

# HB0438S02 compared with HB0438S01

~~{Omitted text}~~ shows text that was in HB0438S01 but was omitted in HB0438S02  
inserted text shows text that was not in HB0438S01 but was inserted into HB0438S02

**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 Companion Chatbot Safety Act to regulate operators of companion  
6 chatbots and protect consumers.

7 **Highlighted Provisions:**

8 This bill:

- 9 ▶ defines terms;
- 10 ▶ requires operators of companion chatbots 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 rulemaking for age assurance and safe harbor standards;
- 15 ▶ requires annual reporting by operators to the Office of Artificial Intelligence Policy;
- 16 ▶ grants enforcement authority to the Division of Consumer Protection;
- 17 ▶ provides for administrative fines and civil penalties;
- 18 ▶ establishes safe harbor provisions for operators; and
- 19 ▶ provides a severability clause.

# HB0438S01 compared with HB0438S02

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides a special effective date.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 ~~{13-2-1 (Effective 05/06/26) (Superseded 07/01/26), as last amended by Laws of Utah 2025, Chapters 51, 181, 237, and 269}~~

26 13-2-1 ~~{(Effective 07/01/26)}~~(Effective 07/01/26) (Effective 08/01/26), as last amended by Laws of Utah 2025, Chapter 468

28 13-61-101 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), as last amended by Laws of Utah 2024, Chapter 186

29 13-61-102 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), as last amended by Laws of Utah 2024, Chapter 381

30 ENACTS:

31 13-72b-101 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), Utah Code Annotated 1953

32 13-72b-201 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), Utah Code Annotated 1953

33 13-72b-202 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), Utah Code Annotated 1953

34 13-72b-301 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), Utah Code Annotated 1953

35 13-72b-302 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), Utah Code Annotated 1953

36 13-72b-303 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), Utah Code Annotated 1953

37 13-72b-401 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), Utah Code Annotated 1953

38 13-72b-402 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), Utah Code Annotated 1953

39 13-72b-501 ~~{(Effective 05/06/26)}~~(Effective 08/01/26), Utah Code Annotated 1953

---

---

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

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

44 **13-2-1. Consumer protection division established -- Functions.**

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

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

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

## HB0438S01 compared with HB0438S02

- 50 (b) Chapter 11, Utah Consumer Sales Practices Act;
- 51 (c) Chapter 15, Business Opportunity Disclosure Act;
- 52 (d) Chapter 20, New Motor Vehicle Warranties Act;
- 53 (e) Chapter 21, Credit Services Organizations Act;
- 54 (f) Chapter 22, Charitable Solicitations Act;
- 55 (g) Chapter 23, Health Spa Services Protection Act;
- 56 (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 57 (i) Chapter 26, Telephone Fraud Prevention Act;
- 58 (j) Chapter 28, Prize Notices Regulation Act;
- 59 (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- 61 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
- 62 (m) Chapter 41, Price Controls During Emergencies Act;
- 63 (n) Chapter 42, Uniform Debt-Management Services Act;
- 64 (o) Chapter 49, Immigration Consultants Registration Act;
- 65 (p) Chapter 51, Transportation Network Company Registration Act;
- 66 (q) Chapter 52, Residential Solar Energy Consumer Protection Act;
- 67 (r) Chapter 53, Residential, Vocational ~~[or]~~ and Life Skills Program Act;
- 68 (s) Chapter 54, Ticket Website Sales Act;
- 69 (t) Chapter 56, Ticket Transferability Act;
- 70 (u) Chapter 57, Maintenance Funding Practices Act;
- 71 (v) Chapter 61, Utah Consumer Privacy Act;
- 72 (w) Chapter 64, Vehicle Value Protection Agreement Act;
- 73 (x) Chapter 65, Utah Commercial Email Act;
- 74 (y) Chapter 67, Online Dating Safety Act;
- 75 (z) Chapter 68, Lawyer Referral Consultants Registration Act;
- 76 (aa) Chapter 70, Automatic Renewal Contracts Act;
- 77 (bb) Chapter 71, Utah Minor Protection in Social Media Act;
- 78 (cc) Chapter 72a, Artificial Intelligence Applications Relating to Mental Health;
- 79 ~~(dd)~~ Chapter 72b, Companion Chatbot Safety Act; and
- 80 ~~[(dd)]~~ (ee) Chapter 78, Earned Wage Access Services Act.

## HB0438S01 compared with HB0438S02

- 81 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may  
make rules to establish:
- 83 (a) a public list that identifies a person that:
- 84 (i) violates a chapter described in Subsection (2);
- 85 (ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal  
process issued by:
- 87 (A) the division; or
- 88 (B) a court of competent jurisdiction; or
- 89 (iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar  
instrument signed by the person and the division; and
- 91 (b) a process by which a person may be removed from the list the division establishes as described in  
Subsection (3)(a).

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

43 **13-2-1. ~~{(Effective 07/01/26)}~~(Effective 07/01/26) (Effective 08/01/26) Consumer protection**  
**division established -- Functions.**

- 96 (1) There is established within the Department of Commerce the Division of Consumer Protection.
- 98 (2) The division shall administer and enforce the following:
- 99 (a) Chapter 10a, Music Licensing Practices Act;
- 100 (b) Chapter 11, Utah Consumer Sales Practices Act;
- 101 (c) Chapter 15, Business Opportunity Disclosure Act;
- 102 (d) Chapter 20, New Motor Vehicle Warranties Act;
- 103 (e) Chapter 21, Credit Services Organizations Act;
- 104 (f) Chapter 22, Charitable Solicitations Act;
- 105 (g) Chapter 23, Health Spa Services Protection Act;
- 106 (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 107 (i) Chapter 26, Telephone Fraud Prevention Act;
- 108 (j) Chapter 28, Prize Notices Regulation Act;
- 109 (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information  
Act;
- 111 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
- 112 (m) Chapter 41, Price Controls During Emergencies Act;

## HB0438S01 compared with HB0438S02

- 113 (n) Chapter 42, Uniform Debt-Management Services Act;  
114 (o) Chapter 49, Immigration Consultants Registration Act;  
115 (p) Chapter 51, Transportation Network Company Registration Act;  
116 (q) Chapter 52, Residential Solar Energy Consumer Protection Act;  
117 (r) Chapter 53, Residential Vocational or Life Skills Program Act;  
118 (s) Chapter 54, Ticket Website Sales Act;  
119 (t) Chapter 56, Ticket Transferability Act;  
120 (u) Chapter 57, Maintenance Funding Practices Act;  
121 (v) Chapter 61, Utah Consumer Privacy Act;  
122 (w) Chapter 64, Vehicle Value Protection Agreement Act;  
123 (x) Chapter 65, Utah Commercial Email Act;  
124 (y) Chapter 67, Online Dating Safety Act;  
125 (z) Chapter 68, Lawyer Referral Consultants Registration Act;  
126 (aa) Chapter 70, Automatic Renewal Contracts Act;  
127 (bb) Chapter 71, Utah Minor Protection in Social Media Act;  
128 (cc) Chapter 72a, Artificial Intelligence Applications Relating to Mental Health;  
129 (dd) Chapter 72b, Companion Chatbot Safety Act;  
130 [~~dd~~] (ee) Chapter 78, Earned Wage Access Services Act; and  
131 [~~ee~~] (ff) Chapter 81, Utah Digital Choice Act.  
132 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may  
make rules to establish:  
134 (a) a public list that identifies a person that:  
135 (i) violates a chapter described in Subsection (2);  
136 (ii) without proper legal justification, fails to comply with an order, subpoena, judgment, or other legal  
process issued by:  
138 (A) the division; or  
139 (B) a court of competent jurisdiction; or  
140 (iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance, or similar  
instrument signed by the person and the division; and  
142 (b) a process by which a person may be removed from the list the division establishes as described in  
Subsection (3)(a).

## HB0438S01 compared with HB0438S02

93 Section 2. Section 13-61-101 is amended to read:

94 **13-61-101. ~~{(Effective 05/06/26)}~~(Effective 08/01/26)Definitions.**

As used in this chapter:

- 147 (1) "Account" means the Consumer Privacy Restricted Account established in Section 13-61-403.
- 149 (2) "Affiliate" means an entity that:
- 150 (a) controls, is controlled by, or is under common control with another entity; or
- 151 (b) shares common branding with another entity.
- 152 (3) "Aggregated data" means information that relates to a group or category of consumers:
- 153 (a) from which individual consumer identities have been removed; and
- 154 (b) that is not linked or reasonably linkable to any consumer.
- 155 (4) "Air carrier" means the same as that term is defined in 49 U.S.C. Sec. 40102.
- 156 (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.
- 159 (6)
- (a) "Biometric data" means data generated by automatic measurements of an individual's unique biological characteristics.
- 161 (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.
- 165 (c) "Biometric data" does not include:
- 166 (i) a physical or digital photograph;
- 167 (ii) a video or audio recording;
- 168 (iii) data generated from an item described in Subsection (6)(c)(i) or (ii);
- 169 (iv) information captured from a patient in a health care setting; or
- 170 (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.
- 172 (7) "Business associate" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- 173 (8) "Child" means an individual younger than 13 years old.
- 174 (9) "Companion chatbot operator" means the same as the term "operator" is defined in Section 13-72b-101.

## HB0438S01 compared with HB0438S02

- 176 ~~[(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.
- 179 ~~[(10)]~~ (11)
- (a) "Consumer" means an individual who is a resident of the state acting in an individual or household  
context.
- 181 (b) "Consumer" does not include an individual acting in an employment or commercial context.
- 183 ~~[(11)]~~ (12) "Control" or "controlled" as used in Subsection (2) means:
- 184 (a) ownership of, or the power to vote, more than 50% of the outstanding shares of any class of voting  
securities of an entity;
- 186 (b) control in any manner over the election of a majority of the directors or of the individuals exercising  
similar functions; or
- 188 (c) the power to exercise controlling influence of the management of an entity.
- 189 ~~[(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.
- 192 ~~[(13)]~~ (14) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- 194 ~~[(14)]~~ (15)
- (a) "Deidentified data" means data that:
- 195 (i) cannot reasonably be linked to an identified individual or an identifiable individual; and
- 197 (ii) are possessed by a controller who:
- 198 (A) takes reasonable measures to ensure that a person cannot associate the data with an individual;
- 200 (B) publicly commits to maintain and use the data only in deidentified form and not attempt to  
reidentify the data; and
- 202 (C) contractually obligates any recipients of the data to comply with the requirements described in  
~~[Subsections (14)(b)(i)]~~ { ~~Subsections (15)(a)(ii)(A) and (B)~~ } and (ii) Subsections (15)(a)(ii)(A)  
and (B).
- 205 (b) "Deidentified data" includes synthetic data.
- 206 ~~[(15)]~~ (16) "Director" means the director of the Division of Consumer Protection.
- 207 ~~[(16)]~~ (17) "Division" means the Division of Consumer Protection created in Section 13-2-1.
- 208 ~~[(17)]~~ (18) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

## HB0438S01 compared with HB0438S02

- 210 [~~(18)~~] (19) "Health care facility" means the same as that term is defined in Section 26B-2-201.
- 212 [~~(19)~~] (20) "Health care provider" means the same as that term is defined in Section 78B-3-403.
- 214 [~~(20)~~] (21) "Identifiable individual" means an individual who can be readily identified, directly or indirectly.
- 216 [~~(21)~~] (22) "Institution of higher education" means a public or private institution of higher education.
- 218 [~~(22)~~] (23) "Local political subdivision" means the same as that term is defined in Section 11-14-102.
- 220 [~~(23)~~] (24) "Nonprofit corporation" means:
- 221 (a) the same as that term is defined in Section 16-6a-102; or
- 222 (b) a foreign nonprofit corporation as defined in Section 16-6a-102.
- 223 [~~(24)~~] (25)
- (a) "Personal data" means information that is linked or reasonably linkable to an identified individual or an identifiable individual.
- 225 (b) "Personal data" does not include deidentified data, aggregated data, or publicly available information.
- 227 [~~(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.
- 230 [~~(26)~~] (27) "Processor" means a person who processes personal data on behalf of a controller.
- 232 [~~(27)~~] (28) "Protected health information" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- 234 [~~(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:
- 236 (a) kept separate from the consumer's personal data; and
- 237 (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.
- 240 [~~(29)~~] (30) "Publicly available information" means information that a person:
- 241 (a) lawfully obtains from a record of a governmental entity;
- 242 (b) reasonably believes a consumer or widely distributed media has lawfully made available to the general public; or
- 244 (c) if the consumer has not restricted the information to a specific audience, obtains from a person to whom the consumer disclosed the information.
- 246 [~~(30)~~] (31) "Right" means a consumer right described in Section 13-61-201.

## HB0438S01 compared with HB0438S02

247 [~~(31)~~] (32)

(a) "Sale," "sell," or "sold" means the exchange of personal data for monetary consideration by a controller to a third party.

249 (b) "Sale," "sell," or "sold" does not include:

250 (i) a controller's disclosure of personal data to a processor who processes the personal data on behalf of the controller;

252 (ii) a controller's disclosure of personal data to an affiliate of the controller;

253 (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;

256 (iv) the disclosure or transfer of personal data when a consumer directs a controller to:

257 (A) disclose the personal data; or

258 (B) interact with one or more third parties;

259 (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;

262 (vi) the disclosure of information that the consumer:

263 (A) intentionally makes available to the general public via a channel of mass media; and

265 (B) does not restrict to a specific audience; or

266 (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.

269 [~~(32)~~] (33)

(a) "Sensitive data" means:

270 (i) personal data that reveals:

271 (A) an individual's racial or ethnic origin;

272 (B) an individual's religious beliefs;

273 (C) an individual's sexual orientation;

274 (D) an individual's citizenship or immigration status; or

275 (E) information regarding an individual's medical history, mental or physical health condition, or medical treatment or diagnosis by a health care professional;

278

## HB0438S01 compared with HB0438S02

(ii) the processing of genetic personal data or biometric data, if the processing is for the purpose of identifying a specific individual; or

280 (iii) specific geolocation data.

281 (b) "Sensitive data" does not include personal data that reveals an individual's:

282 (i) racial or ethnic origin, if the personal data are processed by a video communication service; or

284 (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.

289 [~~(33)~~] (34)

(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.

293 (b) "Specific geolocation data" does not include:

294 (i) the content of a communication; or

295 (ii) any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

297 [~~(34)~~] (35) "Synthetic data" means data that has been generated by computer algorithms or statistical models and does not contain personal data.

299 [~~(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.

303 (b) "Targeted advertising" does not include advertising:

304 (i) based on a consumer's activities within a controller's website or online application or any affiliated website or online application;

306 (ii) based on the context of a consumer's current search query or visit to a website or online application;

308 (iii) directed to a consumer in response to the consumer's request for information, product, a service, or feedback; or

310 (iv) processing personal data solely to measure or report advertising:

311 (A) performance;

## HB0438S01 compared with HB0438S02

- 312 (B) reach; or  
313 (C) frequency.
- 314 [~~(36)~~] (37) "Third party" means a person other than:  
315 (a) the consumer, controller, or processor; or  
316 (b) an affiliate or contractor of the controller or the processor.
- 317 [~~(37)~~] (38) "Trade secret" means information, including a formula, pattern, compilation, program,  
device, method, technique, or process, that:  
319 (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  
322 (b) is the subject of efforts that are reasonable under the circumstances to maintain the information's  
secrecy.
- 273 Section 3. Section **13-61-102** is amended to read:  
274 **13-61-102. ~~{(Effective 05/06/26)}~~{(Effective 08/01/26)}Applicability.**
- 326 (1) This chapter applies to:  
327 (a) [-]any controller or processor who:  
328 [~~(a)~~] (i)  
[~~(i)~~] (A) conducts business in the state; or  
329 [~~(ii)~~] (B) produces a product or service that is targeted to consumers who are residents of the state;  
331 [~~(b)~~] (ii) has annual revenue of \$25,000,000 or more; and  
332 [~~(c)~~] (iii) satisfies one or more of the following thresholds:  
333 [~~(i)~~] (A) during a calendar year, controls or processes personal data of 100,000 or more consumers; or  
335 [~~(ii)~~] (B) derives over 50% of the entity's gross revenue from the sale of personal data and controls or  
processes personal data of 25,000 or more consumers[-] ; or  
337 (b) a companion chatbot operator.
- 338 (2) This chapter does not apply to:  
339 (a) a governmental entity or a third party under contract with a governmental entity when the third party  
is acting on behalf of the governmental entity;  
341 (b) a tribe;  
342 (c) an institution of higher education;  
343 (d) a nonprofit corporation;

## HB0438S01 compared with HB0438S02

- 344 (e) a covered entity;
- 345 (f) a business associate;
- 346 (g) information that meets the definition of:
- 347 (i) protected health information for purposes of the federal Health Insurance Portability and  
Accountability Act of 1996, 42 U.S.C. Sec. 1320d et seq., and related regulations;
- 350 (ii) patient identifying information for purposes of 42 C.F.R. Part 2;
- 351 (iii) identifiable private information for purposes of the Federal Policy for the Protection of Human  
Subjects, 45 C.F.R. Part 46;
- 353 (iv) identifiable private information or personal data collected as part of human subjects research  
[~~pursuant to~~] in accordance with or under the same standards as:
- 355 (A) the good clinical practice guidelines issued by the International Council for Harmonisation; or
- 357 (B) the Protection of Human Subjects under 21 C.F.R. Part 50 and Institutional Review Boards under  
21 C.F.R. Part 56;
- 359 (v) personal data used or shared in research conducted in accordance with one or more of the  
requirements described in Subsection (2)(g)(iv);
- 361 (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;
- 363 (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;
- 366 (viii) patient safety work product for purposes of 42 C.F.R. Part 3; or
- 367 (ix) information that is:
- 368 (A) deidentified in accordance with the requirements for deidentification set forth in 45 C.F.R. Part 164;  
and
- 370 (B) derived from any of the health care-related information listed in this Subsection (2)(g);
- 372 (h) information originating from, and intermingled to be indistinguishable with, information under  
Subsection (2)(g) that is maintained by:
- 374 (i) a health care facility or health care provider; or
- 375 (ii) a program or a qualified service organization as defined in 42 C.F.R. Sec. 2.11;
- 376 (i) information used only for public health activities and purposes as described in 45 C.F.R. Sec.  
164.512;
- 378 (j)

## HB0438S01 compared with HB0438S02

- (i) an activity by:
- 379 (A) a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a;
- 380 (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
- 383 (C) a user of a consumer report, as set forth in 15 U.S.C. Sec. 1681b;
- 384 (ii) subject to regulation under the federal Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.; and
- 386 (iii) involving the collection, maintenance, disclosure, sale, communication, or use of any personal data  
bearing on a consumer's:
- 388 (A) credit worthiness;
- 389 (B) credit standing;
- 390 (C) credit capacity;
- 391 (D) character;
- 392 (E) general reputation;
- 393 (F) personal characteristics; or
- 394 (G) mode of living;
- 395 (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;
- 398 (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.;
- 400 (m) personal data regulated by the federal Family Education Rights and Privacy Act, 20 U.S.C. Sec.  
1232g, and related regulations;
- 402 (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.;
- 404 (o) data that are processed or maintained:
- 405 (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;
- 408 (ii) as the emergency contact information of an individual described in Subsection (2)(o)(i) and used for  
emergency contact purposes; or
- 410

## HB0438S01 compared with HB0438S02

(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;

412 (p) an individual's processing of personal data for purely personal or household purposes; or

414 (q) an air carrier.

415 (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.

419 (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.

371 Section 4. Section 4 is enacted to read:

374 **13-72b-101.** ~~{(Effective 05/06/26)}~~ **(Effective 08/01/26)** **Definitions.**

72b. Companion Chatbot Safety Act

1. General Provisions

426 (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:

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

430 (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;

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

434 (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

437 (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.

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

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

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

## HB0438S01 compared with HB0438S02

- 442 (iii) an agreement obtained through the use of a false, fraudulent, or materially misleading statement or  
443 representation; or
- 444 (iv) an agreement obtained through the use of a dark pattern.
- 445 (2) "Artificial intelligence" means the same as that term is defined in Section 13-72-101.
- 446 (3) "Companion chatbot" means an artificial intelligence system that uses a natural language interface  
447 that:
- 448 (a) uses personal data retained, stored, or retrieved from a prior interaction and generates an output that:
- 449 (i) simulates a relationship with the user; or
- 450 (ii) indicates the companion chatbot has emotions, feelings, memories, or personal opinions; and
- 451 (b) generates an output containing an affective or social inquiry that:
- 452 (i) is not logically required to resolve a user prompt or task-based command; or
- 453 (ii) prioritizes extension of the interaction over task resolution.
- 454 (4) "Core functioning" means features and services for which the collection or processing of the user's  
455 personal data is reasonably necessary to provide the companion chatbot service to the user.
- 456 (5) "Dark pattern" means a user interface designed or manipulated with the substantial effect of  
457 subverting or impairing user autonomy, decision-making, or choice, and includes any practice the  
458 Federal Trade Commission refers to as a "dark pattern."
- 459 (6) "Division" means the Division of Consumer Protection created in Section 13-2-1.
- 460 (7) "Interaction" means a user input and a subsequent response by a companion chatbot.
- 461 (8) "Material harmful to minors" means the same as that term is defined in Section 76-5c-101.
- 462 (9) "Minor" means an individual under 18 years old that:
- 463 (a) has not been emancipated as that term is defined in Section 80-7-102; or
- 464 (b) has not been married.
- 465 (10) "Office" means the Office of Artificial Intelligence Policy created in Section 13-72-201.
- 466 (11) "Operator" means a person who makes a companion chatbot available to a user in the state.
- 467 (12) "Personal data" means the same as that term is defined in Section 13-61-101.
- 468 (13) "Sensitive data" means the same as that term is defined in Section 13-61-101.
- 469 (14) "Targeted advertising" means the same as that term is defined in Section 13-61-101.
- 470 (15) "User" means an individual who:
- 471 (a) interacts with a companion chatbot; and
- 472 (b) is a Utah resident.

## HB0438S01 compared with HB0438S02

427 Section 5. Section 5 is enacted to read:

429 **13-72b-201.** ~~{(Effective 05/06/26)}~~{(Effective 08/01/26)} **Safety requirements for users.**

### 2. Safety Requirements

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

483 (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

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

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

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

440 (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:

442 (i) crisis service providers;

443 (ii) a suicide hotline; or

444 (iii) a crisis text line.

488 (2)(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:

490 (a) identifies the advertisement as an advertisement; and

491 (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.

451 Section 6. Section 6 is enacted to read:

452 **13-72b-202.** ~~{(Effective 05/06/26)}~~{(Effective 08/01/26)} **Additional safety requirements for**  
**minor users.**

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

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

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

500

## HB0438S01 compared with HB0438S02

- (ii) ~~{discloses}~~ states that the user is ~~{not}~~ interacting with an artificial intelligence system, not a human; and
- 501 ~~{(iii) {states that using a companion chatbot may not be suitable for a minor;}}~~
- 502 ~~{(b) {prevent the companion chatbot from engaging with the user unless:}}~~
- 503 ~~{(i) {the operator prevents production of suicidal ideation, suicide, or self-harm content to the user; and}}~~
- 505 ~~{(ii) {if the user expresses suicidal ideation, suicide, or self-harm, the companion chatbot provides to the user:}}~~
- 507 ~~{(A) {resources including a referral to crisis service providers; and}}~~
- 508 ~~{(B) {a suicide hotline or crisis text line; and}}~~
- 509 (c) ~~{(b)}~~ opt out, by default, the user from targeted advertising.
- 510 (2) An operator may not, for a user who is a minor:
- 511 (a) produce or provide material harmful to minors;
- 512 (b) direct a user to material harmful to minors;
- 513 (c) encourage the user to:
- 514 (i) use illegal substances;
- 515 (ii) consume alcohol;
- 516 (iii) use a tobacco or nicotine product;
- 517 (iv) engage in sexual conduct;
- 518 (v) engage in self-harm; or
- 519 (vi) engage in illegal conduct;
- 520 (d) direct targeted advertising to the user unless a parent or legal guardian of the user has provided affirmative consent;
- 522 (e) collect data from the user that is not required for core functioning of the companion chatbot;
- 524 (f) sell a user's personal data; or
- 525 (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.
- 527 (3) The requirements of this section are in addition to the requirements of Section 13-72b-201.
- 480 Section 7. Section 7 is enacted to read:
- 482 13-72b-301. ~~{(Effective 05/06/26)}~~ (Effective 08/01/26) Division rulemaking.
3. Rulemaking and Reporting

## HB0438S01 compared with HB0438S02

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing reasonable age assurance standards that an operator may meet to qualify for the safe harbor described in Section 13-72b-402, including standards for:

- 535 (1) third-party age assurance services;  
536 (2) protecting user privacy and data security;  
537 (3) verifying the reliability and accuracy of age assurance methods; and  
538 (4) retaining, protecting, and securely disposing of any information obtained as a result of age assurance.

491 Section 8. Section 8 is enacted to read:

492 **13-72b-302.** ~~{(Effective 05/06/26)}~~**{(Effective 08/01/26)}** Office rulemaking.

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

- 544 (1) establishing the form of the report required in Section 13-72b-303; and  
545 (2) establishing standards an operator may meet to qualify for the safe harbor described in Section 13-72b-402, including:  
498 (a) design features that prevent a companion chatbot from engaging in or reciprocating user attempts to establish a relationship;  
547 (a) {(b)} measures or methods {that} to limit a user's emotional and social attachment to a companion chatbot;  
548 (b) {(c)} measures and processes {that an operator may implement} to reduce mental and physical risk to a user; and  
550 (c) {(d)} disclosure, transparency, and reporting requirements relevant to Subsections {(2)(a) and (b)} (2)(a)-(c).

505 Section 9. Section 9 is enacted to read:

506 **13-72b-303.** ~~{(Effective 05/06/26)}~~**{(Effective 08/01/26)}** Reporting requirements.

- 554 (1) An operator shall annually report to the office:  
555 (a) the number of times the operator has issued a crisis service provider referral notification in accordance with Section 13-72b-202 in the preceding calendar year;  
557 (b) methods the operator has implemented to detect, remove, and respond to expressions of suicidal ideation, suicide, or self-harm by users; and

559

## HB0438S01 compared with HB0438S02

(c) methods the operator has implemented to prevent a companion chatbot response about suicidal ideation or actions with the user.

561 (2) The report required by this section may not include a user's personal data.

515 Section 10. Section 10 is enacted to read:

517 **13-72b-401. ~~{(Effective 05/06/26)}~~(Effective 08/01/26)Enforcement.**

4. Enforcement and Safe Harbor

565 (1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.

567 (2) The division may coordinate with the office to investigate and enforce violations of this chapter.

569 (3) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

571 (a) the division director may impose an administrative fine of up to \$2,500 for each violation of this chapter; and

573 (b) the division may bring an action in a court of competent jurisdiction to enforce a provision of this chapter.

575 (4) In a court action by the division to enforce a provision of this chapter, the court may:

576 (a) declare that an act or practice violates a provision of this chapter;

577 (b) issue an injunction for a violation of this chapter;

578 (c) order disgorgement of money received in violation of this chapter;

579 (d) order payment of disgorged money to an injured purchaser or consumer;

580 (e) impose a fine of up to \$2,500 for each violation of this chapter; or

581 (f) award other relief that the court determines reasonable and necessary.

582 (5) If a court awards judgment or injunctive relief to the division, the court shall award the division:

584 (a) reasonable attorney fees;

585 (b) court costs; and

586 (c) investigative fees.

587 (6) 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.

589 (7) A civil penalty authorized under this section may be imposed in a civil action.

590 (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.

592

## HB0438S01 compared with HB0438S02

(9) Nothing in this chapter shall displace any other available remedies or rights authorized under the laws of this state or the United States.

547 Section 11. Section 11 is enacted to read:

548 **13-72b-402.** ~~{(Effective 05/06/26)}~~{Effective 08/01/26} **Safe harbor.**

596 (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.

598 (2) An operator is not liable for a violation of Section 13-72b-202 if the operator uses an age assurance method that meets the standards established by division rule made in accordance with Section 13-72b-301.

601 (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 13-72b-302(2).

556 Section 12. Section 12 is enacted to read:

558 **13-72b-501.** ~~{(Effective 05/06/26)}~~{Effective 08/01/26} **Severability.**

5. Severability

606 (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.

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

564 Section 13. **Effective date.**

Effective Date.

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

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

3-2-26 2:29 PM