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HOUSE BILL NO. 669

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 a section numbered 54.1-111.1, relating to professions and occupations; impersonation of certain licensed professionals by artificial intelligence system; notice; enforcement; civil penalties.

Be it enacted by the General Assembly of Virginia:

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

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

A. For the purpose of this section:

"Artificial intelligence system" means any machine learning-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. "Artificial intelligence system" does not include any artificial intelligence system that is used for development, prototyping, and research activities before such artificial intelligence system is made available to deployers or consumers. "Artificial intelligence system" does not include any software used primarily for basic computerized processes, such as anti-malware, anti-virus, auto-correct functions, calculators, databases, data storage, electronic communications, firewall, internet domain registration, internet website loading, networking, spam and robocall filtering, spellcheck tools, spreadsheets, web caching, web hosting, or any tool that relates only to internal management affairs such as ordering office supplies or processing payments and that do not materially affect the rights, liberties, benefits, safety, or welfare of any individual within the Commonwealth.

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

"Deployer" means any person, business, company, organization, institution, or government entity that owns, operates, or deploys an artificial intelligence system in the Commonwealth used to interact with users. "Deployer" does not include developers that license their artificial intelligence system to a deployer.

B. A deployer shall not make publicly available for use by a person in the Commonwealth a dedicated artificial intelligence system that:

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

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

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

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

D. The Attorney General shall have exclusive authority to enforce the provisions of this section. Prior to initiating any action under this section, the Attorney General shall provide a deployer or other person 30 days' written notice identifying the specific provisions of this section the Attorney General alleges have been or are being violated. If within the 30-day period such deployer or person cures the noticed violation and

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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.*