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(Original Signature of Member)

119TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To require artificial intelligence chatbot providers to provide data privacy and security, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mrs. FOUSHEE introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To require artificial intelligence chatbot providers to provide data privacy and security, 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 “People-First Chatbot  
5 Act”.

6 **SEC. 2. PROHIBITIONS AND REQUIREMENTS.**

7 (a) DATA PRIVACY AND SECURITY.—

8 (1) PROHIBITIONS.—An artificial intelligence  
9 chatbot provider may not do the following:

1 (A) Process personal data other than input  
2 data to inform chatbot outputs unless the proc-  
3 essing of personal data is necessary to fulfill an  
4 express request made by a user and that user  
5 has provided affirmative consent.

6 (B) Process the chat log of a user as fol-  
7 lows:

8 (i) To determine whether to display  
9 an advertisement for a product or service  
10 to the user.

11 (ii) To determine a product, service,  
12 or category of product or service to adver-  
13 tise to the user.

14 (iii) To customize an advertisement or  
15 how an advertisement is presented to the  
16 user.

17 (C) Process the chat log or personal data  
18 of a user (unless the personal data is the age  
19 of the user, but only to implement the policies  
20 of the artificial intelligence chatbot provider, re-  
21 garding harmful design features for minors) as  
22 follows:

23 (i) If the artificial intelligence chatbot  
24 provider knows or should know, based on  
25 knowledge fairly implied on the basis of ob-

1           jective circumstances, that the user is  
2           under the age of 18, without the affirma-  
3           tive consent of the parent or legal guardian  
4           of that user.

5           (ii) For training purposes, if the arti-  
6           ficial intelligence chatbot provider knows or  
7           should know, based on knowledge fairly  
8           implied on the basis of objective cir-  
9           cumstances, that a user is under 18 years  
10          of age.

11          (iii) For training purposes, of a user  
12          over 18 years of age, unless the artificial  
13          intelligence chatbot provider first obtains  
14          affirmative consent.

15          (D) Use any classification or designation  
16          of the personality or behavioral characteristic of  
17          a user created through profiling beyond what is  
18          necessary to fulfill an express request made by  
19          a user.

20          (E) Sell the chat log of a user.

21          (F) Retain the chat log of a user for  
22          longer than 5 years, unless retention is nec-  
23          essary to comply with this Act or otherwise re-  
24          quired by law.

1 (G) Discriminate or retaliate against any  
2 user, including by denying products or services,  
3 charging different prices or rates for products  
4 or services, or providing lower quality products  
5 or services to the user, for refusing to consent  
6 to the use of chat logs or personal data for  
7 training purposes.

8 (2) RIGHT OF ACCESS.—

9 (A) ACCESS TO CHAT LOG.—An artificial  
10 intelligence chatbot provider that retains the  
11 chatlog of a user shall retain such chat log in  
12 a portable, readily-usable, downloadable, and  
13 human and machine-readable format, and shall  
14 provide such chat log to the user upon request  
15 by the user.

16 (B) DELETION OF CHAT LOGS AND PER-  
17 SONAL DATA.—An artificial intelligence chatbot  
18 provider that retains the chat log or personal  
19 data of a user shall delete such chat log or per-  
20 sonal data upon request by the user.

21 (C) DISCRIMINATION AND RETALIATION  
22 PROHIBITED.—An artificial intelligence chatbot  
23 provider may not discriminate or retaliate  
24 against any user, including by denying products  
25 or services, charging different prices or rates

1           for products or services, or providing lower  
2           quality products or services to the user, for ac-  
3           cessing the chat log of the user.

4           (3) DATA SECURITY PROGRAM.—Not later than  
5           12 months after the date of the enactment of this  
6           Act, an artificial intelligence chatbot provider shall  
7           develop, implement, and maintain a comprehensive,  
8           written, data security program that contains admin-  
9           istrative, technical, and physical safeguards that are  
10          proportionate to the volume and nature of the per-  
11          sonal data and chat logs maintained by the artificial  
12          intelligence chatbot provider, a summary of which  
13          shall be made publicly available on the website of the  
14          artificial intelligence chatbot provider.

15          (4) PROHIBITED PRODUCTION AND ACCESS.—A  
16          Government entity may not compel the production of  
17          or access to input data or chat logs from an artifi-  
18          cial intelligence chatbot provider, except as provided  
19          by a warrant issued by a court under section 2518  
20          of title 18, United States Code.

21          (b) TRANSPARENCY FOR USERS.—

22               (1) PROHIBITION AGAINST MISLEADING INFOR-  
23               MATION.—An artificial intelligence chatbot provider  
24               may not—

1 (A) represent that the input data or chat  
2 log of a user is confidential; or

3 (B) use any term, letter, or phrase in the  
4 advertising, interface, or output of an artificial  
5 intelligence chatbot that indicates or implies  
6 that any output data is being provided by, en-  
7 dorsed by, or equivalent to those provided by  
8 the following:

9 (i) A licensed healthcare professional  
10 or a licensed therapist.

11 (ii) A licensed legal professional.

12 (iii) A licensed accounting profes-  
13 sional.

14 (iv) A certified financial fiduciary or  
15 planner.

16 (2) AI CHATBOT NOTICE REQUIRED.—An artifi-  
17 cial intelligence chatbot provider shall provide a  
18 clear, conspicuous, and explicit notice to a user that  
19 the user is interacting with an artificial intelligence  
20 chatbot rather than a human before the artificial in-  
21 telligence chatbot generates any output, every hour  
22 thereafter, and each time a user prompts the artifi-  
23 cial intelligence chatbot about whether the artificial  
24 intelligence chatbot is a real person as follows;

1 (A) The disclosure of the notice shall be in  
2 the same language as the one in which the user  
3 interacts with the artificial intelligence chatbot,  
4 in a font size easily readable by an average  
5 user, and not smaller than the largest font size  
6 of other text appearing on the interface on  
7 which the artificial intelligence chatbot is pro-  
8 vided.

9 (B) The notice shall be accessible to users  
10 with disabilities.

11 (C) The notice shall comply with regula-  
12 tions promulgated by the Commission.

13 (c) SAFETY BY DESIGN: ASSESSMENTS AND TRANS-  
14 PARENCY REQUIREMENTS.—

15 (1) MONTHLY RISK ASSESSMENT OF AI  
16 CHATBOT REQUIRED.—Not less frequently than  
17 monthly, an artificial intelligence chatbot provider  
18 shall assess the artificial intelligence chatbot for the  
19 risk of any covered harm, emotional dependence, or  
20 compulsive usage, according to metrics set forth in  
21 rules promulgated by the Commission.

22 (2) PUBLIC AVAILABILITY OF AI CHATBOT IN-  
23 FORMATION.—Not less frequently than quarterly, an  
24 artificial intelligence chatbot provider shall make in-  
25 formation concerning the risk assessment required

1 under paragraph (1) publicly available on the  
2 website of the provider, in accordance with rules pro-  
3 mulgated by the Commission.

4 (3) PROHIBITION OF HARMFUL DESIGN FEA-  
5 TURES FOR MINORS.—If an artificial intelligence  
6 chatbot provider knows or should know, based on  
7 knowledge fairly implied on the basis of objective cir-  
8 cumstances, that a user is under the age of 18, the  
9 artificial intelligence chatbot provider shall disable  
10 for that user any feature or setting that creates an  
11 unreasonable risk of the user suffering a covered  
12 harm, emotional dependence, or compulsive usage, in  
13 accordance with rules promulgated by the Commis-  
14 sion.

15 (d) REQUIRED DISCLOSURE BY BUSINESS ENTITIES  
16 ENGAGED IN CUSTOMER SERVICE COMMUNICATIONS OF  
17 USE OF AN ARTIFICIAL INTELLIGENCE CHATBOT FOR  
18 CUSTOMER SERVICE.—A business entity that initiates or  
19 receives a customer service communication and uses an ar-  
20 tificial intelligence chatbot for customer service commu-  
21 nication shall, at the beginning of each customer service  
22 communication so initiated or received, disclose, in accord-  
23 ance with rules promulgated by the Commission—

24 (1) that a nonhuman, artificial intelligence, or  
25 machine is being used for customer service; and

1           (2) that the consumer may request, and upon  
2           such request, be immediately transferred to a human  
3           operator who is physically located in the United  
4           States, including, if possible, by voice command  
5           (such as by saying the word “agent”).

6 **SEC. 3. RULEMAKING.**

7           (a) REGULATIONS REQUIRED.—Not later than 12  
8           months after the date of the enactment of this Act, the  
9           Commission shall promulgate regulations that include the  
10          following:

11           (1) A description of the form and content of the  
12          disclosures required under section 2(b).

13           (2) An example template for the disclosures re-  
14          quired under section 2(b).

15           (3) A description of the metrics that each artifi-  
16          cial intelligence chatbot provider is required to use  
17          to assess and publish any risk of a covered harm,  
18          emotional dependence, or compulsive usage under  
19          section 2(c)(3).

20           (4) Rules that prohibit the use of artificial in-  
21          telligence chatbot design features or settings that  
22          create an unreasonable risk of causing a covered  
23          harm, emotional dependence, or compulsive usage  
24          for users under the age of 18, as described under  
25          section 2(c)(3).

1           (5) An identification and description of cat-  
2           egories of information that each artificial intelligence  
3           chatbot provider is required to make publicly avail-  
4           able about the artificial intelligence chatbots of the  
5           provider under section 2(b).

6           (6) A description and example of the disclosure  
7           required by each business entity that initiates or re-  
8           ceives a customer service communication and uses  
9           an artificial intelligence chatbot for customer service  
10          communication, as described under section 2(d).

11          (b) GENERAL RULEMAKING AUTHORITY.—The Com-  
12          mission may promulgate any other regulation necessary  
13          to implement this Act.

14          **SEC. 4. ENFORCEMENT.**

15          (a) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
16          SION.—

17                (1) UNFAIR OR DECEPTIVE ACTS OR PRAC-  
18                TICES.—A violation of section 2 or a regulation pro-  
19                mulgated under such section shall be treated as a  
20                violation of a regulation under section 18(a)(1)(B)  
21                of the Federal Trade Commission Act (15 U.S.C.  
22                57a(a)(1)(B)) regarding unfair or deceptive acts or  
23                practices.

24                (2) POWERS OF COMMISSION.—The Federal  
25                Trade Commission shall enforce section 2 and any

1 regulation promulgated under such section in the  
2 same manner, by the same means, and with the  
3 same jurisdiction, powers, and duties as though all  
4 applicable terms and provisions of the Federal Trade  
5 Commission Act (15 U.S.C. 41 et seq.) were incor-  
6 porated into and made a part of this section. Any  
7 person who violates such section or regulation shall  
8 be subject to the penalties and entitled to the privi-  
9 leges and immunities provided in the Federal Trade  
10 Commission Act.

11 (b) ACTIONS BY STATES.—

12 (1) IN GENERAL.—In any case in which the at-  
13 torney general of a State, or an official or agency of  
14 a State, has reason to believe that an interest of the  
15 residents of such State has been or is threatened or  
16 adversely affected by an act or practice in violation  
17 of section 2 or a regulation promulgated under such  
18 section, the State, as *parens patriae*, may bring a  
19 civil action on behalf of the residents of the State in  
20 an appropriate State court or appropriate district  
21 court of the United States to—

22 (A) enjoin such act or practice;

23 (B) enforce compliance with such section  
24 or regulation;

1 (C) obtain damages, restitution, or other  
2 compensation on behalf of residents of the  
3 State;

4 (D) obtain reasonable attorney's fees and  
5 other litigation costs reasonably incurred; or

6 (E) obtain such other legal and equitable  
7 relief as the court may consider to be appro-  
8 priate.

9 (2) NOTICE.—Before filing an action under this  
10 subsection, the attorney general, official, or agency  
11 of the State involved shall provide to the Federal  
12 Trade Commission a written notice of such action  
13 and a copy of the complaint for such action. If the  
14 attorney general, official, or agency determines that  
15 it is not feasible to provide the notice described in  
16 this paragraph before the filing of the action, the at-  
17 torney general, official, or agency shall provide writ-  
18 ten notice of the action and a copy of the complaint  
19 to the Federal Trade Commission immediately upon  
20 the filing of the action.

21 (3) AUTHORITY OF FEDERAL TRADE COMMIS-  
22 SION.—

23 (A) IN GENERAL.—On receiving notice  
24 under paragraph (2) of an action under this

1 subsection, the Federal Trade Commission shall  
2 have the right—

3 (i) to intervene in the action;

4 (ii) upon so intervening, to be heard  
5 on all matters arising therein; and

6 (iii) to file petitions for appeal.

7 (B) LIMITATION ON STATE ACTION WHILE  
8 FEDERAL ACTION IS PENDING.—If the Federal  
9 Trade Commission or the Attorney General of  
10 the United States has instituted a civil action  
11 for violation of section 2 or a regulation pro-  
12 mulgated under such section (referred to in this  
13 subparagraph as the “Federal action”), no  
14 State attorney general, official, or agency may  
15 bring an action under this subsection during  
16 the pendency of the Federal action against any  
17 defendant named in the complaint in the Fed-  
18 eral action for any violation of such section or  
19 regulation alleged in such complaint.

20 (4) RULE OF CONSTRUCTION.—For purposes of  
21 bringing a civil action under this subsection, nothing  
22 in this Act shall be construed to prevent an attorney  
23 general, official, or agency of a State from exercising  
24 the powers conferred on the attorney general, offi-  
25 cial, or agency by the laws of such State to conduct

1 investigations, administer oaths and affirmations, or  
2 compel the attendance of witnesses or the production  
3 of documentary and other evidence.

4 (c) PRIVATE RIGHT OF ACTION.—

5 (1) IN GENERAL.—A person injured by an act  
6 or practice in violation of section 2 or a regulation  
7 promulgated under such section may bring in an ap-  
8 propriate State court or an appropriate district court  
9 of the United States any of the following:

10 (A) An action to enjoin the violation.

11 (B) An action to recover actual damages  
12 resulting from the violation, or to receive—

13 (i) up to \$10,000 per violation, for a  
14 violation of subsections (a), (c)(1), and  
15 (c)(2) of section 2, whichever is greater;  
16 and

17 (ii) up to \$10,000 in total for all vio-  
18 lations of section 2(b), whichever is great-  
19 er.

20 (iii) for a violation of—

21 (I) section 2(c)(3), actual dam-  
22 ages and statutory damages of not  
23 less than \$50,000.

24 (II) section 2(c)(3) that results  
25 in a covered harm, actual damages

1 and statutory damages of not less  
2 than \$250,000.

3 (III) section 2(c)(3) that results  
4 in emotional dependence or compul-  
5 sive usage, actual damages and statu-  
6 tory damages of not less than  
7 \$100,000.

8 (2) WILLFUL OR KNOWING VIOLATIONS.—If the  
9 court finds that the defendant acted willfully or  
10 knowingly in committing a violation described in  
11 paragraph (1), the court may, in its discretion, in-  
12 crease the amount of the award to an amount equal  
13 to not more than 5 times the amount available  
14 under paragraph (1)(B).

15 (3) COSTS AND ATTORNEY'S FEES.—The court  
16 shall award to a prevailing plaintiff in an action  
17 under this subsection the costs of such action and  
18 reasonable attorney's fees, as determined by the  
19 court.

20 (4) LIMITATION.—An action may be com-  
21 menced under this subsection not later than 2 years  
22 after the date on which the person first discovered  
23 or had a reasonable opportunity to discover the vio-  
24 lation.

1           (5) NONEXCLUSIVE REMEDY.—The remedy pro-  
2           vided by this subsection shall be in addition to any  
3           other remedies available to the person.

4           (d) LIABILITY FOR INJURY.—A user of an artificial  
5           intelligence chatbot who suffers an injury in fact caused  
6           through the use of the artificial intelligence chatbot may  
7           bring an action against the artificial intelligence chatbot  
8           provider in an appropriate State court or an appropriate  
9           district court of the United States to recover actual dam-  
10          ages from the artificial intelligence chatbot provider, even  
11          if—

12           (1) the artificial intelligence chatbot provider  
13           exercised all reasonable care in the design and dis-  
14           tribution of the artificial intelligence chatbot; or

15           (2) the artificial intelligence chatbot provider  
16           did not directly distribute the artificial intelligence  
17           chatbot to the user or otherwise enter into a con-  
18           tractual relationship with the user.

19 **SEC. 5. DEFINITIONS.**

20           In this Act:

21           (1) ADVERTISEMENT.—The term “advertis-  
22           ment” means any written or oral statement, illustra-  
23           tion, or depiction that promotes the sale or use of  
24           a good or service or is designed to increase interest  
25           in a brand, good, or service in which the statement,

1 illustration, or depiction is displayed in exchange for  
2 monetary or other valuable consideration, including  
3 access to data, between the artificial intelligence  
4 chatbot provider and the brand, good, or service.

5 (2) AFFIRMATIVE CONSENT.—

6 (A) REQUIREMENTS.—The term “affirma-  
7 tive consent” means a clear affirmative act that  
8 signifies the freely given, specific, informed, and  
9 unambiguous authorization of a user for an act  
10 or practice in response to a specific request  
11 from an artificial intelligence chatbot provider if  
12 each of the following conditions are met:

13 (i) The request is provided to the user  
14 in a clear and conspicuous standalone dis-  
15 closure.

16 (ii) The request includes a written de-  
17 scription, in easy-to-understand language,  
18 of the act or practice for which the consent  
19 of the user is sought.

20 (iii) The request is made in a manner  
21 reasonably accessible to and usable by a  
22 user with a disability (as defined in section  
23 3 of the Americans with Disabilities Act of  
24 1990 (42 U.S.C. 12102).

1 (iv) The request is made available to  
2 the user in each language in which the ar-  
3 tificial intelligence chatbot provider pro-  
4 vides an artificial intelligence chatbot.

5 (v) The option to refuse to give con-  
6 sent is at least as prominent as the option  
7 to give consent, and the option to refuse to  
8 give consent takes the same number of  
9 steps or fewer as the option to give con-  
10 sent.

11 (B) EXCLUSIONS.—The term “affirmative  
12 consent” does not include any of the following:

13 (i) Inference of consent from the inac-  
14 tion of the user or the continued use of an  
15 artificial intelligence chatbot by the user.

16 (ii) Acceptance of a general or broad  
17 terms of use or similar document.

18 (iii) Hovering over, muting, pausing,  
19 or closing a given piece of content.

20 (iv) Agreement obtained through the  
21 use of a false, fraudulent, or materially  
22 misleading statement or representation.

23 (v) Agreement obtained through the  
24 use of other dark patterns.

25 (3) ARTIFICIAL INTELLIGENCE CHATBOT.—

1 (A) IN GENERAL.—The term “artificial in-  
2 telligence chatbot”—

3 (i) means any interactive computer  
4 service or software application that—

5 (I) generates responses that are  
6 not fully predetermined; and

7 (II) accepts open-ended natural-  
8 language or multimodal user input  
9 and produces adaptive or context-re-  
10 sponsive output; and

11 (ii) does not include an interactive  
12 computer service or software application—

13 (I) the responses of which are  
14 limited to contextualized replies; and

15 (II) that is unable to respond on  
16 a range of topics outside of a narrow  
17 specified purpose.

18 (B) INCLUSIONS.—The term “artificial in-  
19 telligence chatbot” includes a service or applica-  
20 tion described in subparagraph (A) that, in a  
21 manner that simulates a sustained inter-  
22 personal relationship or emotional interaction  
23 with the user—

24 (i) exhibits persistent responses that  
25 suggest affection or attachment directed

1                   toward the user, or engages in interactions  
2                   involving emotional disclosures from the  
3                   user; or

4                   (ii) presents at least one persistent  
5                   identity, persona, or character or holds  
6                   itself out as a sentient being, fictional  
7                   character, or social entity.

8                   (4) ARTIFICIAL INTELLIGENCE CHATBOT PRO-  
9                   VIDER.—The term “artificial intelligence chatbot  
10                  provider” means any person who creates, distributes  
11                  (including to a third party), or otherwise makes pub-  
12                  licly available an artificial intelligence chatbot.

13                  (5) CHAT LOG.—The term “chat log” means  
14                  any input data, output generated by an artificial in-  
15                  telligence chatbot, or record of the input data or  
16                  output from user interaction with an artificial intel-  
17                  ligence chatbot.

18                  (6) COLLECT.—The term “collect” means to  
19                  create, buy, rent, gather, obtain, receive, access, or  
20                  otherwise acquire personal data or input data by any  
21                  means through the use of an artificial intelligence  
22                  chatbot by an individual.

23                  (7) COMMISSION.—The term “Commission”  
24                  means the Federal Trade Commission.

1           (8) COMPULSIVE USAGE.—The term “compul-  
2           sive usage” means a persistent and repetitive use of  
3           an AI chatbot that significantly impacts one or more  
4           major life activities of a user, including socializing,  
5           sleeping, eating, learning, reading, concentrating,  
6           communicating, or working.

7           (9) COVERED HARM.—The term “covered  
8           harm” means death, a suicide attempt, or a psy-  
9           chiatric emergency that results in urgent medical  
10          treatment.

11          (10) DARK PATTERN.—The term “dark pat-  
12          tern” means a user interface designed or manipu-  
13          lated with the substantial effect of subverting or im-  
14          pairing user autonomy, decision-making or choice,  
15          and includes any practice the Commission refers to  
16          as a “dark pattern”.

17          (11) DE-IDENTIFIED DATA.—The term “de-  
18          identified data” means—

19                (A) information that cannot reasonably be  
20                used to infer or derive the identity of an indi-  
21                vidual;

22                (B) information that does not identify and  
23                is not linked or reasonably linkable to an indi-  
24                vidual; or

1 (C) a device that identifies or is linked or  
2 reasonably linkable to an individual, regardless  
3 of whether the information is aggregated, if the  
4 artificial intelligence chatbot provider—

5 (i) takes such physical, administrative,  
6 and technical measures as are necessary to  
7 ensure that the information cannot, at any  
8 point, be used to re-identify any individual  
9 or device that identifies or is linked or rea-  
10 sonably linkable to an individual;

11 (ii) publicly commits in a clear and  
12 conspicuous manner to—

13 (I) process, retain, or transfer  
14 the information solely in a de-identi-  
15 fied form without any reasonable  
16 means for re-identification; and

17 (II) not attempt to re-identify the  
18 information with any individual or de-  
19 vice that identifies or is linked or rea-  
20 sonably linkable to an individual; and

21 (iii) contractually obligates any entity  
22 that receives the information from the arti-  
23 ficial intelligence chatbot provider to—

1 (I) comply with all of the provi-  
2 sions of this subparagraph with re-  
3 spect to the information; and

4 (II) require that such contractual  
5 obligation is included in any subse-  
6 quent instance for which the data may  
7 be received.

8 (12) EMOTIONAL DEPENDENCE.—“emotional  
9 dependence” means a behavioral or spoken pattern  
10 of the user that indicates the user relies on an artifi-  
11 cial intelligence chatbot as a primary source of emo-  
12 tional support or social connection, such as—

13 (A) a user expressing that the artificial in-  
14 telligence chatbot is the primary source of emo-  
15 tional support for the user;

16 (B) a user expressing distress at the pros-  
17 pect of losing access to the artificial intelligence  
18 chatbot; or

19 (C) any pattern of use that suggests the  
20 user is substituting the artificial intelligence  
21 chatbot for human relationships.

22 (13) INPUT DATA.—The term “input data”  
23 means information, including text, photo, audio,  
24 video, or file provided to an artificial intelligence  
25 chatbot by a user.

1           (14) MODEL.—The term “model” means an en-  
2           gineered or machine-based system underlying an ar-  
3           tificial intelligence chatbot that can, for explicit or  
4           implicit objectives, infer from the input it receives  
5           how to generate outputs that can influence physical  
6           or virtual environments.

7           (15) PERSONAL DATA.—The term “personal  
8           data”—

9                   (A) means any information, including de-  
10                  rived data, inferences, or unique identifiers,  
11                  that is linked or reasonably linkable, alone or in  
12                  combination with other information, to an iden-  
13                  tified or identifiable individual or a device that  
14                  identifies or is linked or reasonably linkable to  
15                  an individual; and

16                   (B) does not include de-identified data or  
17                  publicly available information.

18           (16) PUBLICLY AVAILABLE INFORMATION.—  
19           The term “publicly available information” means in-  
20           formation that has been lawfully made available to  
21           the general public from—

22                   (A) Federal, State or municipal govern-  
23                  ment records, if the person collects, processes,  
24                  and transfers such information in accordance  
25                  with any restrictions or terms of use placed on

1 the information by the relevant government en-  
2 tity;

3 (B) widely distributed media; or

4 (C) a disclosure to the general public as re-  
5 quired by Federal, State, or local law.

6 (17) PUBLICLY AVAILABLE INFORMATION.—

7 The term “publicly available information” does not  
8 include the following:

9 (A) Any obscene visual depiction (as de-  
10 fined in section 1460 of title 18, United States  
11 Code).

12 (B) Biometric data.

13 (C) Personal data that is created through  
14 the combination of personal data with publicly  
15 available information.

16 (D) Information that is collated and com-  
17 bined to create user profiles on publicly avail-  
18 able or subscription-based websites and infer-  
19 ences generated from such information.

20 (E) Genetic data, unless otherwise made  
21 publicly available by the individual to whom the  
22 information pertains.

23 (F) Information made available by a user  
24 on a website or online service made available to  
25 all members of the public, for free or for a fee,

1           where the user has restricted the information to  
2           a specific audience.

3           (G) Intimate images, authentic or com-  
4           puter-generated, known to be nonconsensual.

5           (18) PROCESS; PROCESSING.—The terms “proc-  
6           ess” and “processing” mean any operation or set of  
7           operations performed, whether by manual or auto-  
8           mated means, on personal data or input data or on  
9           sets of personal data or input data, such as the use,  
10          storage, disclosure, analysis, deletion, or modifica-  
11          tion of such data.

12          (19) PROFILING.—The term “profiling”—

13           (A) means any form of processing per-  
14           formed on input data or personal data to infer,  
15           detect, classify, or designate emotional vulner-  
16           ability or distinct behavioral characteristics of  
17           an individual; and

18           (B) does not include processing of a chat  
19           log for purposes of user safety or to otherwise  
20           comply with this Act.

21          (20) SELL.—The term “sell”—

22           (A) means the exchange of personal data  
23           or input data for monetary or other valuable  
24           consideration, or making available such data or

1 use of such data, by the AI chatbot provider to  
2 a third party; and

3 (B) does not include—

4 (i) the disclosure of personal data or  
5 input data to a third party that processes  
6 the data on behalf of the artificial intel-  
7 ligence chatbot provider;

8 (ii) with the affirmative consent of the  
9 user, the disclosure of personal data or  
10 input data in which the user affirmatively  
11 directs the artificial intelligence chatbot  
12 provider to disclose the data or inten-  
13 tionally uses the artificial intelligence  
14 chatbot provider to interact with a third  
15 party; or

16 (iii) the disclosure of personal data  
17 that the user—

18 (I) intentionally made available  
19 to the general public through a chan-  
20 nel of mass media; and

21 (II) did not restrict to a specific  
22 audience.

23 (21) TRAINING.—The term “training”—

24 (A) means the use of input data to adjust  
25 or modify a model; and

- 1 (B) does not include—
- 2 (i) testing to identify risks of harm to
- 3 a user;
- 4 (ii) any adjustment or modification to
- 5 address any such identified risks of harm;
- 6 or
- 7 (iii) any action necessary to comply
- 8 with this Act or otherwise required by law.

9 (22) USER.—The term “user” means an indi-  
10 vidual, regardless of age.

11 (23) WIDELY DISTRIBUTED MEDIA.—The term  
12 “widely distributed media”—

13 (A) means information that is available to  
14 the public, including information from a tele-  
15 phone book or online directory, a television,  
16 internet, or radio program, the news media, or  
17 an internet site that is available to the public  
18 on an unrestricted basis; and

19 (B) does not include an obscene visual de-  
20 picture (as defined in section 1460 of title 18,  
21 United States Code).

22 **SEC. 6. RULE OF CONSTRUCTION.**

23 Nothing in this Act or any regulation promulgated  
24 under this Act may be construed to affect any right, cause  
25 of action, remedy, presumption, liability, or defense avail-

1 able at law or in equity, including any anti-discrimination,  
2 consumer protection, labor, tort, or civil rights law.

3 **SEC. 7. RELATIONSHIP TO STATE LAWS.**

4       Nothing in this Act or any regulation promulgated  
5 under this Act preempts or otherwise affects any State  
6 law, rule, requirement, or regulation, including any right,  
7 cause of action, remedy, presumption, liability, or defense  
8 available at law or in equity, that is at least as protective  
9 of users of artificial intelligence chatbots as provided for  
10 in this Act or any regulation promulgated under this Act.