

118TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

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

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-generated content shall include on such AI-generated content a clear and conspicuous disclosure that meets the requirements of subparagraph (B).
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9 (B) DISCLOSURE REQUIREMENTS.—A disclosure required under subparagraph (A) shall
10 meet each of the following criteria:
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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 (iii) The disclosure shall, to the extent
22 technically feasible, be permanent or unable to be easily removed by subsequent
23 users.
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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)).