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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1598 Session of 2023

INTRODUCED BY PIELLI, MERSKI, O'MARA, MADDEN, HILL-EVANS, D. WILLIAMS, MALAGARI, DELLOSO, HOWARD, NEILSON, GERGELY, SANCHEZ, DONAHUE, HADDOCK, D. MILLER, CIRESI, SHUSTERMAN, KHAN, M. JONES, GREEN, SCOTT AND OTTEN, AUGUST 7, 2023

AS REPORTED FROM COMMITTEE ON CONSUMER PROTECTION, TECHNOLOGY AND UTILITIES, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 26, 2024

AN ACT

Amending the act of December 17, 1968 (P.L.1224, No.387), entitled "An act prohibiting unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce, giving the Attorney General and 4 District Attorneys certain powers and duties and providing 5 penalties," further providing for definitions and for 7 unlawful acts or practices and exclusions. The General Assembly of the Commonwealth of Pennsylvania 8 hereby enacts as follows: 10 Section 1. Section 2(4) of the act of December 17, 1968 11 (P.L.1224, No.387), known as the Unfair Trade Practices and 12 Consumer Protection Law, is amended by adding a subclause and the section is amended by adding a clause CLAUSES to read: Section 2. Definitions. -- As used in this act. 14 * * * 15 16 (4) "Unfair methods of competition" and "unfair or deceptive acts or practices" mean any one or more of the following: 17

- 1 (xxii) Creating KNOWINGLY OR RECKLESSLY CREATING,
- 2 <u>distributing or publishing any content generated by artificial</u>
- 3 intelligence without clear and conspicuous disclosure, including

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- 4 written text, images, audio and video content and other forms of
- 5 media. A disclosure under this subclause must state that the
- 6 content was generated using artificial intelligence and, must be <--
- 7 presented in a manner reasonably understandable and readily
- 8 <u>noticeable to the consumer AND MUST BE PRESENTED IN THE SAME</u> <--
- 9 MEDIUM AS THE CONTENT.
- 10 * * *
- 11 (14) "Artificial intelligence" means an artificial system <--
- 12 <u>that performs tasks under varying and unpredictable</u>
- 13 <u>circumstances without significant human oversight or can learn</u>
- 14 <u>from experience and improve such performance when exposed to</u>
- 15 data sets, is developed in any context, including, but not
- 16 limited to, software or physical hardware, and solves tasks
- 17 requiring human-like perception, cognition, planning, learning,
- 18 communication or physical action, or is designed to think or act
- 19 like a human, including, but not limited to, a cognitive
- 20 architecture or neural network, or act rationally, including,
- 21 but not limited to, an intelligent software agent or embodied
- 22 robot that achieves goals using perception, planning, reasoning,
- 23 <u>learning</u>, communication, decision making or action, or a set of
- 24 techniques, including, but not limited to, machine learning,
- 25 that is designed to approximate a cognitive task.
- 26 (14) "ARTIFICIAL INTELLIGENCE" MEANS TECHNOLOGY OR TOOLS
- 27 THAT USE PREDICTIVE ALGORITHMS TO CREATE NEW CONTENT, INCLUDING
- 28 AUDIO, CODE, IMAGES, TEXT, SIMULATIONS OR VIDEOS.
- 29 (15) "CLEAR AND CONSPICUOUS" MEANS A STATEMENT OR DISCLOSURE
- 30 THAT MEETS ALL OF THE FOLLOWING CRITERIA:

- 1 (I) THE STATEMENT OR DISCLOSURE IS DISCLOSED IN A SIZE,
- 2 COLOR, CONTRAST, LOCATION, DURATION AND AUDIBILITY THAT IS
- 3 READILY NOTICEABLE, READABLE, UNDERSTANDABLE AND CAPABLE OF
- 4 BEING HEARD.
- 5 (II) THE STATEMENT OR DISCLOSURE DOES NOT CONTRADICT AND IS
- 6 NOT INCONSISTENT WITH ANY OTHER INFORMATION WITH WHICH THE
- 7 STATEMENT OR DISCLOSURE IS PRESENTED.
- 8 (III) IF THE STATEMENT OR DISCLOSURE MODIFIES, EXPLAINS OR
- 9 <u>CLARIFIES OTHER INFORMATION WITH WHICH THE STATEMENT OR</u>
- 10 DISCLOSURE IS PRESENTED:
- 11 (A) THE STATEMENT OR DISCLOSURE IS PRESENTED IN PROXIMITY TO
- 12 THE INFORMATION THAT THE STATEMENT OR DISCLOSURE MODIFIES IN A
- 13 MANNER THAT IS LIKELY TO BE NOTICED, READABLE AND
- 14 UNDERSTANDABLE; AND
- 15 (B) THE STATEMENT OR DISCLOSURE IS NOT TO BE OBSCURED IN ANY
- 16 MANNER.
- 17 (IV) IF THE STATEMENT OR DISCLOSURE IS AN AUDIO STATEMENT OR
- 18 DISCLOSURE, THE STATEMENT OR DISCLOSURE IS DELIVERED IN A VOLUME
- 19 AND CADENCE SUFFICIENT FOR A CONSUMER TO HEAR AND COMPREHEND THE
- 20 STATEMENT OR DISCLOSURE.
- 21 (V) IF THE STATEMENT OR DISCLOSURE IS A VISUAL STATEMENT OR
- 22 DISCLOSURE, THE STATEMENT OR DISCLOSURE IS OF A SIZE AND SHADE
- 23 AND APPEARS ON THE SCREEN FOR A DURATION SUFFICIENT FOR A
- 24 CONSUMER TO READ AND COMPREHEND THE STATEMENT OR DISCLOSURE.
- 25 (VI) IF THE STATEMENT OR DISCLOSURE IS A PRINT ADVERTISEMENT
- 26 OR PROMOTIONAL MATERIAL, INCLUDING A POINT-OF-SALE DISPLAY OR
- 27 BROCHURE MATERIALS DIRECTED TO A CONSUMER, THE STATEMENT OR
- 28 DISCLOSURE IS IN A TYPE SIZE AND LOCATION SUFFICIENTLY
- 29 NOTICEABLE FOR A CONSUMER TO READ AND COMPREHEND THE STATEMENT
- 30 OR DISCLOSURE IN A PRINT THAT CONTRASTS WITH THE BACKGROUND

1 AGAINST WHICH THE STATEMENT OR DISCLOSURE APPEARS.

- 2 Section 2. Section 3(a) of the act is amended to read:
- 3 Section 3. Unlawful Acts or Practices; Exclusions.--(a)
- 4 Unfair methods of competition and unfair or deceptive acts or
- 5 practices in the conduct of any trade or commerce as defined by
- 6 subclauses (i) through [(xxi)] (xxii) of clause (4) of section 2
- 7 of this act and regulations promulgated under section 3.1 of
- 8 this act are hereby declared unlawful. The provisions of this
- 9 act shall not apply to any owner, agent or employe of any radio
- 10 or television station, or to any owner, publisher, printer,
- 11 agent or employe of an Internet service provider or a newspaper
- 12 or other publication, periodical or circular, who, in good faith
- 13 and without knowledge of the falsity or deceptive character
- 14 thereof, publishes, causes to be published or takes part in the
- 15 publication of such advertisement.
- 16 * * *
- 17 Section 3. This act shall take effect in 60 days.