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H.B. 813
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Cockley and J. Miller

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SUMMARY

- Requires products generated by artificial intelligence to have a watermark.
- Permits the Attorney General (AG) to investigate potential violations of or failures to comply with the bill.
- Permits a person harmed by a violation of or failure to comply with the bill to bring a civil action against the person who violates or fails to comply with the bill.
- Permits the AG to bring a civil action against the person who violates or fails to comply with the bill.
- Permits a person who violates or fails to comply with the bill to cure the violation or noncompliance within seven days after receiving notice of alleged noncompliance.

DETAILED ANALYSIS

Watermark requirement

The bill requires artificial intelligence systems to be programmed to provide a distinctive watermark on any AI-generated product. The watermark must inform the user that the particular content was generated using an artificial intelligence system. Furthermore, the bill prohibits any person, business, or organization from distributing any AI-generated product for public or commercial use if it does not include this watermark. Any business, person, or organization that utilizes an artificial intelligence system must clearly and conspicuously inform any user whenever the system is acting as or emulating a human person.[1]

The above requirements do not apply to an AI-generated product that is generated at the prompting of a user solely for personal, noncommercial use. AI-generated products which are

[1] R.C. 1349.13(A) to (C).

not used for any public or commercial purpose are not required to contain the watermark. For example, artwork generated by an artificial intelligence system must contain the required watermark if it is published publicly or commercially, but does not need to contain the watermark if it is used solely for a personal or noncommercial recreational purpose.[2]

Enforcement

Investigations

The bill permits any person who believes a person, business, or organization is violating or not in compliance with the bill to submit a complaint to the Attorney General (AG) through a form submitted through a website the AG maintains. The AG may conduct an investigation based on a complaint or the AG's own inquiries if there is reason to believe a person, business, or organization is violating or failing to comply with the bill.[3]

If the AG determines that a person, business, or organization is violating or failing to comply with the bill, the AG shall provide them written notice identifying and explaining the basis for each instance of alleged violation or noncompliance.[4]

Private cause of action

The bill permits a person aggrieved by a violation of or noncompliance with the bill to bring a civil action against the person committing the violation or noncompliance and to recover damages.[5]

Attorney General civil action

The bill also permits the AG to bring a civil action against a person that violates or fails to comply with the bill's provisions. The AG may seek injunctive relief and a civil penalty of at least $2,500 per violation or instance of noncompliance, but not more than $10,000 per violation or instance of noncompliance.[6] The court must consider all of the following when determining the amount of the civil penalty:

- The nature and seriousness of the violation or noncompliance;
- The intent of the person committing the violation or noncompliance;
- Any history of prior violations or noncompliance;
- The degree of harm caused by the person.

The AG must collect all civil penalties imposed and deposit them into the Consumer Protection Enforcement Fund.[7]

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[2] R.C. 1349.13(D).

[3] R.C. 1349.14(A) and (B).

[4] R.C. 1349.14(C).

[5] R.C. 1349.15(A).

[6] R.C. 1349.15(B).

[7] R.C. 1349.16.

Safe harbor

The bill provides that the AG is not permitted to commence a civil action under the bill if the person, business, or organization does both of the following within seven days after receiving a notice[8] of noncompliance:

- Cures all violations or instances of noncompliance described in the notice;
- Provides the AG with a written statement indicating that all violations or instances of noncompliance are cured and agreeing to refrain from further violations or noncompliance.

If a person, business, or organization fails to respond in a timely manner, fails to cure the violation or noncompliance, continues to violate or fail to comply with the bill, or commits subsequent violations or instances of noncompliance after curing the initial violation or noncompliance, the bill permits the AG to bring the civil action provided under the bill.[9]

Definitions

Under the bill, an "artificial intelligence system" means an engineered or machine-based system that, for implicit or explicit objectives, infers from the input it received how to generate an AI-product.

"AI-generated product" or "AI-product" means content that is substantially created or modified by an artificial intelligence system in a way that the use of the artificial intelligence system materially alters the content. It does not include content where part or all of the original digital data is compressed or encoded through software algorithms for the purpose of optimization in storage, transmission, or encryption if the software does not alter the original meaning of the content.

"Content" means any image, video, audio, multimedia, or text data or information that is uploaded to, generated by, or stored with any internet website, application, or service by any person, program, system, or other application.[10]

HISTORY

Action	Date
Introduced	04-13-26

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[8] A technical amendment is likely needed to R.C. 1349.15(C) to add notice of an alleged violation instead of just alleged noncompliance.

[9] R.C. 1349.15(C) to (E).

[10] R.C. 1349.12.