

1 H.366

2 Introduced by Representatives Cina of Burlington, Priestley of Bradford,

3 Logan of Burlington, and McGill of Bridport

4 Referred to Committee on

5 Date:

6 Subject: Health; neurological rights; data privacy

7 Statement of purpose of bill as introduced: This bill proposes to provide
8 neurological rights to individuals by creating privacy standards for neural data
9 and by prohibiting electronic devices from bypassing the conscious decision
10 making of individuals who have not provided consent.

11 An act relating to neurological rights

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. PURPOSE

14 An individual has the right to:

15 (1) mental and neural data privacy;

16 (2) the freedom of thought;

17 (3) cognitive liberty;

18 (4) change an individual's decision regarding neurotechnology and the
19 right to determine by what means to change that decision;

1 (5) be afforded protection from neurotechnological interventions of the
2 mind and from unauthorized access to or manipulation of an individual’s brain
3 activity; and

4 (6) be afforded protection from unauthorized neurotechnological
5 alterations in mental functions critical to personality.

6 Sec. 2. 18 V.S.A. chapter 42C is added to read:

7 CHAPTER 42C. NEUROLOGICAL RIGHTS

8 § 1889. DEFINITIONS

9 As used in this chapter:

10 (1) “Brain-computer interface” means a device that enables its user to
11 interact with a computer by means of brain activity only.

12 (2) “Conscious decision making” means an individual making a
13 deliberate decision with awareness and intention.

14 (3) “Consciousness bypass” means the use of neurotechnology to
15 manipulate brain activity by applying electrical or optical stimuli without the
16 conscious awareness of the individual whose brain activity is being
17 manipulated.

18 (4) “Neural data” means information that is generated by the
19 measurement of the activity of an individual’s central or peripheral nervous
20 systems and that can be processed by or with the assistance of a device.

1 (5) “Neurotechnology” means the assembly of methods and instruments
2 that enable a direct connection of technical components with the nervous
3 system of an individual.

4 (6) “Written informed consent” means the written consent given
5 voluntarily by an individual with capacity, on the individual’s own behalf or on
6 behalf of another in the role of an agent, guardian, or surrogate, after being
7 fully informed of the nature, benefits, risks, and consequences of the proposed
8 agreement.

9 § 1890. NEURAL DATA PRIVACY

10 (a) Prohibition. Subject to the limited exceptions provided in this section,
11 no person shall:

12 (1) collect or record an individual’s neural data gathered from a brain-
13 computer interface; or

14 (2) share with a third party an individual’s neural data gathered from a
15 brain-computer interface.

16 (b) Consent to collect. A person shall not collect or record an individual’s
17 neural data gathered from a brain-computer interface unless the person:

18 (1) provides the individual with a written notice explaining how the
19 person will use the individual’s neural data; and

20 (2) thereafter receives written informed consent from the individual to
21 collect or record the individual’s neural data.

1 (c) Consent to share. A person shall not share with a third party an
2 individual's neural data gathered from a brain-computer interface unless the
3 person:

4 (1) provides the individual with a written request for the individual's
5 neural data to be shared with a third party and for what purposes, including the
6 name and address of the third party; and

7 (2) thereafter receives written informed consent from the individual to
8 share the individual's neural data with the third party.

9 (d) Revocation of consent.

10 (1) An individual who has provided written informed consent allowing a
11 person to collect, record, or share the individual's neural data pursuant to this
12 section has the right to revoke consent at any time thereafter by providing
13 written notice to the person initially receiving the consent. This revocation of
14 consent notice shall be as easy or easier for the individual to provide as
15 compared to the requirements for initially providing consent.

16 (2) A person who receives written notice from an individual revoking
17 consent pursuant to subdivision (1) of this subsection shall:

18 (A) destroy all records of the individual's neural data not later than
19 10 days after receiving the notice; and

20 (B) in the case of the revocation of consent to share an individual's
21 neural data, immediately:

1 (i) cease sharing an individual’s neural data with all third parties
2 upon receipt of the notice; and

3 (ii) inform all third parties with whom the person has shared the
4 individual’s neural data that the individual has revoked consent.

5 § 1891. CONSCIOUSNESS BYPASS LIMITATIONS

6 (a) Specific consent required.

7 (1) A person shall not allow a brain-computer interface it manufactures
8 to be used to bypass the conscious decision making of an individual unless the
9 person has received specific, written informed consent from the individual. As
10 used in this section, “specific” means written consent for each and every
11 category of action performed by the brain-computer interface.

12 (2) A person receiving written informed consent from an individual
13 shall keep a record of the individual’s consent.

14 (3) Consent obtained by using a consciousness bypass is not informed
15 consent.

16 (b) Revoking consent.

17 (1) An individual who has provided specific, written informed consent
18 allowing a brain-computer interface to be used to bypass the conscious
19 decision making of the individual pursuant to this section has the right to
20 revoke consent at any time thereafter by providing notice to the person initially
21 receiving the consent. This revocation of consent notice shall be as easy or

1 easier for the individual to provide as compared to the requirements for
2 initially providing consent.

3 (2) An individual's agent, guardian, or surrogate has the right to revoke
4 consent on behalf of the individual pursuant to subdivision (1) of this
5 subsection.

6 § 1892. PENALTY; ENFORCEMENT

7 (a) A violation of this chapter shall constitute an unfair or deceptive act or
8 practice in commerce under 9 V.S.A. chapter 63, Vermont's Consumer
9 Protection Act.

10 (b) A person who violates this chapter shall be subject to a civil penalty of
11 not more than \$10,000.00 for each violation.

12 (c) The Attorney General shall have the same authority to make rules,
13 conduct civil investigations, enter into assurances of discontinuance, and bring
14 civil actions as provided under 9 V.S.A. chapter 63, subchapter 1. Consumers
15 shall have the same rights and remedies as provided under 9 V.S.A. chapter 63,
16 subchapter 1.

17 Sec. 3. EFFECTIVE DATE

18 This act shall take effect on July 1, 2025.