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HOUSE BILL NO. 2121  
AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the House Committee on Communications, Technology and Innovation  
on \_\_\_\_\_)  
(Patron Prior to Substitute—Delegate Maldonado)

*A BILL to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607 through 59.1-611, relating to Digital Content Authenticity and Transparency Act established; civil penalty.*

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 58, consisting of sections numbered 59.1-607 through 59.1-611, as follows:**

*CHAPTER 58.*

*DIGITAL CONTENT AUTHENTICITY AND TRANSPARENCY ACT.*

**§ 59.1-607. Definitions.**

*As used in this chapter, unless the context requires a different meaning:*

*"Artificial intelligence" means a set of technologies that enables machines to perform tasks under varying and unpredictable circumstances that typically require human oversight or intelligence, or that can learn from experience and improve performance when exposed to data sets.*

*"Artificial intelligence system" means any machine-based system that, for any explicit or implicit objective, infers from the inputs such system receives how to generate outputs, including content, decisions, predictions, and recommendations, that can influence physical or virtual environments.*

*"Controller" means the same as that term is defined in § 59.1-575.*

*"Developer" means any person doing business in the Commonwealth that develops or significantly updates a generative artificial intelligence system or service that is offered, sold, leased, given, or otherwise provided to consumers in the Commonwealth.*

*"Digital content" means any content in digital form, including any audio, image, text, or video content.*

*"Generative artificial intelligence" means artificial intelligence based on a foundation model that is capable of and used to produce synthetic digital content, including audio, images, text, and videos.*

*"Generative artificial intelligence system or service" means any artificial intelligence system or service that incorporates generative artificial intelligence.*

31 *"Machine learning" means the development of algorithms to build data-derived statistical models that are*  
32 *capable of drawing inferences from previously unseen data without explicit human instruction.*

33 *"Online service, product, or feature" means the same as that term is defined in § 59.1-575.*

34 *"Provenance application tool" means an online service, product, or feature that enables a user to apply*  
35 *provenance data, either directly or through the use of third-party technologies, to synthetic digital content.*

36 *"Provenance data" means information, such as the origin of a piece of digital content and the history of*  
37 *modifications to the digital content, that is in a format which is compliant with widely adopted guidelines or*  
38 *specifications promulgated by an established standard-setting body, and which includes (i) whether some or*  
39 *all of the digital content is synthetic digital content and (ii) when there is synthetic digital content, the name*  
40 *of the developer whose generative artificial intelligence system or service generated the synthetic digital*  
41 *content.*

42 *"Provenance reader" means an online service, product, or feature that enables a user to view the*  
43 *provenance data, if any, of synthetic digital content.*

44 *"Significant update" means any new version, new release, or other update to a generative artificial*  
45 *intelligence system or service that results in significant changes to such system's or service's use case or key*  
46 *functionality.*

47 *"Synthetic digital content" means any digital content, including any audio, image, video, or to the extent*  
48 *practicable, text, that is produced or manipulated by a generative artificial intelligence system or service.*

49 *"User" means a person who uses an online service, product, or feature, including a generative artificial*  
50 *intelligence system or service.*

51 **§ 59.1-608. Duties of developers.**

52 *A. A developer of a generative artificial intelligence system or service shall apply provenance data, either*  
53 *directly or through the use of third-party technologies, to synthetic digital content that is wholly generated by*  
54 *such developer's generative artificial intelligence system or service.*

55 *B. A developer of a generative artificial intelligence system or service shall make available to the public:*

56 *1. A provenance application tool that enables the user to apply provenance data, either directly or*  
57 *through the use of third-party technology, to content that has been modified to include synthetic digital*  
58 *content; and*

59 *2. A provenance reader.*

60        **§ 59.1-609. Requirements; provenance data.**

61        *A controller of an online service, product, or feature shall retain any available provenance data in the*  
62 *digital content provided to such service, product, or feature and shall make available to a user either (i) the*  
63 *provenance data of the digital content, (ii) a conspicuous indicator of whether provenance data is or is not*  
64 *available for the digital content, or (iii) both clauses (i) and (ii).*

65        **§ 59.1-610. Exemptions.**

66        *The provisions of this chapter shall not apply to any product, service, Internet website, or application that*  
67 *provides exclusively non-user-generated video games.*

68        **§ 59.1-611. Enforcement; civil penalty.**

69        *A. The Attorney General shall have the exclusive authority to enforce the provisions of this chapter.*

70        *B. Whenever the Attorney General has reasonable cause to believe that any person has engaged in or is*  
71 *engaging in any violation of this chapter, the Attorney General is empowered to issue a civil investigative*  
72 *demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued*  
73 *pursuant to this section.*

74        *C. Notwithstanding any contrary provision of law, the Attorney General may bring an action in the*  
75 *appropriate circuit court in the name of the Commonwealth to enjoin any violation of this chapter. The*  
76 *circuit court having jurisdiction may enjoin such violation notwithstanding the existence of an adequate*  
77 *alternative remedy at law. In any action brought pursuant to this chapter, it shall not be necessary that*  
78 *damages be proved.*

79        *D. Any person who violates the provisions of this chapter shall be subject to a civil penalty in an amount*  
80 *not to exceed \$1,000 plus reasonable attorney fees, expenses, and costs, as determined by the court. Any*  
81 *person who willfully violates the provisions of this chapter shall be subject to a civil penalty in an amount of*  
82 *not less than \$1,000 and not more than \$10,000 plus reasonable attorney fees, expenses, and costs, as*  
83 *determined by the court. Such civil penalties shall be paid into the Literary Fund.*

84        *E. Each violation of this chapter shall constitute a separate violation and shall be subject to any civil*  
85 *penalties imposed under this section.*

86        *F. Prior to causing an action against a developer, a controller, or any other person for a violation of this*  
87 *chapter pursuant to subsection C, the Attorney General shall determine if it is possible to cure the violation.*  
88 *If it is possible to cure such violation, the Attorney General may issue a notice of violation to a developer, a*

89 *controller, or any other person and afford such developer, controller, or person the opportunity to cure such*  
90 *violation within 30 days of the receipt of such notice of violation. In determining whether to grant such*  
91 *opportunity to cure such violation, the Attorney General shall consider (i) the number of prior violations; (ii)*  
92 *the size and complexity of the developer, controller, or person; (iii) the nature and extent of the developer,*  
93 *controller, or person's business; (iv) the substantial likelihood of injury to the public; (v) the safety of persons*  
94 *or property; and (vi) whether such violation was likely caused by human or technical error. If the developer,*  
95 *controller, or person fails to cure such violation within 30 days of the receipt of such notice or violation, the*  
96 *Attorney General may proceed with such action.*

97 **2. That the provisions of this act shall become effective on July 1, 2026.**