

BILL ANALYSIS

C.S.H.B. 2874

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Trade, Workforce & Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that the rise of media generated by artificial intelligence (AI) has profoundly impacted online communication, leading to widespread circulation of AI-created photos, videos, and audio files, and that while users encounter such media regularly, distinguishing between authentic and AI-generated content remains extremely challenging due to the growing presence of AI-generated disinformation and sophisticated deepfakes, which are realistic falsifications intended to deceive the public and influence opinion. According to Pew Research Center data from 2023, Americans expressed concern about their ability to discern between genuine and manipulated digital content online. The bill author has further informed the committee that despite these significant public concerns, social media platforms have yet to effectively address the rapid proliferation of misleading AI-generated materials and that Texas must ensure accountability from major social media companies by enabling users to determine swiftly whether content is authentic or artificially generated, thereby protecting Texans from deceptive practices. C.S.H.B. 2874 seeks to improve transparency of digital media content posted on social media platforms by requiring social media platforms to retain and disclose provenance data identifying the date and place of origin of a file, the method used to generate it, its transmission or storage history, whether content was created or modified using generative AI, and the name of the generative AI tool and its provider.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2874 amends the Business & Commerce Code to require a social media platform to do the following with respect to content created on or posted to such a platform:

- attach provenance data to each photo, video, or audio file created on the social media platform or using tools provided by the platform, including tools that use generative artificial intelligence, and provide or contract with a third party to provide a method by which a user may easily access that provenance data;
- attach provenance data to each photo, video, or audio file posted on the social media platform for which the platform can discern the file's provenance data and provide or contract with a third party to provide a method by which a user may easily access that provenance data; and
- retain all provenance data attached to a photo, video, or audio file under the bill's provisions.

C.S.H.B. 2874 requires provenance data attached to a photo, video, or audio file or retained under the bill's provisions to do the following:

- be attached and retained in a manner and format that complies with guidelines or specifications that are:
 - created by an established standard-setting entity in the industry; and
 - widely adopted by other entities in the industry;
- state whether the photo, video, or audio file has been created or modified using generative artificial intelligence; and
- if the photo, video, or audio file was created or modified using that intelligence, state the name of the generative artificial intelligence tool and the name of the person who provides the tool.

C.S.H.B. 2874 establishes that a social media platform is not required to comply with the bill's provisions if that platform provides to the attorney general clear and convincing documentation showing that the platform:

- does not have the technological capacity to comply with the bill's requirements; and
- is actively taking steps toward obtaining the technological capacity to comply with the bill's requirements.

C.S.H.B. 2874 establishes that its provisions relating to content posted to a social media platform may not be construed to require a social media platform to independently verify the accuracy or authenticity of provenance data provided to that platform by a third party or user. The bill excepts a social media platform from liability for inaccurate provenance data attached to a photo, video, or audio file or retained under the bill's provisions relating to content posted to a social media platform if the following apply:

- the provenance data was provided to the platform by a third party or user;
- the platform did not knowingly modify the provenance data;
- the platform relied in good faith on the provenance data provided; and
- the platform has implemented reasonable and appropriate measures to comply with the requirements of the bill's provisions relating to content posted to a social media platform.

The bill defines the following terms:

- "artificial intelligence system" as machine learning and related technology that uses data to train statistical models for the purpose of enabling computer systems to perform tasks normally associated with human intelligence or perception, such as computer vision, speech or natural language processing, and content generation;
- "generative artificial intelligence" as an artificial intelligence system designed to emulate the structure and characteristics of provided data to generate derived synthetic digital content, including images, videos, audio, text, and other digital content; and
- "provenance data" as metadata on a file that can be used to identify the date and place of the file's origin, the method used to generate the file, including whether the file was generated using generative artificial intelligence, or the file's history, including the manner in which the file has been transmitted or stored.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2874 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

While both the introduced and the substitute define "provenance data" as metadata on a file that can be used to identify the method used to generate the file, the substitute specifies that the identification includes whether the file was generated using generative artificial intelligence.

The substitute omits the following provisions present in the introduced:

- the provision establishing that the bill's provisions apply only to a social media platform that functionally has more than 1.5 million active users in Texas in a calendar month;
- the provision making statutory provisions authorizing the attorney general to bring an action against a social media platform to enjoin certain violations applicable to a social media platform to which the bill's provisions apply for the purpose of enforcing the bill's provisions;
- the requirement for a social media platform, if the platform cannot discern the provenance data of a photo, video, or audio file, to attach a notice to the file stating that the social media platform cannot discern the provenance data of the file; and
- the requirement for that notice, if the notice is attached to the file, to be displayed in place of provenance data.

While both the introduced and the substitute require a social media platform to attach provenance data to each photo, video, or audio file created on the social media platform or using tools provided by the social media platform, the substitute specifies that those tools include tools that use generative artificial intelligence. With respect to the requirement for a social media platform to provide a method by which a user may easily access the provenance data of such a photo, video, or audio file, the substitute specifies that the provenance data is attached to the photo, video, or audio file.

Whereas the introduced required a social media platform to provide a method by which a user may easily access the provenance data of a photo, video, or audio file, the substitute requires a social media platform to provide or contract with a third party to provide a method by which a user may easily access the provenance data attached to a photo, video, or audio file under the bill's provisions relating to content posted to a social media platform.

The substitute includes the following provisions absent from the introduced:

- provisions defining "artificial intelligence system" and "generative artificial intelligence";
- a requirement for a social media platform to retain all provenance data attached to a photo, video, or audio file under the bill's provisions;
- a requirement for the provenance data attached to a photo, video, or audio file or retained under the bill's provisions to do the following:
 - be attached and retained in a manner and format that complies with specified guidelines or specifications;
 - state whether the photo, video, or audio file has been created or modified using generative artificial intelligence; and
 - if the photo, video, or audio file was created or modified using that intelligence, state the name of the generative artificial intelligence tool and the name of the person who provides the tool;
- provisions establishing that a social media platform is not required to comply with the bill's provisions if the platform provides to the attorney general clear and convincing documentation showing that the platform;
 - does not have the technological capacity to comply with the bill's requirements; and
 - is actively taking steps toward obtaining the technological capacity to comply with the bill's requirements.
- a provision establishing that the bill's provisions relating to content posted to a social media platform may not be construed to require a social media platform to independently verify the accuracy or authenticity of provenance data provided to that platform by a third party or user; and
- a provision excepting a social media platform from liability for inaccurate provenance data attached to a photo, video, or audio file or retained under the bill's provisions relating to content posted to a social media platform if certain specified criteria apply.