

As Introduced

135th General Assembly

Regular Session

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S. B. No. 217

Senators Blessing, Johnson

Cosponsor: Senator Ingram

A BILL

To amend sections 1345.51, 2907.321, and 2913.49 1
and to enact sections 1349.10 and 2907.324 of 2
the Revised Code to require AI-generated 3
products have a watermark, to prohibit simulated 4
child pornography, and to prohibit identity 5
fraud using a replica of a person. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1345.51, 2907.321, and 2913.49 be 7
amended and sections 1349.10 and 2907.324 of the Revised Code be 8
enacted to read as follows: 9

Sec. 1345.51. There is hereby created in the state 10
treasury the consumer protection enforcement fund. The fund 11
shall include civil penalties ordered pursuant to divisions (A) 12
and (D) of section 1345.07 of the Revised Code and paid as 13
provided in division (G) of that section, all civil penalties 14
ordered pursuant to division (E) of section 1349.10 of the 15
Revised Code, all civil penalties assessed under division (A) of 16
section 1349.192 of the Revised Code, all costs awarded to the 17
attorney general and all penalties imposed under section 4549.48 18

of the Revised Code, and all money unclaimed under section 19
4549.50 of the Revised Code. The money in the consumer 20
protection enforcement fund shall be used for the sole purpose 21
of paying expenses incurred by the consumer protection section 22
of the office of the attorney general. 23

Sec. 1349.10. (A) As used in this section, "artificial 24
intelligence" and "AI" mean a machine-based system that, for a 25
given set of human-defined objectives, uses machine- and human- 26
based inputs to make predictions, recommendations, or decisions 27
influencing real or virtual environments. "Artificial 28
intelligence" and "AI" include only machine-based systems that 29
are capable of all of the following: 30

(1) Perceiving real and virtual environments; 31

(2) Abstracting such perceptions into models through 32
analysis in an automated manner; 33

(3) Using model inference to formulate options for 34
information or action. 35

(B) Artificial intelligence systems shall be programmed to 36
provide a distinctive watermark on any AI-generated product that 37
informs the user that the particular product was generated using 38
an AI system. 39

(C) No person shall remove a watermark required by this 40
section with the purpose of concealing that the product was 41
generated using artificial intelligence. 42

(D) Any person aggrieved by a violation of division (B) or 43
(C) of this section has and may commence a civil action against 44
the violator for damages that result from the violation. In a 45
civil action under this division, any person found to have 46
removed a watermark required by this section shall be rebuttably 47

presumed to have caused the harm alleged in the complaint. 48

(E) In addition to the civil action authorized under 49
division (D) of this section, the attorney general may commence 50
a civil action against a person that violates division (C) or 51
(D) of this section for injunctive relief and, in the case of a 52
person that violates division (C) of this section, a civil 53
penalty of up to ten thousand dollars. All civil penalties 54
collected under this division shall be deposited to the consumer 55
protection enforcement fund created by section 1345.51 of the 56
Revised Code. 57

Sec. 2907.321. (A) No person, with knowledge of the 58
character of the material or performance involved, shall do any 59
of the following: 60

(1) Create, reproduce, or publish any obscene material 61
that has a minor or impaired person as one of its participants 62
or portrayed observers; 63

(2) Promote or advertise for sale or dissemination; sell, 64
deliver, disseminate, display, exhibit, present, rent, or 65
provide; or offer or agree to sell, deliver, disseminate, 66
display, exhibit, present, rent, or provide, any obscene 67
material that has a minor or impaired person as one of its 68
participants or portrayed observers; 69

(3) Create, direct, or produce an obscene performance that 70
has a minor or impaired person as one of its participants; 71

(4) Advertise or promote for presentation, present, or 72
participate in presenting an obscene performance that has a 73
minor or impaired person as one of its participants; 74

(5) Buy, procure, possess, or control any obscene 75
material, that has a minor or impaired person as one of its 76

participants; 77

(6) Bring or cause to be brought into this state any 78
obscene material that has a minor or impaired person as one of 79
its participants or portrayed observers; 80

(7) Make or transmit any simulated obscene material; 81

(8) Buy, procure, possess, or control any simulated 82
obscene material. 83

(B) (1) This section does not apply to any material or 84
performance that is sold, disseminated, displayed, possessed, 85
controlled, brought or caused to be brought into this state, or 86
presented for a bona fide medical, scientific, educational, 87
religious, governmental, judicial, or other proper purpose, by 88
or to a physician, psychologist, sociologist, scientist, 89
teacher, person pursuing bona fide studies or research, 90
librarian, member of the clergy, prosecutor, judge, or other 91
person having a proper interest in the material or performance. 92

(2) Mistake of age is not a defense to a charge under this 93
section. 94

(3) In a prosecution under this section, the trier of fact 95
may infer that a person in the material or performance involved 96
is a minor or impaired person if the material or performance, 97
through its title, text, visual representation, or otherwise, 98
represents or depicts the person as a minor or impaired person. 99

(C) Whoever violates this section is guilty of pandering 100
obscenity involving a minor or impaired person. If the offense 101
involves a minor, a violation of division (A) (1), (2), (3), (4), 102
or (6) of this section is a felony of the second degree. If the 103
offense involves an impaired person, a violation of division (A) 104
(1), (2), (3), (4), or (6) of this section is a felony of the 105

third degree. A violation of division (A) (5) or (8) of this 106
section is a felony of the fourth degree. A violation of 107
division (A) (7) of this section is a felony of the third degree. 108

If the offender previously has been convicted of or pleaded 109
guilty to a violation of this section or section 2907.322 or 110
2907.323 of the Revised Code, pandering obscenity involving a 111
minor or impaired person in violation of division (A) (5) of this 112
section is a felony of the third degree. 113

(D) As used in this section and sections 2907.322 and 114
2907.323 of the Revised Code, ~~"impaired";~~ 115

(1) "Impaired person" means a person whose ability to 116
resist or consent is substantially impaired because of a mental 117
or physical condition or because of advanced age, and the 118
offender knows or has reasonable cause to believe that the other 119
person's ability to resist or consent is substantially impaired 120
because of a mental or physical condition or because of advanced 121
age. 122

(2) "Simulated obscene material" means any visual 123
depiction of a minor or impaired person, including an image 124
generated by artificial intelligence, that would constitute a 125
violation of this section or section 2907.322 or 2907.323 of the 126
Revised Code if the minor depicted was a natural person. 127

(3) "Artificial intelligence" has the same meaning as in 128
section 1349.10 of the Revised Code. 129

Sec. 2907.324. (A) No person, web site, social media 130
platform, internet service provider, or cellular telephone 131
provider shall fail to remove from a web site, platform, web 132
page, or other electronic communication any electronic image, 133
text, or video that contains simulated child obscenity 134

prohibited by divisions (A) (7) and (8) of section 2907.321 of 135
the Revised Code, or any electronic image, text, or video, the 136
creation, use or dissemination of which is prohibited by 137
division (H) or (I) of section 2913.49 of the Revised Code, 138
within twenty-four hours after receiving notice from the 139
attorney general. 140

(B) Any person, web site, social media platform, internet 141
service provider, or cellular telephone provider that fails to 142
comply with division (A) of this section is liable for civil 143
penalties of up to one thousand dollars per day. The attorney 144
general may bring in any court of competent jurisdiction a civil 145
enforcement action for declaratory relief seeking compliance 146
with this section. In the action, the attorney general may seek 147
a temporary restraining order, preliminary or permanent 148
injunction, and any civil penalties. Any civil penalty paid in 149
accordance with this section shall be credited to the attorney 150
general's consumer protection fund established in accordance 151
with section 1345.51 of the Revised Code. 152

Sec. 2913.49. (A) As used in this section, ~~"personal":~~ 153

(1) "Personal identifying information" includes, but is 154
not limited to, the following: the name, address, telephone 155
number, driver's license, driver's license number, commercial 156
driver's license, commercial driver's license number, state 157
identification card, state identification card number, social 158
security card, social security number, birth certificate, place 159
of employment, employee identification number, mother's maiden 160
name, demand deposit account number, savings account number, 161
money market account number, mutual fund account number, other 162
financial account number, personal identification number, 163
password, or credit card number of a living or dead individual. 164

(2) "Replica of a person's persona" or "replica" means a 165
modified or fabricated version of an individual's voice, 166
photograph, image, likeness, or distinctive appearance that is 167
created or presented in a manner that it appears to be the 168
individual's authentic persona. The term includes the 169
modifications and fabrications produced in whole or in part by 170
artificial intelligence. 171

(3) "Artificial intelligence" has the same meaning as in 172
section 1349.10 of the Revised Code. 173

(B) No person, without the express or implied consent of 174
the other person, shall use, obtain, or possess any personal 175
identifying information of another person with intent to do 176
either of the following: 177

(1) Hold the person out to be the other person; 178

(2) Represent the other person's personal identifying 179
information as the person's own personal identifying 180
information. 181

(C) No person shall create, obtain, possess, or use the 182
personal identifying information of any person with the intent 183
to aid or abet another person in violating division (B) of this 184
section. 185

(D) No person, with intent to defraud, shall permit 186
another person to use the person's own personal identifying 187
information or a replica of the person's persona. 188

(E) No person who is permitted to use another person's 189
personal identifying information as described in division (D) of 190
this section shall use, obtain, or possess the other person's 191
personal identifying information with intent to defraud any 192
person by doing any act identified in division (B) (1) or (2) of 193

this section. 194

~~(F)(1)~~ (F) No person shall create or use a replica of a 195
person's persona in a manner that would induce any other person 196
to make a financial decision or extend credit to any person in 197
reliance on the replica without the express consent of the 198
individual whose persona is replicated. 199

(G) No person shall create or use a replica with the 200
intent to damage any person's or entity's reputation, including 201
the reputation of the individual whose persona is replicated. 202

(H) No person shall create, use, or disseminate a replica 203
of a person's persona in a manner that depicts the individual 204
whose persona is replicated in a state of nudity, engaging in 205
sexual activity, or in any obscene material without the consent 206
of the individual whose persona is replicated. 207

(I) No person shall create, use, or disseminate a replica 208
of a person's persona for the purposes of violating or 209
attempting to violate section 2905.05, 2907.321, 2907.322, or 210
2907.323 of the Revised Code. 211

(J)(1) It is an affirmative defense to a charge under 212
division (B) of this section that the person using the personal 213
identifying information is acting in accordance with a legally 214
recognized guardianship or conservatorship or as a trustee or 215
fiduciary. 216

(2) It is an affirmative defense to a charge under 217
division (B), (C), (D), or (E) of this section that either of 218
the following applies: 219

(a) The person or entity using, obtaining, possessing, or 220
creating the personal identifying information or replica, or 221
permitting it to be used, is a law enforcement agency, 222

authorized fraud personnel, or a representative of or attorney 223
for a law enforcement agency or authorized fraud personnel and 224
is using, obtaining, possessing, or creating the personal 225
identifying information or replica, or permitting it to be used, 226
with prior consent given as specified in this division, in a 227
bona fide investigation, an information security evaluation, a 228
pretext calling evaluation, or a similar matter. The prior 229
consent required under this division shall be given by the 230
person whose personal identifying information or replica is 231
being used, obtained, possessed, or created or is being 232
permitted to be used or, if the person whose personal 233
identifying information or replica is being used, obtained, 234
possessed, or created or is being permitted to be used is 235
deceased, by that deceased person's executor, or a member of 236
that deceased person's family, or that deceased person's 237
attorney. The prior consent required under this division may be 238
given orally or in writing by the person whose personal 239
identifying information or replica is being used, obtained, 240
possessed, or created or is being permitted to be used or that 241
person's executor, or family member, or attorney. 242

(b) The personal identifying information or replica was 243
obtained, possessed, used, created, or permitted to be used for 244
a lawful purpose, provided that division ~~(F) (2) (b)~~ (J) (2) (b) of 245
this section does not apply if the person or entity using, 246
obtaining, possessing, or creating the personal identifying 247
information or replica, or permitting it to be used, is a law 248
enforcement agency, authorized fraud personnel, or a 249
representative of or attorney for a law enforcement agency or 250
authorized fraud personnel that is using, obtaining, possessing, 251
or creating the personal identifying information or replica, or 252
permitting it to be used, in an investigation, an information 253

security evaluation, a pretext calling evaluation, or similar 254
matter. 255

~~(G)~~ (K) It is not a defense to a charge under this section 256
that the person whose personal identifying information or 257
replica was obtained, possessed, used, created, or permitted to 258
be used was deceased at the time of the offense. 259

~~(H)~~ ~~(1)~~ (L) (1) If an offender commits a violation of 260
division (B), (D), or (E) of this section and the violation 261
occurs as part of a course of conduct involving other violations 262
of division (B), (D), or (E) of this section or violations of, 263
attempts to violate, conspiracies to violate, or complicity in 264
violations of division (C) of this section or section 2913.02, 265
2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 266
of the Revised Code, the court, in determining the degree of the 267
offense pursuant to division ~~(I)~~ (M) of this section, may 268
aggregate all credit, property, or services obtained or sought 269
to be obtained by the offender and all debts or other legal 270
obligations avoided or sought to be avoided by the offender in 271
the violations involved in that course of conduct. The course of 272
conduct may involve one victim or more than one victim. 273

(2) If an offender commits a violation of division (C) of 274
this section and the violation occurs as part of a course of 275
conduct involving other violations of division (C) of this 276
section or violations of, attempts to violate, conspiracies to 277
violate, or complicity in violations of division (B), (D), or 278
(E) of this section or section 2913.02, 2913.04, 2913.11, 279
2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised 280
Code, the court, in determining the degree of the offense 281
pursuant to division ~~(I)~~ (M) of this section, may aggregate all 282
credit, property, or services obtained or sought to be obtained 283

by the person aided or abetted and all debts or other legal 284
obligations avoided or sought to be avoided by the person aided 285
or abetted in the violations involved in that course of conduct. 286
The course of conduct may involve one victim or more than one 287
victim. 288

~~(I) (1)~~ (M) (1) Whoever violates this section is guilty of 289
identity fraud. 290

(2) Except as otherwise provided in this division or 291
division ~~(I) (3)~~ (M) (3) of this section, identity fraud is a 292
felony of the fifth degree. If the value of the credit, 293
property, services, debt, or other legal obligation involved in 294
the violation or course of conduct is one thousand dollars or 295
more and is less than seven thousand five hundred dollars, 296
except as otherwise provided in division ~~(I) (3)~~ (M) (3) of this 297
section, identity fraud is a felony of the fourth degree. If the 298
value of the credit, property, services, debt, or other legal 299
obligation involved in the violation or course of conduct is 300
seven thousand five hundred dollars or more and is less than one 301
hundred fifty thousand dollars, except as otherwise provided in 302
division ~~(I) (3)~~ (M) (3) of this section, identity fraud is a 303
felony of the third degree. If the value of the credit, 304
property, services, debt, or other legal obligation involved in 305
the violation or course of conduct is one hundred fifty thousand 306
dollars or more, except as otherwise provided in division ~~(I) (3)~~ 307
(M) (3) of this section, identity fraud is a felony of the second 308
degree. 309

(3) If the victim of the offense is a minor, an elderly 310
person, disabled adult, active duty service member, or spouse of 311
an active duty service member, a violation of this section is 312
identity fraud against a person in a protected class. Except as 313

otherwise provided in this division, identity fraud against a 314
person in a protected class is a felony of the fourth degree. If 315
the value of the credit, property, services, debt, or other 316
legal obligation involved in the violation or course of conduct 317
is one thousand dollars or more and is less than seven thousand 318
five hundred dollars, identity fraud against a person in a 319
protected class is a felony of the third degree. If the value of 320
the credit, property, services, debt, or other legal obligation 321
involved in the violation or course of conduct is seven thousand 322
five hundred dollars or more and is less than one hundred fifty 323
thousand dollars, identity fraud against a person in a protected 324
class is a felony of the second degree. If the value of the 325
credit, property, services, debt, or other legal obligation 326
involved in the violation or course of conduct is one hundred 327
fifty thousand dollars or more, identity fraud against a person 328
in a protected class is a felony of the first degree. If the 329
victim of the offense is an elderly person, in addition to any 330
other penalty imposed for the offense, the offender shall be 331
required to pay full restitution to the victim and to pay a fine 332
of up to fifty thousand dollars. The clerk of court shall 333
forward all fines collected under this division ~~(I) (3) of this~~ 334
~~section~~ to the county department of job and family services to 335
be used for the reporting and investigation of elder abuse, 336
neglect, and exploitation or for the provision or arrangement of 337
protective services under sections 5101.61 to 5101.71 of the 338
Revised Code. 339

~~(J)~~ (N) In addition to the penalties described in division 340
~~(I)~~ (M) of this section, anyone injured in person or property by 341
a violation of division (B), (D), or (E) of this section who is 342
the owner of the identifying information involved, or whose 343
persona is replicated, in that violation has a civil action 344

against the offender pursuant to section 2307.60 of the Revised 345
Code. That person may also bring a civil action to enjoin or 346
restrain future acts that would constitute a violation of 347
division (B), (D), or (E) of this section. 348

Section 2. That existing sections 1345.51, 2907.321, and 349
2913.49 of the Revised Code are hereby repealed. 350