

118TH CONGRESS  
1ST SESSION

# S. 2691

To require disclosures for AI-generated content, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

Mr. SCHATZ (for himself and Mr. KENNEDY) introduced the following bill;  
which was read twice and referred to the Committee on Commerce,  
Science, and Transportation

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## A BILL

To require disclosures for AI-generated content, and for  
other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “AI Labeling Act of  
5 2023”.

6 **SEC. 2. DISCLOSURES FOR AI-GENERATED CONTENT.**

7 (a) CONSUMER DISCLOSURES.—

8 (1) IMAGE, VIDEO, AUDIO, OR MULTIMEDIA AI-  
9 GENERATED CONTENT.—

1 (A) IN GENERAL.—Each generative artificial intelligence system that, using any means  
2 or facility of interstate or foreign commerce,  
3 produces image, video, audio, or multimedia AI-  
4 generated content shall include on such AI-generated content a clear and conspicuous disclosure  
5 that meets the requirements of subparagraph (B).  
6  
7  
8

9 (B) DISCLOSURE REQUIREMENTS.—A disclosure required under subparagraph (A) shall  
10 meet each of the following criteria:  
11

12 (i) The disclosure shall include a clear  
13 and conspicuous notice, as appropriate for  
14 the medium of the content, that identifies  
15 the content as AI-generated content.

16 (ii) The output’s metadata information shall include an identification of the  
17 content as being AI-generated content, the  
18 identity of the tool used to create the content,  
19 and the date and time the content  
20 was created.  
21

22 (iii) The disclosure shall, to the extent  
23 technically feasible, be permanent or unable  
24 to be easily removed by subsequent  
25 users.

1           (2) TEXT AI-GENERATED CONTENT.—Each ar-  
2           tificial intelligence system that, using any means or  
3           facility of interstate or foreign commerce, produces  
4           text AI-generated content (including through an ar-  
5           tificial intelligence chatbot) shall include a clear and  
6           conspicuous disclosure that identifies the content as  
7           AI-generated content and that is, to the extent tech-  
8           nically feasible, permanent or unable to be easily re-  
9           moved by subsequent users.

10           (3) OTHER OBLIGATIONS.—

11           (A) DEVELOPERS OF GENERATIVE ARTIFI-  
12           CIAL INTELLIGENCE SYSTEMS.—Any entity that  
13           develops a generative artificial intelligence sys-  
14           tem shall implement reasonable procedures to  
15           prevent downstream use of such system without  
16           the disclosures required under this section, in-  
17           cluding by—

18                   (i) requiring by contract that end  
19                   users and third-party licensees of the sys-  
20                   tem refrain from removing any required  
21                   disclosure;

22                   (ii) requiring certification that end  
23                   users and third-party licensees will not re-  
24                   move any such disclosure; and

1 (iii) terminating access to the system  
2 when the entity has reason to believe that  
3 an end user or third-party licensee has re-  
4 moved the required disclosure.

5 (B) THIRD-PARTY LICENSEES.—Any third-  
6 party licensee of a generative artificial intel-  
7 ligence system shall implement reasonable pro-  
8 cedures to prevent downstream use of such sys-  
9 tem without the disclosures required under this  
10 section, including by—

11 (i) requiring by contract that users of  
12 the system refrain from removing any re-  
13 quired disclosure;

14 (ii) requiring certification that end  
15 users will not remove any such disclosure;  
16 and

17 (iii) terminating access to the system  
18 when the third-party licensee has reason to  
19 believe that an end user has removed the  
20 required disclosure.

21 (4) ENFORCEMENT BY THE COMMISSION.—

22 (A) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
23 TICE.—A violation of this subsection shall be  
24 treated as a violation of a rule defining an un-  
25 fair or deceptive act or practice under section

1 18(a)(1)(B) of the Federal Trade Commission  
2 Act (15 U.S.C. 57a(a)(1)(B)).

3 (B) POWERS OF THE COMMISSION.—

4 (i) IN GENERAL.—The Commission  
5 shall enforce this subsection in the same  
6 manner, by the same means, and with the  
7 same jurisdiction, powers, and duties as  
8 though all applicable terms and provisions  
9 of the Federal Trade Commission Act (15  
10 U.S.C. 41 et seq.) were incorporated into  
11 and made a part of this subsection.

12 (ii) PRIVILEGES AND IMMUNITIES.—  
13 Any person who violates this subsection or  
14 a regulation promulgated thereunder shall  
15 be subject to the penalties and entitled to  
16 the privileges and immunities provided in  
17 the Federal Trade Commission Act (15  
18 U.S.C. 41 et seq.).

19 (iii) AUTHORITY PRESERVED.—Noth-  
20 ing in this Act shall be construed to limit  
21 the authority of the Commission under any  
22 other provision of law.

23 (b) AI-GENERATED CONTENT CONSUMER TRANS-  
24 PARENCY WORKING GROUP.—

1           (1) ESTABLISHMENT.—Not later than 90 days  
2 after the date of enactment of this section, the Di-  
3 rector of the National Institute of Standards and  
4 Technology (in this section referred to as the “Di-  
5 rector”), in coordination with the heads of other rel-  
6 evant Federal agencies, shall form a working group  
7 to assist platforms in identifying AI-generated con-  
8 tent.

9           (2) MEMBERSHIP.—The working group shall  
10 include members from the following:

11                   (A) Relevant Federal agencies.

12                   (B) Developers of generative artificial in-  
13 telligence systems.

14                   (C) Private sector groups engaged in devel-  
15 oping content detection standards.

16                   (D) Social media platforms.

17                   (E) Academic and other relevant entities.

18                   (F) Any other entity determined appro-  
19 priate by the Director.

20           (3) DUTIES.—Not later than 1 year after the  
21 date on which the Director establishes the working  
22 group under paragraph (1), the working group shall  
23 publish a framework that includes—

24                   (A) technical standards for AI-generated  
25 content detection technology to assist platforms

1 in identifying image, video, audio, and multi-  
2 media AI-generated content;

3 (B) guidelines and best practices for plat-  
4 forms to implement such technical standards;  
5 and

6 (C) recommendations for detection prac-  
7 tices for non-audiovisual AI-generated content,  
8 including text.

9 (4) REPORT TO CONGRESS.—Not later than 1  
10 year after the date on which the Director establishes  
11 the working group under paragraph (1), the Direc-  
12 tor shall submit to the Committee on Commerce,  
13 Science, and Transportation of the Senate and the  
14 Committee on Energy and Commerce of the House  
15 of Representatives a report on the framework pub-  
16 lished under paragraph (3), together with rec-  
17 ommendations for legislative or administrative action  
18 determined appropriate by the Director.

19 (5) EXEMPTION FROM APPLICATION OF  
20 FACIA.—Chapter 10 of title 5, United States Code,  
21 shall not apply to the working group.

22 (c) DEFINITIONS.—In this section:

23 (1) AI-GENERATED CONTENT.—The term “AI-  
24 generated content” means image, video, audio,  
25 multimedia, or text content that is substantially cre-

1       ated or modified by a generative artificial intel-  
2       ligence system such that the use of the system mate-  
3       rially alters the meaning or significance that a rea-  
4       sonable person would take away from the content.

5           (2) ARTIFICIAL INTELLIGENCE CHATBOT.—The  
6       term “artificial intelligence chatbot” means genera-  
7       tive artificial intelligence system with which users  
8       can interact by or through an interface that approxi-  
9       mates or simulates conversation.

10          (3) CLEAR AND CONSPICUOUS.—The term  
11       “clear and conspicuous”, with respect to a disclo-  
12       sure, means that the disclosure meets the following  
13       criteria:

14           (A) For any content that is solely visual or  
15       solely audible, the disclosure shall be made  
16       through the same means through which the  
17       content is presented.

18           (B) For any content that is both visual  
19       and audible, the disclosure shall be visual and  
20       audible.

21           (C) A visual disclosure, by its size, con-  
22       trast, location, the length of time it appears,  
23       and other characteristics, shall stand out from  
24       any accompanying text or other visual elements



1 so that the disclosure is easily noticed, read,  
2 and understood.

3 (D) An audible disclosure shall be delivered  
4 in a volume, speed, and cadence sufficient for  
5 a reasonable person to easily hear and under-  
6 stand the disclosure.

7 (E) The disclosure shall not be avoidable.

8 (F) The disclosure shall use diction and  
9 syntax understandable to a reasonable person.

10 (G) The disclosure shall not be contra-  
11 dicted or mitigated by, or inconsistent with,  
12 anything else in the communication.

13 (H) Any other criteria determined appro-  
14 priate by the Commission.

15 (4) COMMISSION.—The term “Commission”  
16 means the Federal Trade Commission.

17 (5) GENERATIVE ARTIFICIAL INTELLIGENCE  
18 SYSTEM.—The term “generative artificial intel-  
19 ligence system” means any system that uses artifi-  
20 cial intelligence (as defined in section 238(g) of the  
21 John S. McCain National Defense Authorization Act  
22 for Fiscal Year 2019) to generate or substantially  
23 modify image, video, audio, multimedia, or text con-  
24 tent.

1           (6) METADATA.—The term “metadata” has the  
2 meaning given such term in section 3502 of title 44,  
3 United States Code.

4           (7) PLATFORM.—The term “platform” has the  
5 meaning given the term “interactive computer serv-  
6 ice” in section 230(f) of the Communications Act of  
7 1934 (47 U.S.C. 230(f)).

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