

2026 Regular Session

HOUSE BILL NO. 791

BY REPRESENTATIVE BOYD

COMMERCIAL REGULATIONS: Provides relative to the regulation of artificial intelligence

1 AN ACT

2 To enact Chapter 70 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of
3 R.S. 51:3301 through 3308, relative to the regulation of artificial intelligence; to
4 provide for definitions; to provide for data privacy and security; to provide for
5 transparency; to provide for harm assessments; to provide authority to make rules;
6 to provide for severability; to establish liability; to provide for enforcement; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 70 of Title 51 of the Louisiana Revised Statutes of 1950,
10 comprised of R.S. 51:3301 through 3308, is hereby enacted to read as follows:

11 CHAPTER 70. THE PEOPLE'S A.I. ACT

12 §3301. Definitions

13 As used in this Chapter, the following terms have the following meanings:

14 (1) "Advertisement" means a written or oral statement, illustration, or
15 depiction promoting the sale or use of a good or service or designed to increase
16 interest in a brand, good, or service if that statement, illustration, or depiction is
17 displayed in exchange for monetary or other valuable consideration, including access
18 to data, between a chatbot provider and the brand, good, or service.

19 (2)(a) "Affirmative consent" means a clear affirmative act signifying a user's
20 freely given, specific, informed, and unambiguous consent for an act or practice in

1 response to a specific request from a chatbot if all of the following apply with regard
2 to the request:

3 (i) The request is provided to the user in a clear and conspicuous standalone
4 disclosure.

5 (ii) The request includes a description, written in easy-to-understand
6 language, of the act or practice for which the user's consent is sought.

7 (iii) The request is made in a manner reasonably accessible to and usable by
8 a user with a disability.

9 (iv) The request is made available to the user in each language in which the
10 chatbot provider provides a chatbot.

11 (v) An option to refuse consent is provided and at least as prominent as the
12 option to give consent and takes the same number of steps or fewer as the option to
13 give consent.

14 (b) "Affirmative consent" does not include any of the following:

15 (i) Acceptance of a general or broad terms of use or similar document.

16 (ii) Hovering over, muting, pausing, or closing a given piece of content.

17 (iii) Agreement obtained through the use of a false, fraudulent, or materially
18 misleading statement or representation.

19 (iv) Agreement obtained through the use of a dark pattern.

20 (v) Inference of consent from the inaction of the user or the user's continued
21 use of a chatbot provided by the chatbot provider.

22 (3) "Chatbot" means an artificial intelligence, algorithmic, or automated
23 system that generates information via text, audio, image, or video in a manner that
24 simulates interpersonal interaction or conversation.

25 (4) "Chat log" means input data, an output generated by a chatbot, or a
26 record of the input data or output data from a user's interaction with a chatbot.

27 (5) "Chatbot provider" means a person who creates, distributes, or otherwise
28 makes available a chatbot.

1 (6) "Collect" or "collecting" means creating, buying, renting, gathering,
2 obtaining, receiving, accessing, or otherwise acquiring personal data or input data by
3 any means through an individual's use of a chatbot.

4 (7) "Dark pattern" means a user interface designed or manipulated with the
5 substantial effect of subverting or impairing user autonomy, decision-making or
6 choice, including but not limited to any practice the Federal Trade Commission
7 refers to as a "dark pattern".

8 (8) "De-identified data" means information that cannot reasonably be used
9 to infer or derive the identity of an individual or does not identify and is not linked
10 or reasonably linkable to an individual or a device that identifies or is linked or
11 reasonably linkable to such individual, regardless of whether the information is
12 aggregated, if the chatbot provider does all of the following:

13 (a) Taking such physical, administrative, and technical measures as are
14 necessary to ensure that the information cannot be used to re-identify any individual
15 or device that identifies or is linked or reasonably linkable to an individual.

16 (b) Committing publicly in a clear and conspicuous manner to do all of the
17 following:

18 (i) Process, retain, or transfer the information solely in a de-identified form
19 without any reasonable means for re-identification.

20 (ii) Not attempt to re-identify the information with any individual or device
21 that identifies or is linked or reasonably linkable to an individual.

22 (c) Contractually obligate any entity that receives the information from the
23 chatbot provider to do all of the following:

24 (i) Comply with the provisions of this Paragraph or Subsection with respect
25 to the information.

26 (ii) Require that the contractual obligations be included in all subsequent
27 instances in which the data may be received.

28 (9) "Input data" means information, including text, photos, audio, video, or
29 files, provided to a chatbot by a user.

1 (10) "Model" means an engineered or machine-based system underlying a
2 chatbot that can, for explicit or implicit objectives, infer from the input it receives
3 how to generate outputs that can influence physical or virtual environments.

4 (11)(a) "Personal data" means information, including derived data,
5 inferences, or unique identifiers, that is linked or reasonably linkable, alone or in
6 combination with other information, to an identified or identifiable individual or a
7 device that identifies or is linked or reasonably linkable to an individual.

8 (b) "Personal data" does not include de-identified data or publicly available
9 information.

10 (12)(a) "Publicly available information" means information that has been
11 lawfully made available to the general public from any of the following:

12 (i) Federal, state, or municipal government records, if the person collecting,
13 processing, or transferring the information does so in accordance with a restriction
14 or term of use placed on the information by the relevant government entity.

15 (ii) Widely distributed media.

16 (iii) A disclosure to the general public required by federal, state, or local law.

17 (b) "Publicly available information" does not include any of the following:

18 (i) An obscene visual depiction as defined in 18 U.S.C. 1460.

19 (ii) Biometric data.

20 (iii) Personal data that is created through the combination of personal data
21 with publicly available information.

22 (iv) Information collated and combined to create user profiles on publicly
23 available or subscription-based websites and inferences generated from the
24 information.

25 (v) Genetic data, unless otherwise made publicly available by the individual
26 to whom the information pertains.

27 (vi) Information made available by a user on a website or online service
28 made available to all members of the public, for free or for a fee, on which the user
29 has restricted the information to a specific audience.

1 (vii) An intimate image, whether authentic or computer-generated, known
2 to be nonconsensual.

3 (13) "Process" or "processing" means an operation or set of operations
4 performed, whether by manual or automated means, on personal data, input data, or
5 sets of personal data or input data, including the use, storage, disclosure, analysis,
6 deletion, or modification of the data.

7 (14)(a) "Profiling" means a process performed on input data or personal data
8 to detect and classify or designate personality and behavioral characteristics of an
9 individual.

10 (b) "Profiling" does not include the process of chat logs for purposes of user
11 safety or to otherwise comply with this Chapter.

12 (15)(a) "Sell" means the exchange of personal data or input data for
13 monetary or other valuable consideration, or an offer of that data or of the use of that
14 data by the chatbot provider to a third party.

15 (b) "Sell" does not include any of the following:

16 (i) Disclosure of personal data or input data to a third party that processes the
17 data on behalf of the chatbot provider.

18 (ii) With the user's affirmative consent, disclosure of personal data or input
19 data where the user affirmatively directs the chatbot provider to disclose the data or
20 intentionally uses the chatbot provider to interact with a third party.

21 (iii) Disclosure of personal data that the user intentionally made available to
22 the general public via a channel of mass media, or did not restrict to a specific
23 audience.

24 (16)(a) "Training" means the use of input data to adjust or modify a model.

25 (b) "Training" does not include any of the following:

26 (i) Testing to identify risks of harm to a user.

27 (ii) Adjustments or modifications to address an identified risk of harm to a
28 user.

1 (iii) An action necessary to comply with this Chapter or otherwise required
2 by law.

3 (17) "User" means a natural person, regardless of age.

4 (18) "Widely distributed media" means information that is available to the
5 general public, including information from a telephone book or online directory, a
6 television, internet, or radio program, the news media, or an internet site that is
7 available to the general public on an unrestricted basis. "Widely distributed media"
8 does not include an obscene visual depiction as defined in 18 U.S.C. 1460.

9 §3302. Data privacy; security

10 A. A chatbot provider shall not do any of the following:

11 (1) Process personal data other than input data to inform chatbot outputs
12 unless the processing of personal data is necessary to fulfill an express request made
13 by a user and that user has provided affirmative consent.

14 (2) Process a user's chat log for any of the following purposes:

15 (a) Determining whether to display an advertisement for a product or service
16 to the user.

17 (b) Determining a product, service, or category of product or service to
18 advertise to the user.

19 (c) Customizing an advertisement or the presentation of an advertisement to
20 the user.

21 (3) Process a user's chat log or personal data in any of the following
22 circumstances:

23 (a) Without the affirmative consent of the user's parent or legal guardian, if
24 the chatbot provider knows or should know, based on knowledge fairly implied on
25 the basis of objective circumstances, that the user is under eighteen years of age.

26 (b) For training purposes, if the chatbot provider knows or should know,
27 based on knowledge fairly implied on the basis of objective circumstances, that the
28 user is under eighteen years of age.

1 (c) For training purposes, for a user eighteen years of age or older, without
2 first obtaining that user's affirmative consent.

3 (d) To engage in profiling beyond what is necessary to fulfill an express
4 request.

5 (4) Use any classification or designation of a user's personality or behavioral
6 characteristics created through profiling beyond what is necessary to fulfill an
7 express request made by a user.

8 (5) Sell a user's chat logs.

9 (6) Retain a user's chat log for more than ten years, unless retention is
10 necessary to comply with this Chapter or as otherwise required by law.

11 (7) Discriminate against or retaliate against a user, including by denying a
12 product or service, charging a different price or rate for a product or service, or
13 providing a lower quality product or service to the user, for refusing to consent to the
14 use of chat logs or personal data for training purposes.

15 B. A user has the right to access, at any time, the user's own chat logs that
16 a chatbot provider has retained in a portable and readily usable format.

17 (1) Chat logs shall be made available to users in a downloadable,
18 human-readable, and machine-readable format.

19 (2) A chatbot provider shall not discriminate against or retaliate against a
20 user, including by denying a product or service, charging a different price or rate for
21 a product or service, or providing a lower quality product or service to the user, for
22 accessing the user's own chat logs.

23 C. A government entity shall not compel the production of or access to input
24 data or chat logs from a chatbot provider, except pursuant to a wiretap warrant as
25 provided by the Louisiana Code of Criminal Procedure.

26 D. A chatbot provider shall develop, implement, and maintain a
27 comprehensive data security program that contains administrative, technical, and
28 physical safeguards proportionate to the volume and nature of the personal data and

1 chat logs maintained by the chatbot provider. The program shall be written and made
2 publicly available on the chatbot provider's website.

3 §3303. Transparency for users

4 A.(1) A chatbot provider shall not use any term, letter, or phrase in the
5 advertising, interface, or outputs of a chatbot that indicates or implies that any output
6 data is being provided by, endorsed by, or equivalent to those provided by any of the
7 following:

8 (a) A licensed healthcare professional.

9 (b) A licensed legal professional.

10 (c) A licensed accounting professional.

11 (d) A certified financial fiduciary or planner.

12 (e) Another licensed or certified professional in this state.

13 (2) A chatbot provider shall not make a representation that a user's input data
14 or chat log is confidential.

15 (3) A violation of this Subsection is a violation of applicable professional
16 licensing laws, the Louisiana Unfair Trade Practices and Consumer Protection Law,
17 and false advertising laws.

18 B.(1) A chatbot provider shall provide clear, conspicuous, and explicit notice
19 to a user that the user is interacting with a chatbot rather than a human prior to the
20 chatbot generating an output, every hour thereafter, and each time a user asks the
21 chatbot whether it is a real person.

22 (2) This notice shall appear in text in the same language as the one in which
23 the user is interacting with the chatbot, in a font size easily readable by an average
24 user, and no smaller than the largest font size of other text appearing on the interface
25 on which the chatbot is provided.

26 (3) This notice shall be made accessible to users with disabilities.

27 (4) This notice shall comply with regulations promulgated by the attorney
28 general as described in this Chapter.

29 §3304. Assessments; transparency requirements

1 A. A chatbot provider shall assess its chatbot for risks of harm to a user on
2 a monthly basis, according to metrics as provided in rules to be promulgated by the
3 attorney general, and shall mitigate risks of harm as provided in rules to be
4 promulgated by the attorney general.

5 B. A chatbot provider shall make information about its chatbot publicly
6 available on its website on a monthly basis as provided in rules to be promulgated
7 by the attorney general.

8 §3305. Rulemaking

9 A. The attorney general shall promulgate rules or regulations to implement
10 the provisions of this Chapter, including but not limited to the following:

11 (1) Describing the form and content of the disclosures required under the
12 transparency provisions of this Chapter.

13 (2) Providing an example template for the disclosures required under the
14 transparency provisions of this Chapter.

15 (3) Describing risks of harm to a user and the metrics that a chatbot provider
16 shall use to assess its chatbot for risks of harm to a user under the assessment
17 provisions of this Chapter.

18 (4) Identifying and describing categories of information that a chatbot
19 provider shall make publicly available about its chatbot under the assessment
20 provisions of this Chapter.

21 (5) Updating annually the inflation-adjusted damages amount, consistent
22 with the Consumer Price Index, as provided in the enforcement provisions of this
23 Chapter.

24 B. The attorney general may promulgate other rules and regulations
25 necessary to implement the provisions of this Chapter.

26 §3306. Severability; construction

27 A. If a provision of this Chapter, or its application to a person or
28 circumstance, is held invalid, the remainder of this Chapter and the application of the

1 provision to other persons not similarly situated or to other circumstances is not
2 affected by that invalidation.

3 B. Nothing in this Chapter preempts or otherwise affects a right, claim,
4 remedy, presumption, or defense available at law or in equity, including but not
5 limited to anti-discrimination, consumer protection, labor, and civil rights laws.

6 §3307. Liability

7 A. A chatbot is a product for purposes of product liability actions.

8 B. A chatbot provider has a duty to ensure that the use of its chatbot does not
9 cause injury to a user.

10 C. A chatbot provider is liable for any injury it caused a user through the use
11 of its chatbot, even if any of the following occur:

12 (1) The chatbot provider exercised all reasonable care in the design and
13 distribution of the chatbot.

14 (2) The chatbot provider did not directly distribute the chatbot to the user or
15 otherwise enter into a contractual relationship with the user.

16 §3308. Enforcement

17 A. The attorney general or a district attorney may bring a civil action against
18 a chatbot provider that violates this Chapter to do any of the following:

19 (1) Enjoin the act or practice that is in violation of this Chapter.

20 (2) Enforce compliance with this Chapter or a rule adopted under this
21 Chapter.

22 (3) Obtain damages, civil penalties, restitution, or other remedies on behalf
23 of the residents of this state.

24 (4) Obtain reasonable attorney's fees and other litigation costs reasonably
25 incurred.

26 B. A violation of the data privacy and security or transparency provisions of
27 this Chapter constitutes an injury-in-fact to a user.

1 C. A user injured by a violation of the data privacy and security or
2 transparency provisions of this Chapter may bring a civil action against the chatbot
3 provider, in which the court may award a prevailing plaintiff any of the following:

4 (1) Statutory damages, as updated annually by the attorney general, as
5 follows:

6 (a) Five thousand dollars per violation, for any violation of the data privacy
7 and security provisions of this Chapter, or actual damages, whichever is greater.

8 (b) Five thousand dollars in total for all violations of the transparency
9 provisions of this Chapter, or actual damages, whichever is greater.

10 (2) Punitive damages, for reckless and knowing violations.

11 (3) Injunctive relief.

12 (4) Declaratory relief.

13 (5) Reasonable attorney's fees and litigation costs.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 791 Original

2026 Regular Session

Boyd

Abstract: Provides for the regulation of artificial intelligence chatbots and chatbot providers related to use, sale, or dissemination of input data and output data, use of chatbots by minors, required disclosures to users of chatbots, transparency provisions, a requirement to implement data safety programs.

Proposed law defines "advertisement", "affirmative consent", "chatbot", "chat log", "chatbot provider", "collect", "dark pattern", "de-identified data", "input data", "model", "personal data", "publicly available information", "process", "profiling", "sell", "training", "user", and "widely distributed media".

Proposed law provides that a chatbot provider shall not do any of the following:

- (1) Process personal data other than input data to inform chatbot outputs unless the processing of personal data is necessary to fulfill an express request made by a user and that user has provided affirmative consent.
- (2) Process a user's chat log for advertising.
- (3) Process a user's chat log or personal data if the chatbot provider knows or should know the user is a minor without consent of a parent or guardian, for training purposes if the chatbot provider knows or should know the user is a minor, or of adult users without obtaining affirmative consent., or to engage in profiling.

- (4) Use any classification or designation of a user's personality or behavioral characteristics created through profiling beyond what is necessary to fulfill an express request made by a user.
- (5) Sell a user's chat logs.
- (6) Retain a user's chat log for longer than ten years, unless retention is necessary to comply with this Chapter or otherwise required by law.
- (7) Discriminate against or retaliate against a user, including by denying a product or service, charging a different price or rate for a product or service, or providing a lower quality product or service to the user, for refusing to consent to the use of chat logs or personal data for training purposes.

Proposed law provides that a user has the right to access his own chat logs that a chatbot provider has retained in a downloadable, human- and machine-readable format, and that a chatbot provider shall not discriminate against a user for accessing the user's own chat logs.

Proposed law provides that a government entity shall not compel access to chat logs or input data except as pursuant to a wiretap warrant as provided by the Code of Criminal Procedure.

Proposed law provides that chatbot providers shall develop and maintain a comprehensive data security program that is publicly available on the provider's website.

Proposed law provides that a chatbot provider shall not indicate or imply that its chatbot output data is provided by, endorsed by, or equivalent to those provided by any of the following:

- (1) A licensed healthcare professional.
- (2) A licensed legal professional.
- (3) A licensed accounting professional.
- (4) A certified financial fiduciary or planner.
- (5) Another licensed or certified professional in this state.

Proposed law provides that a violation of proposed law is a violation of the Unfair Trade Practice and Consumer Protection Law.

Proposed law provides that chatbot providers shall provide clear, conspicuous, and explicit notice to a user that the user is interacting with a chatbot rather than a human prior to the chatbot generating an output, every hour thereafter, and each time a user asks the chatbot whether it is a real person.

Proposed law provides that a chatbot provider shall assess its chatbot for risks of harm to a user on a monthly basis and shall mitigate risks of harm according to the attorney general's rules and regulations.

Proposed law provides that a chatbot provider shall make information about its chatbot publicly available on its website on a monthly basis according to the attorney general's rules and regulations.

Proposed law provides for rulemaking authority by the attorney general.

Proposed law provides for severability of provisions and rules of construction.

Proposed law provides that chatbots are subject to product liability claims and tort theories.

Proposed law provides for enforcement of proposed law by the attorney general or by a district attorney.

Proposed law provides for damages and relief for a violation of proposed law.

(Adds R.S. 51:3301-3308)