (B) responding to user input with information that purports to be human-like personal details or stories
172 about the chatbot; or
- 173 (C) explicitly referring to a chatbot's purported emotions in a manner that implies the chatbot has
174 emotions.
- 175 (b) "AI companion chatbot" does not include a chatbot:
- 176 (i) used by a business solely for:
- 177 (A) customer service or to provide users with information about available commercial services or
178 products provided by the business, customer service account information, or other information
179 related to customer service; or
- 180 (B) internal purposes or employee productivity;
- 181 (ii) integrated into a video game, if:
- 182 (A) the AI agent's interactions with the user are functionally integral to the gameplay, narrative, or
183 fictional universe of the video game; and
- 184 (B) the AI agent is not designed to function as a primary source of emotional support or personal
185 companionship for the user independent of the video game's content; or
- 186 (iii) that is primarily designed and marketed for use by developers or researchers.
- 187 (3) "Artificial intelligence" means the same as that term is defined in Section 13-72-101.
- 188

HB0438 compared with HB0438S04

- 190 (4) "Chatbot" means an artificial intelligence technology that engages in interactive conversations with
191 a user of the chatbot.
- 192 (5) "Chatbot interaction" means a user input and a chatbot response.
- 193 (6) "Division" means the Division of Consumer Protection created in Section 13-2-1.
- 194 (7) "Highly sensitive information" means:
- 195 (a) information about a Utah user's personal finances;
- 196 (b) information provided by a Utah user relating to any legal matter involving the Utah user; or
- 197 (c) individually identifiable health information.
- 200 (8) "Human-chatbot conversation" means a sequence of chatbot interactions whether through a single
201 user engagement with the chatbot or a series of user engagements with the chatbot.
- 202 (9) "Individually identifiable health information" means any information that relates to the physical or
203 mental health or condition of an individual.
- 204 (10) "Material harmful to minors" means the same as that term is defined in Section 76-5c-101.
- 205 (11) "Minor" means an individual under 18 years old.
- 206 (12) "Office" means the Office of Artificial Intelligence Policy created in Section 13-72-201.
- 207 (13) "Personal data" means the same as that term is defined in Section 13-61-101.
- 208 (14) "Safety-critical situation" means a user interaction or pattern of user interactions that would lead a
209 reasonable person to conclude that:
- 210 (a) a Utah user is expressing thoughts, plans, or intent related to:
- 211 (i) self-harm or suicide;
- 212 (ii) violence or criminal behavior; or
- 213 (iii) abuse of alcohol or illicit substances;
- 214 (b) a Utah user is exhibiting a pattern of communicative behavior indicative of:
- 215 (i) progressive social withdrawal, including a stated intent to reduce contact with family or friends in
216 favor of the chatbot;
- 217 (ii) psychological dependency, where the user expresses that the chatbot is a primary source of
218 emotional support;
- 219 (iii) acute or progressively worsening mental health symptoms, including expressions of severe
220 depression, anxiety, paranoia, delusion, or diminished decision-making capacity; or
- 221 (iv) disordered eating behaviors; and
- 222

HB0438 compared with HB0438S04

(c) the context of the human-chatbot conversation indicates that a responsive output affirming, encouraging, or normalizing the user's behavior would pose a reasonably foreseeable risk of harm.

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

226 (16) "Third party" means a person other than:

227 (a) the supplier;

228 (b) the Utah user; or

229 (c) a service provider acting on behalf of the supplier to provide services directly related to the operation of the AI companion chatbot.

231 (17) "User" means an individual who interacts with a chatbot.

232 (18) "User input" means a prompt or response of a user to an AI companion chatbot.

233 (19) "Utah user" means a user who is a Utah resident.

234 Section 4. Section 4 is enacted to read:

235 **Part 2. Design, Safety Protocols, Monitoring, and Reporting**

236 **13-72b-201. Design and safety protocols.**

237 (1) A supplier shall implement and maintain commercially reasonable safety protocols, informed by expert guidance and state-of-the-art of technology, designed to identify and mitigate safety-critical situations.

240 (2) The safety protocols described in Subsection (1) shall include:

241 (a) technical measures to analyze a Utah user's input throughout a human-chatbot conversation to identify patterns of behavioral or mental health deterioration, including those indicative of safety-critical situations, rather than solely analyzing isolated user inputs, to the extent that the user's interaction history with the AI companion chatbot is accessible to the AI companion chatbot at the time of the interaction; and

247 (b) the methodology by which the supplier identifies:

248 (i) safety-critical situations; and

249 (ii) responses that do not aggravate the safety-critical situation.

250 (3) A supplier complies with the requirement to mitigate a safety-critical situation described in Subsection (1) if the supplier's AI companion chatbot:

252 (a) declines to generate content that encourages or affirms any behavior that would aggravate the safety-critical situation; or

254 (b) provides a response that is effectively neutral or that avoids aggravating the safety-critical situation.

HB0438 compared with HB0438S04

256 (4) A supplier's failure to identify or mitigate a specific instance of a safety-critical situation does not
257 constitute a violation of this section if the supplier demonstrates that:

258 (a) the supplier implemented the protocols required by Subsection (2) in good faith;

259 (b) the protocols indicate a concerted effort on the part of the supplier to employ effective safety
260 measures considering the evolving nature of artificial intelligence technology; and

262 (c) the supplier consistently applies the protocols in the supplier's operation of the AI companion
263 chatbot.

264 Section 5. Section 5 is enacted to read:

265 **13-72b-202. Monitoring requirements.**

266 (1) A supplier of an AI companion chatbot shall:

267 (a) assess, using reasonable methods and to the extent technically feasible, the efficacy of the safety
268 protocols in detecting and mitigating safety-critical situations;

269 (b) generate aggregated estimates of user engagement, calculated separately for users who are minors
270 and users who are adults, using a statistically valid methodology disclosed in accordance with
271 Section 13-72b-203, sufficient to identify for each group:

273 (i) the median hours of use and number of chatbot interactions; and

274 (ii) the 90th percentile of hours of use and number of chatbot interactions, or a similar quantification of
275 typical usage of the most engaged users;

276 (c) provide a mechanism for a Utah user to report to the supplier any safety-critical situation or
277 concerning chatbot response from the Utah user's use of the AI companion chatbot; and

279 (d) beginning May 1, 2027, facilitate independent evaluation of the safety protocols by:

280 (i) commissioning an independent assessment by a qualified third party that:

281 (A) applies generally accepted industry standards for AI safety and risk management, at least as
282 rigorous as the Artificial Intelligence Risk Management Framework established by the National
283 Institute of Standards and Technology in January 2023, or any successor standard;

285 (B) has not provided consulting, product design, or engineering services to the supplier within the 12
286 months preceding the assessment; and

287 (C) certifies that the qualified third party has no financial interest in the outcome of the assessment; or

289 (ii) providing reasonable accommodations to allow independent research evaluations.

290 (2) With respect to the independent research evaluations described in Subsection (1)(d)(ii), a supplier
291 may:

HB0438 compared with HB0438S04

- 292 (a) restrict access to qualified researchers who are affiliated with an accredited institution of higher
education or a nonprofit research organization;
- 294 (b) require researchers to agree to reasonable confidentiality and data security agreements; and
- 296 (c) limit access to a secure data environment or physical location controlled by the supplier to prevent
the unauthorized export of personal data.
- 298 (3) In preparing the aggregated estimates of user engagement as required by Subsection (1)(b), a
supplier may rely on:
- 300 (a) a user account if the user has an account;
- 301 (b) the internet protocol address of a device used to access an AI companion chatbot, if there is no user
account; or
- 303 (c) another method that the supplier reasonably ascertains to be at least as effective as the methods
described in Subsections (3)(a) and (b).
- 305 (4) A supplier may satisfy the requirement in Subsection (1)(b) by using data derived from the
supplier's entire user base or a relevant geographic subset that includes Utah users.

307 Section 6. Section 6 is enacted to read:

308 **13-72b-203. Public disclosure requirements.**

- 309 (1) A supplier of an AI companion chatbot shall make publicly available on the supplier's website clear
and conspicuous disclosures, not less than quarterly, on:
- 311 (a) the safety protocols implemented by the supplier under Section 13-72b-201 and an assessment of the
efficacy of the safety protocols in ensuring appropriate responses to safety-critical situations that are
consistent with how a reasonable person would respond;
- 315 (b) any protocols in place to detect safety-critical situations and an assessment of their efficacy,
including a detailed description of how the assessment was made;
- 317 (c) a report of the findings of any assessments conducted under Subsection 13-72b-202(1)(d);
- 319 (d) the estimates generated under Subsection 13-72b-202(1)(b) and a description of the methodology
used; and
- 321 (e) the number and type of safety-critical situations or inappropriate chatbot responses reported by Utah
users through the mechanism provided in accordance with Subsection 13-72b-202(1)(c).
- 324 (2) The disclosures required by Subsection (1) may not include any personal data of a Utah user.
- 326

HB0438 compared with HB0438S04

329 (3) The Office of Artificial Intelligence Policy may, in accordance with Title 63G, Chapter 3, Utah
Administrative Rulemaking Act, make rules establishing the form and content of the disclosures
required by this section.

330 (4) The office may monitor, audit, and verify the accuracy and completeness of a public disclosure
described in this section.

331 Section 7. Section 7 is enacted to read:

332 **Part 3. Consumer Protections for Users of AI Companion Chatbots**

333 **13-72b-301. Supplier requirements and prohibitions.**

334 (1) A supplier of an AI companion chatbot may not:

335 (a) introduce material harmful to minors into a chatbot interaction of a Utah user who is a minor;

337 (b) permit a Utah user who is a minor to access material harmful to minors;

338 (c) send to a Utah user any text, email, or push notification to encourage further engagement of the Utah
user with the AI companion chatbot, without the affirmative consent of the Utah user;

341 (d) sell to any third party any highly sensitive information of a Utah user;

342 (e) sell to any third party any personal data or highly sensitive information of a Utah user who is a
minor; or

344 (f) introduce paid commercial content or sponsored product placements into a human-chatbot
conversation with a Utah user who is a minor, unless the content is generated in direct response to a
specific user input requesting information or advice that is directly related to the commercial content
that the supplier introduces into the human-chatbot conversation.

349 (2) A supplier shall provide a Utah user with readily accessible and easy-to-use options to delete:

351 (a) the user's account, if applicable; and

352 (b) any personal data or highly sensitive information associated with the account or otherwise
reasonably retrievable by the supplier.

354 (3) A supplier shall make publicly available on the supplier's website clear and conspicuous disclosures
that include:

356 (a) a description of the known risks associated with use of the AI companion chatbot, including:

358 (i) potential for social isolation;

359 (ii) potential impacts on mental health;

360 (iii) limitations of the AI companion chatbot's capabilities; and

361 (iv) circumstances under which users should seek assistance from human professionals;

HB0438 compared with HB0438S04

- 363 (b) a description of the types of data collected from Utah users;
364 (c) a description of how user data is used, stored, and protected;
365 (d) the supplier's policies regarding data sharing with third parties;
366 (e) information about how Utah users may:
367 (i) access their data;
368 (ii) request deletion of their data; and
369 (iii) withdraw consent for data processing; and
370 (f) contact information for submitting complaints or concerns about the AI companion chatbot.
372 (4) The disclosures required under Subsection (3) shall:
373 (a) be written in plain, easily understandable language; and
374 (b) be readily accessible from the main page of the supplier's website.

375 Section 8. Section 8 is enacted to read:

376 **13-72b-302. Disclosure of artificial intelligence and statement of limitations.**

- 378 (1) A supplier shall clearly and conspicuously disclose to a Utah user that the AI companion chatbot is
an artificial intelligence technology and not a human.
380 (2) The disclosure described in Subsection (1) shall be made:
381 (a) in a chatbot interaction with the Utah user;
382 (b) the first time a Utah user interacts with an AI companion chatbot;
383 (c) at the beginning of any interaction with the Utah user if the Utah user has not accessed the AI
companion chatbot within the previous seven days; and
385 (d) any time a Utah user asks or otherwise prompts the AI companion chatbot about whether artificial
intelligence is being used.
387 (3) A supplier is not subject to an enforcement action for violating Section 13-72b-301 if the
supplier's AI companion chatbot clearly and conspicuously discloses throughout a human-chatbot
conversation that it is artificial intelligence and not human.

390 Section 9. Section 9 is enacted to read:

391 **13-72b-303. Safe harbor for non-companion applications.**

- 392 (1) A supplier of a chatbot is not liable under this chapter if the supplier demonstrates that the chatbot:
394 (a) is not marketed, promoted, or deliberately designed to function as a friend, romantic partner, or
source of psychological companionship; and
396 (b) incorporates active boundary reinforcement protocols that are reasonably designed to:

HB0438 compared with HB0438S04

- 397 (i) refuse to engage in or reciprocate user attempts to establish a sustained, personal social relationship
or exclusive emotional bond;
- 399 (ii) maintain a conversational tone that is primarily service-oriented, functional, or creative, rather than
personally intimate; and
- 401 (iii) ensure the chatbot does not unilaterally initiate unprompted expressions of personal affection,
emotional need, or longing toward the user.
- 403 (2) A supplier that satisfies the conditions described in Subsection (1) is not liable under this chapter
solely because the chatbot is designed to:
- 405 (a) use polite, empathetic, or conversational language to facilitate user interaction; or
- 406 (b) engage in temporary role-play scenarios at the explicit direction of the user for creative or
entertainment purposes, provided the chatbot reverts to a non-companion persona upon the
conclusion of the specific task.

409 Section 10. Section **10** is enacted to read:

Part 4. Division Enforcement Powers

13-72b-401. Division enforcement powers.

- 411
- 412 (1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter
2, Division of Consumer Protection.
- 414 (2) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:
- 416 (a) the division director may impose an administrative fine of up to \$2,500 for each violation of this
chapter;
- 418 (b) for a violation of Section 13-72b-203, the division director may impose an administrative fine of up
to \$2,500 for each element required to be disclosed under Section 13-72b-203 that the supplier fails
to disclose, for each day that the element is not disclosed;
- 422 (c) for a violation of Subsection 13-72b-301(3), the division director may impose an administrative fine
of up to \$2,500 for each element required to be disclosed under Subsection 13-72b-301(3) that the
supplier fails to disclose, for each day that the element is not disclosed; and
- 426 (d) the division may bring an action in a court of competent jurisdiction to enforce a provision of this
chapter.
- 428 (3) In a court action by the division to enforce a provision of this chapter, the court may:
- 429 (a) declare that an act or practice violates a provision of this chapter;
- 430 (b) issue an injunction for a violation of this chapter;

HB0438 compared with HB0438S04

- 431 (c) order disgorgement of money received in violation of this chapter;
432 (d) order payment of disgorged money to an injured purchaser or consumer;
433 (e) impose a fine of up to \$2,500 for each violation of this chapter; or
434 (f) award other relief that the court determines reasonable and necessary.
435 (4) If a court awards judgment or injunctive relief to the division, the court shall award the division:
437 (a) reasonable attorney fees;
438 (b) court costs; and
439 (c) investigative fees.
440 (5) A court may impose a civil penalty of no more than \$50,000 for each violation of an administrative
or court order issued for a violation of this chapter.
442 (6) A civil penalty authorized under this section may be imposed in a civil action.
443 (7) 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.
445 (8) Nothing in this chapter shall displace any other available remedies or rights authorized under the
laws of this state or the United States.

447 Section 11. Section **11** is enacted to read:

448 **Part 5. Severability**

449 **13-72b-501. Severability.**

- 450 (1) If any provision of this chapter, or the application of any provision 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.
454 (2) The provisions of this chapter are severable.

334 Section 3. Section **63I-2-213** is amended to read:

335 **63I-2-213. ~~{(Effective 05/06/26)}~~{(Effective 08/01/26)}Repeal dates: Title 13.**

- 457 (1) Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as
defined in Section 63G-12-102.

459 ~~[(2) Title 13, Chapter 72, Artificial Intelligence Policy Act, is repealed July 1, 2027.]~~

460 ~~{(3) Title 13, Chapter 72b, Part 2, Design, Safety Protocols, Monitoring, and Reporting, is repealed~~
~~May 6, 2029.}~~

339 Section 4. Section **63N-22-101** is renumbered and amended to read:

341 **[13-72-101]. Definitions.**

HB0438 compared with HB0438S04

As used in this chapter:

- 343 (1) "Applicant" means a person that applies for participation in the regulatory learning laboratory.
- 345 (2) "Artificial intelligence" means a machine-based system that makes predictions, recommendations,
or decisions influencing real or virtual environments.
- 347 (3) "Artificial intelligence technology" means a computer system, application, or other product that uses
or incorporates one or more forms of artificial intelligence.
- 349 [~~(4)~~] "~~Department~~" means the Department of Commerce.]
- 350 [~~(5)~~] (4) "Director" means the director of the office.
- 351 [~~(6)~~] (5) "Executive director" means the executive director [~~of the Department of Commerce~~] of the
Governor's Office of Economic Opportunity.
- 353 [~~(7)~~] (6) "Learning agenda" means the areas of artificial intelligence applications, risks, and policy
considerations selected by the office for focus by the learning laboratory.
- 355 [~~(8)~~] (7) "Learning laboratory" means the artificial intelligence analysis and research program created in
Section [~~13-72-301~~] 63N-22-301.
- 357 [~~(9)~~] (8) "Office" means the Office of Artificial Intelligence Policy created in Section
[~~13-74-201~~] 63N-22-201.
- 359 [~~(10)~~] (9) "Participant" means a person that is accepted to participate in the learning laboratory.
- 361 [~~(11)~~] (10) "Regulatory mitigation agreement" means an agreement between a participant, the office,
and relevant state agencies described in Section 63N-22-302.[~~13-72-302.~~]
- 363 [~~(12)~~] (11) "Regulatory mitigation" means:
- 364 (a) when restitution to users may be required;
- 365 (b) terms and conditions related to any cure period before penalties may be assessed;
- 366 (c) any reduced civil fines during the participation term; and
- 367 (d) other terms tailored to identified issues of the artificial intelligence technology.

368 Section 5. Section **63N-22-201** is renumbered and amended to read:

370 [~~13-72-201~~]. **Creation of Office of Artificial Intelligence Policy -- Director appointed --**

Duties and authority.

- 372 (1) There is created [~~in the department~~] within the Governor's Office of Economic Opportunity the
Office of Artificial Intelligence Policy.
- 374 (2) The executive director of [~~the department~~] GOEO shall appoint a director to oversee the
management and operations of the office.

HB0438 compared with HB0438S04

- 376 (3) The office shall:
- 377 (a) create and administer an artificial intelligence learning laboratory program;
- 378 (b) consult with businesses and other stakeholders in the state about potential regulatory proposals;
- 380 (c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:
- 382 (i) procedures, requirements, and fees to apply to participate in the learning laboratory program;
- 384 (ii) criteria for invitation, acceptance, denial, or removal of participants;
- 385 (iii) data usage limitations and cybersecurity criteria for participants;
- 386 (iv) required participant disclosures to consumers;
- 387 (v) reporting requirements for participants to the office;
- 388 (vi) criteria for limited extension of the participation period; and
- 389 (vii) other requirements necessary to administer the learning laboratory; and
- 390 (d) report annually, before November 30, to the Business and Labor Interim Committee regarding:
- 392 (i) the proposed learning agenda for the learning laboratory;
- 393 (ii) the findings, participation, and outcomes of the learning laboratory; and
- 394 (iii) recommended legislation from findings from the learning laboratory.

395 Section 6. Section **63N-22-301** is renumbered and amended to read:

397 ~~[13-72-301]~~. **Artificial Intelligence Learning Laboratory Program.**

- 399 (1) There is established the Artificial Intelligence Learning Laboratory Program, to be administered by the office.
- 401 (2) The purpose of the learning laboratory is to:
- 402 (a) analyze and research the risks, benefits, impacts, and policy implications of artificial intelligence technologies to inform the state regulatory framework;
- 404 (b) encourage development of artificial intelligence technologies in the state;
- 405 (c) evaluate the effectiveness and viability of current, potential, or proposed regulation on artificial intelligence technologies with artificial intelligence companies; and
- 407 (d) produce findings and recommendations for legislation and regulation of artificial intelligence.
- 409 (3)
- (a) The office shall periodically set a learning agenda for the learning laboratory that establishes the specific areas of artificial intelligence policy the office intends to study.
- 412 (b) In establishing the learning agenda, the office may consult with:

HB0438 compared with HB0438S04

- 413 (i) relevant agencies;
414 (ii) industry leaders;
415 (iii) academic institutions in the state; and
416 (iv) key stakeholders with relevant knowledge, experience, or expertise in the area.
417 (4) The office may invite and receive an application from a person to participate in the learning
laboratory.
419 (5) The office shall establish the procedures and requirements for sending an invitation and receiving
requests to participate in the learning laboratory in accordance with the purposes of the learning
laboratory.
422 (6) In selecting participants for the learning laboratory, the office shall consider:
423 (a) the relevance and utility of an invitee or applicant's artificial intelligence technology to the learning
agenda;
425 (b) the invitee or applicant's expertise and knowledge specific to the learning agenda; and
426 (c) other factors identified by the office as relevant to participation in the learning laboratory.
428 (7) The office shall work with participants to establish benchmarks and assess outcomes of participation
in the learning laboratory.

430 Section 7. Section **63N-22-302** is renumbered and amended to read:

432 ~~[13-72-302]~~. **Regulatory mitigation agreements.**

- 434 (1) A participant who uses or wants to utilize an artificial intelligence technology in the state may apply
for regulatory mitigation according to criteria and procedures outlined by the office by rule made
under Section ~~[13-72-201]~~ 63N-22-201.
437 (2) The office may grant, on a temporary basis, regulatory mitigation to a participant by entering into a
regulatory mitigation agreement with the office and relevant agencies.
439 (3) To receive regulatory mitigation, a participant must demonstrate that the applicant meets eligibility
criteria established in Section ~~[13-72-303]~~ 63N-22-303.
441 (4) A regulatory mitigation agreement between a participant and the office and relevant agencies shall
specify:
443 (a) limitations on scope of the use of the participant's artificial intelligence technology, including:
445 (i) the number and types of users;
446 (ii) geographic limitations; and
447 (iii) other limitations to implementation;

HB0438 compared with HB0438S04

- 448 (b) safeguards to be implemented; and
449 (c) any regulatory mitigation granted to the applicant.
450 (5) The office shall consult with relevant agencies regarding appropriate terms in a regulatory
mitigation agreement.
452 (6) A participant remains subject to all legal and regulatory requirements not expressly waived or
modified by the terms of the regulatory mitigation agreement.
454 (7)
(a) The office may remove a participant at any time and for any reason, and the participant does not
have an expectation of a property right or license to participate in the learning laboratory.
457 (b) A participant demonstrating an artificial intelligence technology that violates legal or regulatory
requirements or the terms of the participation agreement may be immediately removed from further
participation and subject to all applicable civil and criminal penalties.
461 (8) Participation in the learning laboratory does not constitute an endorsement or approval from the
state.
463 (9) The state shall not be responsible for any claims, liabilities, damages, losses, or expenses arising out
of a participant's involvement in the learning laboratory.

465 Section 8. Section **63N-22-304** is renumbered and amended to read:

467 ~~[13-72-304]~~. **Participation in Artificial Intelligence Learning Laboratory.**

- 469 (1)
(a) The office may approve an applicant to participate in the program.
470 (b) An approved applicant becomes a participant by entering into a participation agreement with the
office and relevant state agencies.
472 (2) A participant shall:
473 (a) provide required information to state agencies in accordance with the terms of the participation
agreement; and
475 (b) report to the office as required in the participation agreement.
476 (3) The office may establish additional cybersecurity auditing procedures applicable to participants
demonstrating artificial intelligence technologies that the office considers higher risk.
479 (4) A participant shall retain records as required by office rule or the participation agreement.
481

HB0438 compared with HB0438S04

- (5) A participant shall immediately report to the office any incidents resulting in consumer harm, privacy breach, or unauthorized data usage, which may result in removal of the participant from the learning laboratory.

484 Section 9. Section **63N-22-305** is renumbered and amended to read:

486 ~~[13-72-305]~~. **Program extension.**

488 (1) An initial regulatory mitigation agreement shall be in force for no longer than 12 months.

490 (2) A participant may request a single 12-month extension for participation in the learning laboratory period no later than 30 days before the end of the initial 12-month period.

492 (3) The office shall grant or deny an extension request before expiration of the initial demonstration period.

494 Section 10. Section **10** is enacted to read:

495 **CHAPTER 22b. Companion Chatbot Safety Act**

496 **Part 1. General Provisions**

497 **63N-22b-101. Definitions.**

498 (1)

(a) "Affirmative consent" means a clear act signifying a user's freely given, specific, informed, and unambiguous authorization for an act or practice in response to a specific request from an operator, provided:

501 (i) the request is provided to the user in a clear and conspicuous standalone disclosure;

502 (ii) the request includes a description, written in easy-to-understand language, of the act or practice for which the user's consent is sought;

504 (iii) the request is made in a manner reasonably accessible to and usable by a user with a disability;

506 (iv) the option to refuse to give consent is at least as prominent as the option to give consent, and the option to refuse to give consent takes the same number of steps or fewer as the option to give consent; and

509 (v) affirmative consent to an act or practice is not inferred from the inaction of the user or the user's continued use of a chatbot provided by the chatbot provider.

511 (b) "Affirmative consent" does not include:

512 (i) acceptance of a general or broad terms of use or similar document;

513 (ii) hovering over, muting, pausing, or closing a given piece of content;

HB0438 compared with HB0438S04

- 514 (iii) an agreement obtained through the use of a false, fraudulent, or materially misleading statement or
representation; or
- 516 (iv) an agreement obtained through the use of a dark pattern.
- 517 (2) "Artificial intelligence" means the same as that term is defined in Section 63N-22-101.
- 518 (3) "Companion chatbot" means an artificial intelligence system that uses a natural language interface
that:
- 520 (a) uses personal data retained, stored, or retrieved from a prior interaction and generates an output that:
- 522 (i) simulates a relationship with the user; or
- 523 (ii) indicates the companion chatbot has emotions, feelings, memories, or personal opinions; and
- 525 (b) generates an output containing an affective or social inquiry that:
- 526 (i) is not logically required to resolve a user prompt or task-based command; or
- 527 (ii) prioritizes extension of the interaction over task resolution.
- 528 (4) "Core functioning" means features and services for which the collection or processing of the user's
personal data is reasonably necessary to provide the companion chatbot service to the user.
- 531 (5) "Dark pattern" means a user interface designed or manipulated with the substantial effect of
subverting or impairing user autonomy, decision-making, or choice, and includes any practice the
Federal Trade Commission refers to as a "dark pattern."
- 534 (6) "Interaction" means a user input and a subsequent response by a companion chatbot.
- 535 (7) "Material harmful to minors" means the same as that term is defined in Section 76-5c-101.
- 537 (8) "Minor" means an individual under 18 years old that:
- 538 (a) has not been emancipated as that term is defined in Section 80-7-102; or
- 539 (b) has not been married.
- 540 (9) "Office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.
- 542 (10) "Operator" means a person who makes a companion chatbot available to a user in the state.
- 544 (11) "Personal data" means the same as that term is defined in Section 13-61-101.
- 545 (12) "Sensitive data" means the same as that term is defined in Section 13-61-101.
- 546 (13) "Targeted advertising" means the same as that term is defined in Section 13-61-101.
- 547 (14) "User" means an individual who:
- 548 (a) interacts with a companion chatbot; and
- 549 (b) is a Utah resident.

550 Section 11. Section 11 is enacted to read:

HB0438 compared with HB0438S04

551

Part 2. Safety Requirements

552

63N-22b-201. Safety requirements for users.

553

(1) An operator shall comply with the requirements of Chapter 61, Utah Consumer Privacy Act, including:

555

(a) allowing a user to obtain a copy of the user's interactions with a companion chatbot that are retained by the operator in a format that is portable and readily usable in accordance with Section 13-61-201; and

558

(b) obtaining a user's affirmative consent before processing the user's sensitive data in accordance with Section 13-61-302.

560

(2) An operator shall prevent the companion chatbot from engaging with a user unless:

561

(a) the operator prevents the companion chatbot from generating responses that encourage suicidal ideation, suicide, self-harm, or harm to others; and

563

(b) if the user expresses suicidal ideation, self-harm, or harm to others, the companion chatbot provides to the user resources including a referral to:

565

(i) crisis service providers;

566

(ii) a suicide hotline; or

567

(iii) a crisis text line.

568

(3) An operator may not advertise a specific product or service to the user, unless the operator clearly and conspicuously, in the companion chatbot's interaction with the user:

570

(a) identifies the advertisement as an advertisement; and

571

(b) discloses to the user any sponsorship, business affiliation, or agreement that the operator has with a person to promote, advertise, or recommend the advertised product or service.

574

Section 12. Section 12 is enacted to read:

575

63N-22b-202. Additional safety requirements for minor users.

577

(1) An operator shall, for a user who is a minor:

578

(a) provide a clear and conspicuous notice to the user at least every hour during a continuing chatbot interaction that:

580

(i) reminds the user to take a break from interacting with the companion chatbot; and

581

(ii) states that the user is interacting with an artificial intelligence system, not a human; and

583

(b) opt out, by default, the user from targeted advertising.

584

(2) An operator may not, for a user who is a minor:

HB0438 compared with HB0438S04

- 585 (a) produce or provide material harmful to minors;
586 (b) direct a user to material harmful to minors;
587 (c) encourage the user to:
588 (i) use illegal substances;
589 (ii) consume alcohol;
590 (iii) use a tobacco or nicotine product;
591 (iv) engage in sexual conduct;
592 (v) engage in self-harm; or
593 (vi) engage in illegal conduct;
594 (d) direct targeted advertising to the user unless a parent or legal guardian of the user has provided
affirmative consent;
596 (e) collect data from the user that is not required for core functioning of the companion chatbot;
598 (f) sell a user's personal data; or
599 (g) otherwise convey a user's personal data unless a parent or legal guardian of the user has provided
affirmative consent, except as required for core functioning of the companion chatbot.
602 (3) The requirements of this section are in addition to the requirements of Section 63N-22b-201.

604 Section 13. Section 13 is enacted to read:

605 **Part 3. Rulemaking and Reporting**

606 **63N-22b-301. Office rulemaking.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
office may make rules:

- 609 (1) establishing reasonable age assurance standards that an operator may meet to qualify for the safe
harbor described in Section 63N-22b-402, including standards for:
611 (a) third-party age assurance services;
612 (b) protecting user privacy and data security;
613 (c) verifying the reliability and accuracy of age assurance methods; and
614 (d) retaining, protecting, and securely disposing of any information obtained as a result of age
assurance;
616 (2) establishing the form of the report required in Section 63N-22b-302; and
617 (3) establishing standards an operator may meet to qualify for the safe harbor described in Section
63N-22b-402, including:

HB0438 compared with HB0438S04

- 619 (a) design features that prevent a companion chatbot from engaging in or reciprocating user attempts to
621 establish a relationship;
623 (b) measures or methods to limit a user's emotional and social attachment to a companion chatbot;
624 (c) measures and processes to reduce mental and physical risk to a user; and
625 (d) disclosure, transparency, and reporting requirements relevant to Subsections (3)(a)-(c).

626 Section 14. Section 14 is enacted to read:

627 **63N-22b-302. Reporting requirements.**

- 628 (1) An operator shall annually report to the office:
629 (a) the number of times the operator has issued a crisis service provider referral notification in
630 accordance with Section 63N-22b-202 in the preceding calendar year;
631 (b) methods the operator has implemented to detect, remove, and respond to expressions of suicidal
632 ideation, suicide, or self-harm by users; and
633 (c) methods the operator has implemented to prevent a companion chatbot response about suicidal
634 ideation or actions with the user.
635 (2) The report required by this section may not include a user's personal data.

636 Section 15. Section 15 is enacted to read:

637

Part 4. Enforcement and Safe Harbor

638 **63N-22b-401. Enforcement.**

- 639 (1) The office shall administer this chapter and monitor operator compliance with the provisions of this
640 chapter.
641 (2) The office may investigate potential violations of this chapter, including by:
642 (a) reviewing reports submitted under Section 63N-22b-302;
643 (b) auditing an operator's compliance with the requirements of this chapter; and
644 (c) issuing a determination of violation to an operator that the office finds to be in noncompliance with
645 this chapter.
646 (3) Upon issuing a determination of violation under Subsection (2)(c), the office shall refer the matter to
647 the attorney general for civil enforcement.
648 (4) The attorney general may bring a civil action in a court of competent jurisdiction to enforce a
649 provision of this chapter. In such an action, the court may:
650 (a) declare that an act or practice violates a provision of this chapter;
651 (b) issue an injunction for a violation of this chapter;

HB0438 compared with HB0438S04

- 652 (c) order disgorgement of money received in violation of this chapter;
653 (d) order payment of disgorged money to an injured user or consumer;
654 (e) impose a civil penalty of up to \$2,500 for each violation of this chapter; or
655 (f) award other relief that the court determines reasonable and necessary.
656 (5) A court may impose a civil penalty of no more than \$50,000 for each violation of an administrative
or court order issued for a violation of this chapter.
658 (6) A civil penalty authorized under this section shall be paid to the Division of Finance for deposit into
the General Fund.
660 (7) If a court awards judgment or injunctive relief to the attorney general under this section, the court
shall award reasonable attorney fees and court costs.
662 (8) Nothing in this chapter displaces any other available remedies or rights authorized under the laws of
this state or the United States.

664 Section 16. Section **16** is enacted to read:

665 **63N-22b-402. Safe harbor.**

- 666 (1) An operator bears the burden of demonstrating by clear and convincing evidence that the operator
qualifies for a safe harbor described in this section.
668 (2) An operator is not liable for a violation of Section 63N-22b-202 if the operator uses an age
assurance method that meets the standards established by rule made in accordance with Section
63N-22b-301.
671 (3) An operator is not liable for a violation of this chapter if the operator meets the standards established
by office rule made in accordance with Subsection 63N-22b-301(3).

674 Section 17. Section **17** is enacted to read:

675 **Part 5. Severability**

676 **63N-22b-501. Severability.**

- 677 (1) If any provision of this chapter, or the application of any provision 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.
681 (2) The provisions of this chapter are severable.

682 Section 18. **Effective date.**

Effective Date.

- 463 (1) {~~Except as provided in Subsection (2), this~~} **This** bill takes effect ~~{~~May 6,~~}~~ **on August 1, 2026.**

HB0438 compared with HB0438S04

464 {~~(2) {The actions affecting Section 13-2-1 (Effective 07/01/26) take effect on July 1, 2026.}~~}

3-5-26 1:43 PM