
A BILL FOR AN ACT

RELATING TO ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that although artificial
2 intelligence (AI) technology can greatly benefit certain aspects
3 of society, it can also have dangerous consequences if applied
4 maliciously. For example, the use of deepfakes or generative AI
5 in elections can be a powerful tool used to spread
6 disinformation and misinformation, which can increase political
7 tensions and result in electoral-related conflict and violence.
8 Several states, including Michigan, Minnesota, and Washington,
9 have enacted legislation governing the use of AI in elections.
10 The legislature believes that regulating the use of deepfake and
11 generative AI technologies to influence elections is necessary
12 to protect the democratic process in the State.

13 Accordingly, the purpose of this Act is to:

14 (1) Prohibit a person from distributing, or entering into
15 an agreement with another person to distribute,
16 materially deceptive media with exceptions;



1 (2) Establish criminal penalties for distributing
2 materially deceptive media; and

3 (3) Establish remedies for parties injured by the
4 distribution of materially deceptive media.

5 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
6 by adding two new sections to part XIII to be appropriately
7 designated and to read as follows:

8 **"§11-A Distribution of materially deceptive media;**
9 **prohibited; penalties.** (a) Except as provided in subsections
10 (b) and (c), no person shall distribute, or enter into an
11 agreement with another person to distribute, between the first
12 working day of February in every even-numbered year through the
13 next general election, materially deceptive media in reckless
14 disregard of the risk of harming the reputation or electoral
15 prospects of a candidate in an election or changing the voting
16 behavior of voters in an election.

17 (b) Subsection (a) shall not apply to a broadcaster, cable
18 operator, interactive computer service, or streaming service if
19 it was not involved in the creation of the materially deceptive
20 media.



1 (c) Subsection (a) shall not apply if the media includes a
2 disclaimer informing the viewer that the media has been
3 manipulated by technical means and depicts appearance, speech,
4 or conduct that did not occur; provided that:

5 (1) If the media is a video, the disclaimer shall:

6 (A) Appear throughout the entirety of the video;

7 (B) Be clearly visible to and readable by an
8 observer;

9 (C) Be in letters at least as large as the largest
10 size of any text communication; and

11 (D) Be in the same language as the language used in
12 the video media;

13 (2) If the media is an image, the disclaimer shall:

14 (A) Be clearly visible to and readable by the
15 observer;

16 (B) Be in letters at least as large as the largest
17 text in the image if the media contains other
18 text; and

19 (C) Be in the same language as the language used in
20 the image media;



- 1 (3) If the media consists of only audio and contains no
2 video or image, the disclaimer shall be read:
3 (A) At the beginning and end of the media in a
4 clearly spoken manner;
5 (B) In a pitch that can be easily heard by the
6 listener; and
7 (C) In the same language as the audio media; and
8 (4) If the media was generated by editing or creating new
9 media from an existing video, image, or audio, the
10 media shall include a citation directing the viewer or
11 listener to the original sources from which the
12 unedited version of the existing videos, images, or
13 audios were obtained or generated.
14 (d) Unless otherwise specified in this section, a person
15 who violates this section shall be guilty of a petty
16 misdemeanor.
17 (e) A person who violates this section within five years
18 of a previous conviction for a violation of this section shall
19 be guilty of a misdemeanor.



1 (f) A person who violates this section with the intent to
2 cause violence or bodily harm shall be guilty of a class C
3 felony.

4 (g) The commission may assess a fine for a violation of
5 this section or refer a violation of this section for criminal
6 prosecution under subpart I.

7 (h) For the purposes of this section:

8 "Artificial intelligence" means a machine-based system that
9 can, for a given set of human-defined objectives, make
10 predictions, recommendations, or decisions influencing real or
11 virtual environments, and that uses machine and human-based
12 inputs to:

13 (1) Perceive real and virtual environments;

14 (2) Abstract perceptions of real and virtual environments
15 into models through analysis in an automated manner;
16 and

17 (3) Use model inference to formulate opinions for
18 information or action.

19 "Distribute" means to convey information by any means.

20 "Materially deceptive media" means any information,
21 including any video, image, or audio, that:



- 1 (1) Is an advertisement;
- 2 (2) Depicts an individual engaging in speech or conduct in
- 3 which the depicted individual did not in fact engage;
- 4 (3) Would cause a reasonable viewer or listener to believe
- 5 that the depicted individual engaged in the speech or
- 6 conduct depicted; and
- 7 (4) Was created by:
- 8 (A) Generative adversarial network techniques or
- 9 another technique that translates a source image
- 10 into another image using machine learning, deep
- 11 learning techniques, and convolutional neural
- 12 networks;
- 13 (B) Artificial intelligence; or
- 14 (C) Digital technology.

15 **§11-B Distribution of materially deceptive media; civil**
16 **remedies.** (a) A depicted individual, including a candidate for
17 election, whose appearance, speech, or conduct is altered or
18 affected through the use of materially deceptive media, or any
19 organization that represents the interest of voters likely to be
20 deceived by the distribution of materially deceptive media, may

1 bring an action for general or special damages against a person
2 who violates section 11-A.

3 The court, in its action and in addition to any judgment
4 awarded to the plaintiff or plaintiffs, may award a prevailing
5 party reasonable attorney's fees and costs; provided that this
6 subsection shall not limit or preclude a plaintiff from pursuing
7 any other available remedy.

8 (b) A cause of action for injunctive or other equitable
9 relief may be maintained against any person who is reasonably
10 believed to violate or who is in the course of violating section
11 11-A by:

- 12 (1) The attorney general;
- 13 (2) The campaign spending commission;
- 14 (3) A county attorney or county prosecutor;
- 15 (4) The depicted individual;
- 16 (5) A candidate for nomination or election to a public
17 office who is injured or is likely to be injured by
18 dissemination of materially deceptive media; or
- 19 (6) Any organization that represents the interest of
20 voters likely to be deceived by the distribution of
21 materially deceptive media.



1 A court may issue a temporary or permanent injunction or
2 restraining order to prevent further harm to the plaintiff. If
3 a plaintiff, other than the attorney general, campaign spending
4 commission if represented by a state attorney, county attorney,
5 or county prosecutor, is awarded permanent injunctive relief
6 under this subsection, the court may award reasonable attorney's
7 fees and costs to the plaintiff.

8 The court may issue a civil fine for the violation of a
9 court order issued under this subsection in an amount of no more
10 than \$1,000 per day.

11 (c) For the purposes of this section:

12 "Distribute" has the same meaning as in section 11-A.

13 "Materially deceptive media" has the same meaning as in
14 section 11-A."

15 SECTION 3. In codifying the new sections added by section
16 2 of this Act, the revisor of statutes shall substitute
17 appropriate section numbers for the letters used in designating
18 the new sections in this Act.

19 SECTION 4. New statutory material is underscored.

1 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Elections; Materially Deceptive Media; Artificial Intelligence; Deepfake Technology; Prohibition; Penalty; Remedies

Description:

Prohibits a person from distributing, or entering into an agreement with another person to distribute, materially deceptive media, subject to certain exceptions. Establishes criminal penalties for distributing materially deceptive media. Establishes remedies for parties injured by the distribution of materially deceptive media. Effective 7/1/3000. (HD2)

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