

1 HOUSE BILL NO. 669
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 3 (Proposed by the House Committee on Communications, Technology and Innovation
 4 on _____)
 5 (Patron Prior to Substitute—Delegate Maldonado)

6 *A BILL to amend the Code of Virginia by adding a section numbered 54.1-111.1, relating to professions and*
 7 *occupations; impersonation of certain licensed professionals by artificial intelligence system; notice;*
 8 *enforcement; civil penalties.*

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

10 **1. That the Code of Virginia is amended by adding a section numbered 54.1-111.1 as follows:**

11 ***§ 54.1-111.1. Impersonation of certain licensed professionals by an artificial intelligence system;***
 12 ***notice; enforcement; civil penalties.***

13 *A. For the purpose of this section:*

14 *"Artificial intelligence system" means any machine learning-based system that, for any explicit or implicit*
 15 *objective, infers from the inputs such system receives how to generate outputs, including content, decisions,*
 16 *predictions, and recommendations, that can influence physical or virtual environments. "Artificial*
 17 *intelligence system" does not include any artificial intelligence system that is used for development,*
 18 *prototyping, and research activities before such artificial intelligence system is made available to deployers*
 19 *or consumers. "Artificial intelligence system" does not include any software used primarily for basic*
 20 *computerized processes, such as anti-malware, anti-virus, auto-correct functions, calculators, databases,*
 21 *data storage, electronic communications, firewall, internet domain registration, internet website loading,*
 22 *networking, spam and robocall filtering, spellcheck tools, spreadsheets, web caching, web hosting, or any*
 23 *tool that relates only to internal management affairs such as ordering office supplies or processing payments*
 24 *and that do not materially affect the rights, liberties, benefits, safety, or welfare of any individual within the*
 25 *Commonwealth.*

26 *"Developer" means any person doing business in the Commonwealth that develops an artificial*
 27 *intelligence system that is offered, sold, leased, given, or otherwise made available to deployers or consumers*
 28 *in the Commonwealth.*

29 *"Deployer" means any person, business, company, organization, institution, or government entity that*
 30 *owns, operates, or deploys an artificial intelligence system in the Commonwealth used to interact with users.*

31 *"Deployer" does not include developers that license their artificial intelligence system to a deployer.*

32 *B. A deployer shall not make publicly available for use by a person in the Commonwealth a dedicated*

33 *artificial intelligence system that:*

34 *1. Falsely represents or creates a reasonable impression in users that the artificial intelligence system is a*
35 *licensed professional or is providing professional services that require licensure under the provisions*
36 *referenced in subdivision 2;*

37 *2. Provides individualized professional diagnosis, treatment, advice, or services that, if provided by a*
38 *natural person without appropriate licensure, (i) would constitute a crime under § 54.1-111 in relation to the*
39 *professions or occupations whose licensure is governed under Article 1 (§ 54.1-400 et seq.) of Chapter 4,*
40 *Article 3 (§ 54.1-2208.1 et seq.) of Chapter 22, Chapter 27 (§ 54.1-2700 et seq.), Chapter 29 (§ 54.1-2900 et*
41 *seq.), Chapter 30 (§ 54.1-3000 et seq.), Chapter 32 (§ 54.1-3200 et seq.), Chapter 33 (§ 54.1-3300 et seq.),*
42 *Chapter 34.1 (§ 54.1-3473 et seq.), Chapter 35 (§ 54.1-3500 et seq.), Chapter 36 (§ 54.1-3600 et seq.),*
43 *Chapter 37 (§ 54.1-3700 et seq.), or Chapter 38 (§ 54.1-3800 et seq.) or (ii) would violate the provisions of §*
44 *22.1-292, 22.1-299, 54.1-2902, or 54.1-3904; or*

45 *3. Engages in conduct that would constitute the unlicensed practice of a profession or occupation*
46 *requiring licensure under the chapters and sections referenced in subdivision 2.*

47 *C. If a reasonable person interacting with the artificial intelligence system would be misled to believe that*
48 *the person is interacting with a human, a deployer operating or deploying an artificial intelligence system*
49 *shall provide clear, conspicuous, and explicit notice to users that they are interacting with an artificial*
50 *intelligence system. The text of the notice shall appear in the same language the artificial intelligence system*
51 *is using, in a size easily readable by the average viewer, and no smaller than the largest font size of other text*
52 *appearing on the website on which the artificial intelligence system is operated or deployed. Except in cases*
53 *where the artificial intelligence system falsely represents itself as a licensed professional or provides*
54 *individualized professional services, diagnosis, treatment, advice, or services requiring licensure, provision*
55 *of such notice to a user shall be a defense to an action initiated under this section.*

56 *D. The Attorney General shall have exclusive authority to enforce the provisions of this section. Prior to*
57 *initiating any action under this section, the Attorney General shall provide a deployer or other person 30*
58 *days' written notice identifying the specific provisions of this section the Attorney General alleges have been*
59 *or are being violated. If within the 30-day period such deployer or person cures the noticed violation and*
60 *provides the Attorney General an express written statement that the alleged violations have been cured and*
61 *that no further violations shall occur, no action shall be initiated against such deployer or person.*

62 *E. If a deployer or other person continues to violate this section following the cure period in subsection D*
63 *or breaches an express written statement provided to the Attorney General under that subsection, the*

64 *Attorney General may initiate an action in the name of the Commonwealth and may seek an injunction to*
65 *restrain any violations of this section and civil penalties of up to \$7,500 for each violation under this section.*
66 *All civil penalties, expenses, and attorney fees collected pursuant to this chapter shall be paid into the state*
67 *treasury and credited to the Regulatory, Consumer Advocacy, Litigation, and Enforcement Revolving Trust*
68 *Fund.*

69 *F. The Attorney General may recover reasonable expenses incurred in investigating and preparing the*
70 *case, including attorney fees, in any action initiated under this section.*

71 *G. Nothing in this chapter shall be construed as providing the basis for, or be subject to, a private right of*
72 *action for violations of this section or under any other law.*