June 5, 2024

Utah Generative AI Disclosure Law Takes Effect as Part of Consumer Protection Legislation

Client Bulletins

Authors: **Cole Hardy**, **Ryan T. Sulkin**, **Kristopher J. Chandler**, **Megan C. Parker**

Businesses interacting with Utah residents should act quickly to ensure compliance with newly in effect obligations requiring certain disclosures regarding use of generative AI tools as Utah joins the growing patchwork of states specifically regulating artificial intelligence systems.

On May 1, Utah's Artificial Intelligence Policy Act ("**UAIPA**") took effect requiring certain disclosures regarding use of artificial intelligence ("**AI**") systems, specifically generative AI.

Signed by Governor Spencer Cox on March 13 as part of Utah's consumer protection laws, the UAIPA joins other state-specific legislation (such as Colorado's Consumer Protections for Interactions with AI law) targeted toward consumer-facing use of AI.

Scope

Generative AI, according to the UAIPA, is an artificial system with limited or no human oversight, trained to interact with humans via text, audio or visual communication methods. This distinction clarifies that non-generative AI systems are not subject to the UAIPA's requirements.

The UAIPA specifies two categories of services in which disclosure of generative AI use is required: (1) acts connected to the Utah Division of Consumer Protection ("**UDCP**") and (2) services provided by the Department of Commerce's regulated occupations.

Requirements and Obligations

First, the UAIPA requires a person using, prompting or otherwise causing generative AI to interact with a person "in connection with any act administered and enforced by the [UDCP]" to clearly and conspicuously disclose that the person is interacting with generative AI, but *only if asked or prompted by the person*.

This means, for example, a person using generative AI relating to music licensing, ticket website sales, or even sweepstakes and contest prize notices must communicate their use of the technology if prompted by an individual.

Second, individuals using generative AI while providing services of a "regulated occupation" must *proactively* inform the consumer of interactions with generative AI or materials created by generative AI through written or verbal communication.

The UAIPA defines a regulated occupation as one that "requires a person to obtain a license or state certification" to practice the occupation and is licensed by the UDCP's Division of Professional Licensing. Regulated occupations include, but are not limited to, architects, construction contractors, dentists, engineers, nursing and pharmacies.

Enforcement and Penalties

Although the UAIPA does not provide for a private right of action, the UDCP has the authority to impose administrative fines up to $2,500 for each violation. Additionally, the UDCP can initiate legal action to have courts impose these fines, halt violating activities and order the return of any funds received through such violations.

The Utah Attorney General also has the authority to pursue civil penalties of up to $5,000 per violation against any person who breaches an existing administrative or judicial order.

Creation of the Artificial Intelligence Learning Laboratory Program and the Office of Artificial Intelligence

The UAIPA also creates the Artificial Intelligence Learning Laboratory Program (the "**AI Learning Program**") for the purpose of further developing, analyzing and "evaluat[ing] the effectiveness and viability of current, potential or proposed regulation on AI technologies."

In addition, the AI Learning Program permits participants to apply for "regulatory mitigation," allowing them to experiment with new AI technologies while being monitored by the state. The law requires that participants demonstrate that they have technical expertise, sufficient financial resources and an "effective plan to monitor and minimize identified risks from testing."

Further, the UAIPA creates the Office of Artificial Intelligence (the "**AI Office**") within the Utah Department of Commerce to manage the AI Learning Program. The AI Office's main responsibilities include: (1) creating and administering, (2) establishing procedures and requirements of, and (3) setting the learning agenda for, the AI Learning Program.

The AI Office will consult with Utah businesses and stakeholders about regulatory proposals and annually report to the Business and Labor Interim Committee about the AI Learning Program's progress. The Office is housed within the Department of Commerce.

Conclusion and Takeaways

All businesses interacting with Utah residents are subject to the UAIPA and UDCP, regardless of where the business itself is organized or located. If your business interacts with Utah residents, it should act quickly to ensure compliance with the UAIPA's disclosure obligations related to use of consumer-facing generative AI tools and consumer-facing generative AI content.

Continue to follow Benesch's AI Commission as we address the evolving regulatory landscape of AI, impacts of new regulations and steps toward compliance. Stay tuned!

With thanks to Benesch summer associate, Jane Wiertel (J.D. '25 candidate, Case Western Reserve University School of Law), who assisted with preparing this article.

Related Practices

Intellectual Property

Related Industries

Artificial Intelligence (AI)

Related Professionals

Cole Hardy
Of Counsel
Technology Transactions

T. 312.517.9546
chardy@beneschlaw.com

Ryan T. Sulkin
Partner Intellectual Property; Data Protection Group Lead
Intellectual Property

T. 312.624.6398
rsulkin@beneschlaw.com

Kristopher J. Chandler
Chair, AI Commission; Senior Managing Associate
Intellectual Property

T. 614.223.9377
kchandler@beneschlaw.com

Megan C. Parker
Associate
Intellectual Property

T. 216.363.4416
mparker@beneschlaw.com