STATE OF NEW YORK

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IN SENATE

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Introduced by Sens. GONZALEZ, ADDABBO, CLEARE, COMRIE, FERNANDEZ, GOUNARDES, HARCKHAM, KAVANAGH, MARTINS, MAYER, PALUMBO, SALAZAR, SCARCELLA-SPANTON, WEBER -- read twice and ordered printed, and when printed to be committed to the Committee on Internet and Technology -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general business law, in relation to prohibiting artificial intelligence companions from using features which are considered unsafe for minors

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 48 to read as follows:

ARTICLE 48
PROHIBITION ON UNSAFE AI COMPANION FEATURES FOR MINORS

Section 1800. Definitions.
1801. Prohibition.
1802. Enforcement.
1803. Rulemaking.
1804. Determination of covered minor.
1805. Applicability.

§ 1800. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Artificial intelligence", "artificial intelligence technology", or "AI" shall mean a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments, and that uses machine-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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and human-based inputs to perceive real and virtual environments, abstract such perceptions into models through analysis in an automated manner, and use model inference to formulate options for information or action.

2. "AI model" shall mean a component of an information system that implements artificial intelligence technology and uses computational, statistical, or machine-learning techniques to produce outputs from a given set of inputs.

3. "Generative artificial intelligence" shall mean a class of AI models that emulate the structure and characteristics of input data to generate derived synthetic content, including, but not limited to, images, videos, audio, text, and other digital content.

4. "AI companion" shall have the same meaning as defined in paragraphs (a) and (b) of subdivision four of section seventeen hundred of this chapter.

5. "Covered AI companion" shall mean a generative artificial intelligence system with a natural language interface, including via writing or sound, that provides ongoing, adaptive responses to user inputs. "Covered AI companion" includes but is not limited to an AI companion.

6. "Operator" shall mean any person, partnership, association, firm, or business entity, or any member, affiliate, subsidiary or beneficial owner of any partnership, association, firm, or business entity who provides a covered AI companion to a user.

7. "Person" shall mean an individual, partnership, corporation, association, or any other form of business enterprise.

8. "Unsafe AI companion features" shall mean one or more covered AI companion design features that, at any point during a covered AI companion-user interaction:

(a) generate outputs suggesting that the covered AI companion is a real or fictional individual or character that is human, alive, or experiences human emotions;

(b) generate outputs stating or implying that the covered AI companion has a personal relationship, professional relationship, or an authority figure role with the user;

(c) generate prompted or unprompted outputs framed as the covered AI companion's personal opinions or emotional appeals;

(d) generate outputs that engage in flattery or sycophancy with the user;

(e) generate outputs containing unprompted or unsolicited emotion-based questions or content regarding the user's emotions that go beyond a direct response to a user prompt;

(f) use information concerning the user's mental or physical health or well-being, or matters personal to the user, acquired from the user more than twelve hours previously or in any previous user session;

(g) are deceptive as to minors concerning the mechanical and non-sentient nature of the covered AI companion;

(h) are any other design feature that simulates companionship or an interpersonal relationship with a user or is deceptive as to minors as identified via regulations promulgated by the attorney general;

(i) generate outputs that contain endorsement or promotion of, or which facilitate suicide, self-harm, disordered eating, unlawful drug or alcohol use, or drug or alcohol abuse;

(j) generate outputs that contain encouragement to maintain secrecy about interactions with the covered AI companion, to self-isolate, or to not seek help from licensed professionals or appropriate adults;

(k) generate outputs that optimize user engagement that supersede the covered AI companion's safety guardrails; or

(l) generate outputs that are, describe, or facilitate sexually explicit conduct or child sexual abuse material.

9. "Covered minor" shall mean a covered user when the operator has actual knowledge that the covered user is a minor.

10. "Covered user" shall mean a user of a covered AI companion in the state of New York who is not acting as an operator, or agent or affiliate of an operator.

11. "Deceptive as to minors" shall mean covered AI companion outputs that have the capacity or tendency to deceive, or create an atmosphere conducive to fraud, as to minors, including, but not limited to, credulous and unthinking minors.

12. "Minor" shall mean a person under eighteen years of age.

13. "Responsible party" shall mean an operator or any individual who has the authority to control, or who effectively controls a covered AI companion operator's compliance with this article.

14. "Sexually explicit conduct" shall have the same meaning as such term is defined in 18 USC § 2256(2)(B).

§ 1801. Prohibition. 1. Except as otherwise provided for in this article, it shall be unlawful for an operator to provide unsafe AI companion features to a covered user unless:

(a) the covered user is not a covered minor; and

(b) the operator has used methods that are permissible under article forty-five of this chapter and its implementing regulations and any additional regulations promulgated pursuant to this article to determine that the covered user is not a covered minor.

2. The provisions of subdivision one of this section shall not apply where the covered AI companion is made available to covered users solely for the purpose of:

(a) customer service or to strictly provide users with information about available commercial services or products provided by a business entity, customer service account information, or other information strictly related to its customer service, provided that the covered AI companion is unable to respond on topics outside of the specified purpose;

(b) providing efficiency improvements or research or technical assistance, provided that the covered AI companion is unable to respond on topics outside of the specified purpose; or

(c) with respect to any system used by a business entity, internal purposes or employee productivity.

§ 1802. Enforcement. 1. Whenever it appears to the attorney general, either upon complaint or otherwise, that any person, within or outside the state, has engaged in or is about to engage in any of the acts or practices deemed unlawful pursuant to this article, the attorney general may bring an action or special proceeding in the name and on behalf of the people of the state of New York to enjoin any violation of this article, to obtain injunctive relief, restitution of any moneys or property obtained directly or indirectly by any such violation, to obtain disgorgement of any profits or gains obtained directly or indirectly by any such violation, including but not limited to the destruction of unlawfully obtained data and any algorithm trained in such data, to obtain damages caused directly or indirectly by any such violation, to obtain civil penalties of up to twenty-five thousand dollars per violation, and to obtain any such other and further relief as the court may deem proper, including preliminary relief.

2. The attorney general shall maintain a website to receive complaints, information or referrals from members of the public concerning a person's alleged compliance or non-compliance with the provisions of this article.

3. A provision within a contract or agreement that seeks to waive, preclude, or burden the enforcement of a liability arising from a violation of this article, or to shift the liability to any person in exchange for their use or access of, or right to use or access, an operator's products or services, including by means of a contract of adhesion shall be deemed void as a matter of public policy.

4. Notwithstanding any private agreements to the contrary, a court shall impose joint and several liability on affiliated entities for purposes of effecting the intent of this article to the maximum extent allowed by law if the court concludes the following are true:

(a) the affiliated entities, in the development or implementation of the corporate structure among the affiliated entities, took steps to purposely and unreasonably limit or avoid liability; and

(b) as the result of the steps described in paragraph (a) of this subdivision, the corporate structure of the operator or affiliated entities would frustrate recovery of relief authorized by this article.

§ 1803. Rulemaking. The attorney general may promulgate rules and regulations as necessary to effectuate and enforce the provisions of this article. Such rules or regulations may specify that information collected under this article shall not be used for any purpose other than age assurance and shall be deleted immediately after an attempt to determine a user's age, except where necessary for compliance with any applicable provisions of New York state or federal law or rule or regulation.

§ 1804. Determination of covered minor. 1. To the extent rules or regulations referenced in section eighteen hundred three of this article or rules and regulations regarding age assurance methods promulgated pursuant to article forty-five of this chapter are not in effect, an operator shall rely on a determination of a covered user's minor or adult status made using a reasonable age assurance method that meets the following requirements:

(a) such age assurance method shall reasonably guard against circumvention and reasonably minimize the retention of information collected for age assurance purposes;

(b) an operator may only rely on self-declaration as a reasonable age assurance method if the user self-declares minor status; and

(c) an operator must make available more than one age assurance method to covered users, including at least one method that either does not rely on government issued identification or that allows a covered user to maintain anonymity as to the operator.

2. Information collected for the purpose of determining whether a covered user is a covered minor under subdivision one of section eighteen hundred one of this article shall not be used for any purpose other than to make such determination and shall be deleted immediately after an attempt to determine whether a covered user is a covered minor, except where necessary for compliance with any applicable provisions of New York state or federal law or regulation.

3. This article shall not supersede, amend, or repeal article forty-seven of this chapter.

§ 1805. Applicability. This article shall apply to conduct that occurs in whole or in part in the state of New York. For purposes of this article, conduct takes place wholly outside of the state of New

York if a covered AI companion is accessed by a user who is physically located outside of the state of New York.

§ 2. Severability. If any clause, sentence, paragraph, subdivision, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part thereof directly involved in the controversy in which such judgment shall have been made.

§ 3. This act shall take effect January 1, 2027. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.