

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill Nos. 3068 & 3049, Page 7, Section 43.530,
2 Line 23, by inserting after said section and line the following:

3
4 "407.3007. 1. As used in this section, the following terms mean:

5 (1) "Artificial intelligence" or "AI":

6 (a) Any artificial system that performs tasks under varying and unpredictable
7 circumstances without significant human oversight or that can learn from experience and
8 improve performance when exposed to data sets;

9 (b) An artificial system developed in computer software, physical hardware, or other
10 computer systems that solves tasks requiring human-like perception, cognition, planning,
11 learning, communication, or physical action;

12 (c) An artificial system designed to think or act like a human, including cognitive
13 architectures and neural networks;

14 (d) A set of techniques, including machine learning, that is designed to approximate a
15 cognitive task; or

16 (e) An artificial system designed to act rationally, including an intelligent software agent
17 or embodied robot that achieves goals using perception, planning, reasoning, learning,
18 communicating, decision-making, and acting;

19 (2) "Mental health professional", the same as defined in section 632.005. The term
20 "mental health professional" shall also include any person licensed in a profession regulated
21 under chapter 337.

22 2. Any person or entity that develops or deploys artificial intelligence in the state shall
23 not advertise or represent to the public that the AI is or is able to act as a mental health
24 professional or is capable of providing therapy services, psychotherapy services, or a mental
25 health diagnosis.

26 3. Any violation of this section shall be considered an unlawful practice under the
27 Missouri merchandising practices act under this chapter.

28 4. The attorney general shall enforce the provisions of this section. Any individual may
29 report violations of this section to the attorney general. If the attorney general finds that a
30 violation occurred, the attorney general shall commence a civil action in a court of competent

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1 jurisdiction. If the court finds that a violation occurred, the court may grant damages, civil
 2 penalties, injunctive relief, attorney's fees, and any such other relief the court finds appropriate.
 3 Notwithstanding section 407.100 to the contrary, civil penalties shall be as follows:

4 (1) Ten thousand dollars for the first violation; or

5 (2) Twenty thousand dollars for any subsequent violation.

6 537.039. 1. As used in this section, the following terms mean:

7 (1) "Artificial intelligence", an engineered or machine-based system that varies in its
 8 level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives
 9 how to generate outputs that can influence physical or virtual environments;

10 (2) "Explicit sexual material", any pictorial or three-dimensional material depicting
 11 human masturbation, deviant sexual intercourse, sexual intercourse, direct physical stimulation
 12 or unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of postpubertal
 13 human genitals. The term "explicit sexual material" shall not include works of art or of
 14 anthropological significance.

15 2. No person or entity shall:

16 (1) Replicate or alter through the use of artificial intelligence an image or voice of an
 17 individual to generate explicit sexual material; or

18 (2) Use the likeness of an individual through the use of artificial intelligence for explicit
 19 sexual material

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 21 unless the person or entity has the individual's express written consent.

22 3. Any individual injured by a person or entity for a violation of subsection 2 of this
 23 section may bring a cause of action against the person or entity to recover actual damages as a
 24 result of the violation. Such individual shall also be entitled to recover attorney's fees and costs.

25 573.010. As used in this chapter the following terms shall mean:

26 (1) "Adult cabaret", a nightclub, bar, juice bar, restaurant, bottle club, or other
 27 commercial establishment, regardless of whether alcoholic beverages are served, which regularly
 28 features persons who appear semi-nude;

29 (2) "Artificially generated visual depiction", includes depictions that are obscene and
 30 indistinguishable from a real minor, morphed from a real minor's image, or generated without
 31 any actual minor involvement;

32 (3) "Characterized by", describing the essential character or dominant theme of an item;

33 [~~(3)~~] (4) "Child", any person under the age of fourteen;

34 [~~(4)~~] (5) "Child pornography":

35 (a) Any obscene material or performance depicting sexual conduct, sexual contact as
 36 defined in section 566.010, or a sexual performance and which has as one of its participants or
 37 portrays as an observer of such conduct, contact, or performance a minor; or

1 (b) Any visual depiction or artificially generated visual depiction, including any
2 photograph, film, video, picture, or computer or computer-generated image or picture, whether
3 made or produced by electronic, mechanical, or other means, of sexually explicit conduct where:

4 a. The production of such visual depiction or artificially generated visual depiction
5 involves the use of a minor engaging in sexually explicit conduct;

6 b. Such visual depiction or artificially generated visual depiction is a digital image,
7 computer image, or computer-generated image that is, or is indistinguishable from, that of a
8 minor engaging in sexually explicit conduct, in that the depiction is such that an ordinary person
9 viewing the depiction would conclude that the depiction is of an actual minor engaged in
10 sexually explicit conduct; or

11 c. Such visual depiction or artificially generated visual depiction has been created,
12 adapted, or modified to show that an identifiable minor is engaging in sexually explicit conduct.
13 "Identifiable minor" means a person who was a minor at the time the visual depiction or
14 artificially generated visual depiction was created, adapted, or modified; or whose image as a
15 minor was used in creating, adapting, or modifying the visual depiction or artificially generated
16 visual depiction; and who is recognizable as an actual person by the person's face, likeness, or
17 other distinguishing characteristic, such as a unique birthmark or other recognizable feature. The
18 term identifiable minor shall not be construed to require proof of the actual identity of the
19 identifiable minor;

20 [(5)] (6) "Employ", "employee", or "employment", any person who performs any service
21 on the premises of a sexually oriented business, on a full-time, part-time, or contract basis,
22 whether or not the person is denominated an employee, independent contractor, agent, or
23 otherwise. Employee does not include a person exclusively on the premises for repair or
24 maintenance of the premises or for the delivery of goods to the premises;

25 [(6)] (7) "Explicit sexual material", any pictorial or three-dimensional material depicting
26 human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation
27 or unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of postpubertal
28 human genitals; provided, however, that works of art or of anthropological significance shall not
29 be deemed to be within the foregoing definition;

30 [(7)] (8) "Furnish", to issue, sell, give, provide, lend, mail, deliver, transfer, circulate,
31 disseminate, present, exhibit or otherwise provide;

32 [(8)] (9) "Material", anything printed or written, or any picture, drawing, photograph,
33 motion picture film, videotape or videotape production, or pictorial representation, or any
34 artificially generated visual depiction, or any recording or transcription, or any mechanical,
35 chemical, or electrical reproduction, or stored computer data, or anything which is or may be
36 used as a means of communication. Material includes undeveloped photographs, molds, printing
37 plates, stored computer data and other latent representational objects;

38 [(9)] (10) "Minor", any person less than eighteen years of age;

1 ~~[(10)]~~ (11) "Nudity" or "state of nudity", the showing of the human genitals, pubic area,
2 vulva, anus, anal cleft, or the female breast with less than a fully opaque covering of any part of
3 the nipple or areola;

4 ~~[(11)]~~ (12) "Obscene", any material or performance if, taken as a whole:

5 (a) Applying contemporary community standards, its predominant appeal is to prurient
6 interest in sex; and

7 (b) The average person, applying contemporary community standards, would find the
8 material depicts or describes sexual conduct in a patently offensive way; and

9 (c) A reasonable person would find the material lacks serious literary, artistic, political or
10 scientific value;

11 ~~[(12)]~~ (13) "Operator", any person on the premises of a sexually oriented business who
12 causes the business to function, puts or keeps the business in operation, or is authorized to
13 manage the business or exercise overall operational control of the business premises. A person
14 may be found to be operating or causing to be operated a sexually oriented business whether or
15 not such person is an owner, part owner, or licensee of the business;

16 ~~[(13)]~~ (14) "Performance", any play, motion picture film, videotape, dance or exhibition
17 performed before an audience of one or more;

18 ~~[(14)]~~ (15) "Pornographic for minors", any material or performance if the following
19 apply:

20 (a) The average person, applying contemporary community standards, would find that
21 the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient
22 interest of minors; and

23 (b) The material or performance depicts or describes nudity, sexual conduct, the
24 condition of human genitals when in a state of sexual stimulation or arousal, or sadomasochistic
25 abuse in a way which is patently offensive to the average person applying contemporary adult
26 community standards with respect to what is suitable for minors; and

27 (c) The material or performance, taken as a whole, lacks serious literary, artistic,
28 political, or scientific value for minors;

29 ~~[(15)]~~ (16) "Premises", the real property upon which a sexually oriented business is
30 located, and all appurtenances thereto and buildings thereon, including but not limited to the
31 sexually oriented business, the grounds, private walkways, and parking lots or parking garages or
32 both;

33 ~~[(16)]~~ (17) "Promote", to manufacture, issue, sell, provide, mail, deliver, transfer,
34 transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or
35 agree to do the same, by any means including a computer;

36 ~~[(17)]~~ (18) "Regularly", the consistent and repeated doing of the act so described;

37 ~~[(18)]~~ (19) "Sadomasochistic abuse", flagellation or torture by or upon a person as an act
38 of sexual stimulation or gratification;

1 ~~[(19)]~~ (20) "Semi-nude" or "state of semi-nudity", the showing of the female breast
 2 below a horizontal line across the top of the areola and extending across the width of the breast
 3 at such point, or the showing of the male or female buttocks. Such definition includes the lower
 4 portion of the human female breast, but shall not include any portion of the cleavage of the
 5 female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel
 6 provided the areola is not exposed in whole or in part;

7 ~~[(20)]~~ (21) "Sexual conduct", actual or simulated, normal or perverted acts of human
 8 masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's
 9 clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent
 10 sexual stimulation or gratification or any sadomasochistic abuse or acts including animals or any
 11 latent objects in an act of apparent sexual stimulation or gratification;

12 ~~[(21)]~~ (22) "Sexually explicit conduct", actual or simulated:

13 (a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal,
 14 whether between persons of the same or opposite sex;

15 (b) Bestiality;

16 (c) Masturbation;

17 (d) Sadistic or masochistic abuse; or

18 (e) Lascivious exhibition of the genitals or pubic area of any person;

19 ~~[(22)]~~ (23) "Sexually oriented business" includes:

20 (a) An adult bookstore or adult video store. "Adult bookstore" or "adult video store"
 21 means a commercial establishment which, as one of its principal business activities, offers for
 22 sale or rental for any form of consideration any one or more of the following: books, magazines,
 23 periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes,
 24 compact discs, digital video discs, slides, or other visual representations which are characterized
 25 by their emphasis upon the display of specified sexual activities or specified anatomical areas. A
 26 principal business activity exists where the commercial establishment:

27 a. Has a substantial portion of its displayed merchandise which consists of such items; or

28 b. Has a substantial portion of the wholesale value of its displayed merchandise which
 29 consists of such items; or

30 c. Has a substantial portion of the retail value of its displayed merchandise which
 31 consists of such items; or

32 d. Derives a substantial portion of its revenues from the sale or rental, for any form of
 33 consideration, of such items; or

34 e. Maintains a substantial section of its interior business space for the sale or rental of
 35 such items; or

36 f. Maintains an adult arcade. "Adult arcade" means any place to which the public is
 37 permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or
 38 mechanically controlled still or motion picture machines, projectors, or other image-producing

1 devices are regularly maintained to show images to five or fewer persons per machine at any one
 2 time, and where the images so displayed are characterized by their emphasis upon matter
 3 exhibiting specified sexual activities or specified anatomical areas;

4 (b) An adult cabaret;

5 (c) An adult motion picture theater. "Adult motion picture theater" means a commercial
 6 establishment where films, motion pictures, video cassettes, slides, or similar photographic
 7 reproductions, which are characterized by their emphasis upon the display of specified sexual
 8 activities or specified anatomical areas are regularly shown to more than five persons for any
 9 form of consideration;

10 (d) A semi-nude model studio. "Semi-nude model studio" means a place where persons
 11 regularly appear in a state of semi-nudity for money or any form of consideration in order to be
 12 observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other
 13 persons. Such definition shall not apply to any place where persons appearing in a state of semi-
 14 nudity do so in a modeling class operated:

15 a. By a college, junior college, or university supported entirely or partly by taxation;

16 b. By a private college or university which maintains and operates educational programs
 17 in which credits are transferable to a college, junior college, or university supported entirely or
 18 partly by taxation; or

19 c. In a structure:

20 (i) Which has no sign visible from the exterior of the structure and no other advertising
 21 that indicates a semi-nude person is available for viewing; and

22 (ii) Where, in order to participate in a class, a student must enroll at least three days in
 23 advance of the class;

24 (e) A sexual encounter center. "Sexual encounter center" means a business or
 25 commercial enterprise that, as one of its principal purposes, purports to offer for any form of
 26 consideration physical contact in the form of wrestling or tumbling between two or more persons
 27 when one or more of the persons is semi-nude;

28 ~~[(23)]~~ (24) "Sexual performance", any performance, or part thereof, which includes
 29 sexual conduct by a child who is less than eighteen years of age;

30 ~~[(24)]~~ (25) "Specified anatomical areas" include:

31 (a) Less than completely and opaquely covered: human genitals, pubic region, buttock,
 32 and female breast below a point immediately above the top of the areola; and

33 (b) Human male genitals in a discernibly turgid state, even if completely and opaquely
 34 covered;

35 ~~[(25)]~~ (26) "Specified sexual activity", includes any of the following:

36 (a) Intercourse, oral copulation, masturbation, or sodomy; or

37 (b) Excretory functions as a part of or in connection with any of the activities described
 38 in paragraph (a) of this subdivision;

1 ~~[(26)]~~ (27) "Substantial", at least thirty percent of the item or items so modified;

2 ~~[(27)]~~ (28) "Visual depiction", includes undeveloped film and videotape, and data stored
3 on computer disk or by electronic means which is capable of conversion into a visual image.

4 573.550. 1. A person commits the offense of providing explicit sexual material to a
5 student if such person is affiliated with a public or private elementary or secondary school in an
6 official capacity and, knowing of its content and character, such person provides, assigns,
7 supplies, distributes, loans, or coerces acceptance of or the approval of the providing of explicit
8 sexual material to a student or possesses with the purpose of providing, assigning, supplying,
9 distributing, loaning, or coercing acceptance of or the approval of the providing of explicit
10 sexual material to a student.

11 2. The offense of providing explicit sexual material to a student is a class A
12 misdemeanor.

13 3. As used in this section, the following terms shall mean:

14 (1) "Explicit sexual material", any pictorial, three-dimensional, or visual depiction or
15 artificially generated visual depiction, including any photography, film, video, picture, or
16 computer-generated image, showing human masturbation, deviate sexual intercourse as defined
17 in section 566.010, sexual intercourse, direct physical stimulation of genitals, sadomasochistic
18 abuse, or emphasizing the depiction of postpubertal human genitals; provided, however, that
19 works of art, when taken as a whole, that have serious artistic significance, or works of
20 anthropological significance, or materials used in science courses, including but not limited to
21 materials used in biology, anatomy, physiology, and sexual education classes shall not be deemed
22 to be within the foregoing definition;

23 (2) "Person affiliated with a public or private elementary or secondary school in an
24 official capacity", an administrator, teacher, librarian, media center personnel, substitute teacher,
25 teacher's assistant, student teacher, law enforcement officer, school board member, school bus
26 driver, guidance counselor, coach, guest lecturer, guest speaker, or other nonschool employee
27 who is invited to present information to students by a teacher, administrator, or other school
28 employee. Such term shall not include a student enrolled in the elementary or secondary
29 school."; and

30
31 Further amend said bill by amending the title, enacting clause, and intersectional references
32 accordingly.