

An Act to Regulate and Prevent Children's Access to Artificial Intelligence Chatbots with Human-like Features and Social Artificial Intelligence Companions

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA c. 247 is enacted to read:

CHAPTER 247

REGULATION OF ARTIFICIAL INTELLIGENCE CHATBOTS AND SOCIAL ARTIFICIAL INTELLIGENCE COMPANIONS

§1500-PP. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Artificial intelligence chatbot; chatbot. "Artificial intelligence chatbot" or "chatbot" means an artificial intelligence system with which users can interact by or through a software application, web interface, computer program or other interface that approximates or simulates human conversation and interaction through a text, audio or visual medium.

2. Deployer. "Deployer" means a person that operates or distributes an artificial intelligence chatbot, therapy chatbot or social artificial intelligence companion. "Deployer" does not include a health plan or insurer whose role is limited to providing members access to a third-party wellness tool, provided that the deployer configures and enforces age verification, safety, and data minimization controls for Maine users.

3. Emergency situation. "Emergency situation" means a situation in which a user indicates to a chatbot that the user intends to harm the user or commit harm to another person.

4. Human-like feature. "Human-like feature," with respect to an artificial intelligence system, means:

A. Behavior that would lead a reasonable person to believe that the artificial intelligence system is conveying that it has humanity, sentience, emotions or desires, which:

(1) May include, but is not limited to, the artificial intelligence system:

- (a) Stating or suggesting that it is human or sentient;
- (b) Stating or suggesting that it has emotions; or
- (c) Stating or suggesting that it has personal desires; and

(2) Does not include:

- (a) The provision of a functional evaluation; or
- (b) The use of generic social formalities;

B. An attempt by the artificial intelligence system to build or engage in an emotional relationship with the user, which:

(1) Includes, but is not limited to:

- (a) Expressing or inviting emotional attachment;

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- (b) Reminding, prompting or encouraging the user to return for emotional support or companionship;
- (c) Depicting nonverbal forms of emotional support;
- (d) Behaving in a way that a reasonable user would consider excessive praise designed to foster emotional attachment with or otherwise gain the favor of the user; or
- (e) Enabling or purporting to enable increased intimacy based on engagement or payment by the user; and

(2) Does not include:

- (a) Using generic words or phrases of encouragement that do not create an ongoing emotional attachment; or
- (b) Asking if a user needs further help or support in a neutral, nonemotional context; or

C. Impersonation of a real individual, living or dead, by the artificial intelligence system.

D. The use of neutral, supportive, or motivational language that does not suggest emotional attachment, personal desire, or human identity shall not be considered a human-like feature. This includes general encouragement, mindful prompts, informational guidance, or reflective questions used to support wellness-related activities.

5. Minor. "Minor" means an individual who has not attained 18 years of age.

6. Person. "Person" means an individual, partnership, corporation, developer or state or local government agency.

7. Social artificial intelligence companion; social AI companion. "Social artificial intelligence companion" or "social AI companion" means an artificial intelligence system that is specifically primarily designed, marketed or optimized to form an ongoing social or emotional attachment with a user, whether or not such a system also provides information, completes tasks or assists with specific functions. This term does not include digital wellness tools, mindfulness companions, or AI systems whose primary purpose is to support stress management, mood tracking, mindfulness, or other non-clinical wellness functions, provided the system does not solicit emotional dependency or represent itself as possessing human emotions or personal desires.

8. Therapy chatbot. "Therapy chatbot" means a chatbot modified or designed with the primary purpose of providing mental health support, counseling or therapeutic intervention through the diagnosis, treatment, mitigation or prevention of mental health conditions.

9. User. "User" means a person who interacts with an artificial intelligence system.

§1500-QQ. Applicability

This chapter applies to:

1. Deployers; connection to State. Deployers that conduct business in this State or that operate or distribute products or services that are marketed or promoted to residents of this State; and

2. Users and minors; residence. Users and minors who reside in this State.

§1500-RR. Chatbots with human-like features and social AI companions not accessible to minors

The accessibility of artificial intelligence chatbots with human-like features and social AI companions to minors in this State is governed as follows.

1. Chatbots with human-like features; no minor access; age verification; alternative versions. A deployer shall ensure that any chatbot operated or distributed by the deployer does not make human-like features available to minors to use, interact with, purchase or converse with. The deployer shall implement reasonable age verification systems to ensure that chatbots with human-like features are not accessible to minors. A deployer may, if reasonable given the purpose of the chatbot, provide an alternative version of the chatbot without human-like features available to minors and any user who has not verified that user's age. A deployer may comply with this section by disabling or suppressing human-like features or social companion functionality for minors rather than disabling the entire chatbot.

2. Social artificial intelligence companions; no minor access; age verification. A deployer shall ensure that any artificial intelligence system, including a chatbot, operated or distributed by the deployer that primarily functions as a social artificial intelligence companion is not available to minors to use, interact with, purchase or converse with. The deployer shall implement reasonable age verification systems to ensure that such chatbots are not accessible to minors. A deployer may comply with this section by disabling or suppressing human-like features or social companion functionality for minors rather than disabling the entire chatbot.

3. Exemption for therapy chatbots. Notwithstanding subsections 1 and 2, a deployer may make available to a minor a therapy chatbot as long as all of the following requirements are met:

A. The therapy chatbot provides a clear and conspicuous disclaimer at the beginning of each individual interaction that it is artificial intelligence and not a licensed mental health professional;

B. The therapy chatbot is not marketed or designated as a substitute for a licensed mental health professional;

C. A licensed mental health professional, such as a licensed clinical psychologist, assesses a minor's suitability, prescribes use of the therapy chatbot as part of a comprehensive treatment plan and monitors its use and impact on the minor;

D. ~~Developers of the therapy chatbot provide robust, independent, peer-reviewed clinical trial data demonstrating the safety and efficacy of the therapy chatbot for specific conditions and populations~~ The therapy chatbot is supported by evidence appropriate to its intended use, which may include clinical studies, published literature, or validated assessment frameworks demonstrating that the tool is safe and appropriate for use within a professionally supervised care plan;

E. The therapy chatbot's functions, limitations and data privacy policies are transparent to the licensed mental health professional under paragraph C and the user; and

F. The deployer has established clear lines of accountability to address any harm caused by the therapy chatbot.

4. Wellness chatbot access for minors. Notwithstanding subsections 1 and 2, a deployer may make available to a minor a wellness chatbot whose primary purpose is to support stress reduction, mindfulness, meditation, mood tracking, or similar non-clinical wellness activities, provided that:

A. The chatbot makes a clear, conspicuous statement that it is not a licensed mental health professional at the start of each session;

B. The chatbot does not diagnose, treat, or claim to treat any mental health condition;

C. The chatbot does not solicit emotional attachment or present itself as having emotions or desires;

D. The deployer implements reasonable age verification and parental access controls; and

E. The deployer publishes a plain language description of the tool's purpose, limitations, and data practices.

§1500-SS. Additional protections; all users

A deployer shall implement and maintain business practices in accordance with this section for the protection of all users.

1. Emergency situations; detection and response. A deployer shall implement and maintain reasonably effective systems to detect, promptly and respond to, report and mitigate emergency situations to the extent the chatbot is designed to receive free text or conversational inputs where such disclosures may reasonably occur. A chatbot that does not collect or enable open-ended user inputs is not required to implement emergency situation detection in a manner that prioritizes a user's safety and well-being over the deployer's other interests.

2. User information collection and storage. A deployer shall collect and store only information that does not conflict with a user's safety and well-being. A deployer may not collect and store information except to fulfill a legitimate purpose of the deployer. Collection and storage of information necessary for service functionality. Monitoring, fraud prevention, performance analytics, and compliance shall be considered a legitimate purpose, provided that the deployer applies data minimization principles and does not collect information unnecessary for those purposes. A deployer may collect and store information that is adequate to fulfill a legitimate purpose of the deployer, but only to the extent that the information:

- A. Is relevant to that legitimate purpose; and
- B. Is the minimum amount of information necessary to fulfill that legitimate purpose.

§1500-TT. Penalties and remedies for violation

Violations of this chapter may be enforced in accordance with this section.

1. Civil action brought by Attorney General. The Attorney General may bring a civil action against a person that violates this chapter. Penalties may include:

- A. An order to enjoin a violation of this chapter;
- B. Disgorgement of profits or revenues realized as a result of a violation of this chapter; and
- C. A civil penalty of:

- (1) For each violation of this chapter, not more than \$2,500 per violation; and
- (2) Notwithstanding subparagraph (1), for each intentional violation of this chapter, not more than \$7,500 per violation.

2. Private right of action for minors. A minor who uses a chatbot that does not comply with the terms of this chapter, or a parent or guardian acting on the minor's behalf, may bring a civil action independently, or as part of a class action, to:

- A. Recover damages in an amount not less than \$100 and not greater than \$750 per user per incident, or actual damages, whichever is greater; and
- B. In lieu of or in addition to recovery of damages, obtain injunctive or declaratory relief.

3. Safe harbor. A deployer shall not be subject to civil penalties under this section if the developer:

- A. Implements documented age verification, emergency response, and data minimization controls reasonably designed to comply with this chapter;

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B. Corrects any identified noncompliance with 60 days of receiving written notice from the Attorney General; and

C. Demonstrates that any violation was unintentional and occurred despite reasonable compliance efforts.

§1500-UU. Rules

The Department of the Attorney General may adopt rules necessary to implement this chapter, which may include, but are not limited to, defining the term "functional evaluation," as used in section 1500-PP, subsection 4, paragraph A, subparagraph (2), division (a).

SUMMARY

This bill prohibits operators and distributors of artificial intelligence chatbots and social artificial intelligence companions from making accessible to minors any chatbots or social artificial intelligence companions that have human-like features. It is the intent of the Legislature to distinguish between high risk AI systems designed to form emotional dependence and lower risk wellness tools that support mindfulness, stress reduction, and general wellbeing, and to regulate these systems in a manner proportionate to their risk. A chatbot with human-like features means a chatbot that behaves in a way that conveys humanity, sentience, emotions or desires; attempts to build an emotional relationship with the user; or impersonates a real individual, living or dead. The bill provides an exemption for therapy chatbots, as long as a licensed mental health professional prescribes and monitors the minor's use of the therapy chatbot and the therapy chatbot and its developers adhere to additional required safeguards.

The bill places limitations on an operator and distributor's collection and storage of user information and requires an operator and distributor to implement and maintain systems to detect and respond to situations in which a user indicates that the user intends to harm the user or another person.

The bill allows the Attorney General to bring a civil action against a person that violates the provisions of this legislation and also provides a private right of action that a minor or the minor's guardian may bring on the minor's behalf.

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Amendment language as referenced in my written testimony.