
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 deepfakes are any
2 form of media that has been altered and manipulated to
3 misrepresent someone, typically in a way that shows the person
4 saying something that was never said. Deceptive and fraudulent
5 deepfakes have become a tool for political misinformation that
6 further disrupts public trust in government. Legislation has
7 been enacted in various jurisdictions, including California,
8 Michigan, Minnesota, Texas, Washington, and Wisconsin to prevent
9 and punish the spread of misinformation through deepfakes.

10 The purpose of this Act is to hinder the spread of
11 political misinformation in the State by prohibiting the
12 distribution of advertisements before an election that a person
13 knows or should have known are deceptive and fraudulent
14 deepfakes of a candidate.

15 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
16 by adding a new section to be appropriately designated and to
17 read as follows:



1 "§11- Synthetic media; deceptive and fraudulent
2 deepfake; prohibitions; exceptions. (a) Except as provided in
3 subsection (b), no person shall, within ninety days before a
4 primary or general election, distribute a synthetic media
5 message in an advertisement that the person knows or should have
6 known is a deceptive and fraudulent deepfake of a candidate.

7 (b) The prohibition in subsection (a) shall not apply if
8 the advertisement containing the synthetic media includes a
9 disclosure statement stating: "This
10 [image/audio/recording/video recording] has been manipulated.",
11 and:

12 (1) If the media consists of an audio recording only, the
13 disclosure statement is read in a clearly spoken
14 manner and in a pitch that can be easily heard by the
15 average listener, at the beginning of the audio, at
16 the end of the audio, and, if the audio is greater
17 than two minutes in length, interspersed within the
18 audio at intervals of no more than two minutes each;
19 and

20 (2) For visual recordings, the text of the disclosure
21 statement appears in a size that is easily readable by



1 the average viewer and no smaller than the largest
2 font size of other text appearing in the visual media;
3 provided that if the visual media does not include any
4 other text, the disclosure statement shall appear in a
5 size that is easily readable by the average viewer;
6 provided further that for visual media that is video,
7 the disclosure statement shall appear for the duration
8 of the video.

9 (c) Any person may seek injunctive or other equitable
10 relief to prohibit or cease the publication of a deceptive and
11 fraudulent deepfake against any person who:

12 (1) Violates subsection (a); or
13 (2) Intentionally or knowingly hosts or allows the hosting
14 of a deceptive and fraudulent deepfake in violation of
15 subsection (a) on the person's website or other online
16 platform.

17 (d) The campaign spending commission may conduct
18 investigations into the publication of deceptive and fraudulent
19 deepfakes and assess administrative fines.

20 (e) Any person may bring an action for general or special
21 damages against any person who:



1 (1) Distributes a deceptive and fraudulent deepfake in
2 violation of subsection (a); or

3 (2) Intentionally or knowingly hosts or allows the hosting
4 of a deceptive and fraudulent deepfake in violation of
5 subsection (a) on the person's website or other online
6 platform.

7 The court may award a prevailing party reasonable attorneys'
8 fees and costs.

9 (f) Nothing in this section shall limit or preclude a
10 plaintiff from seeking any other available civil remedy.

11 (g) This section shall not apply to:

12 (1) A radio or television broadcasting station, including
13 a cable or satellite television operator, programmer,
14 or producer, that broadcasts synthetic media as part
15 of a bona fide newscast, news interview, news
16 documentary, or on-the-spot coverage of bona fide news
17 events, if the broadcast clearly acknowledges through
18 content or a disclosure statement, in a manner that
19 can be easily heard or read by the average listener or
20 viewer, that there are questions about the
21 authenticity of the synthetic media;



1 (2) A radio or television broadcasting station, including
2 a cable or satellite television operator, programmer,
3 or producer, when the station is paid to broadcast a
4 synthetic media and has made a good faith effort to
5 establish the depiction in the synthetic media is not
6 a deceptive and fraudulent deepfake;

7 (3) An internet website, or a regularly published
8 newspaper, magazine, or other periodical of general
9 circulation, including an internet or electronic
10 publication, that routinely carries news and
11 commentary of general interest, and that publishes
12 deceptive and fraudulent deepfakes prohibited by this
13 section, if the publication clearly states that the
14 deceptive and fraudulent deepfake does not accurately
15 represent the speech or conduct of the candidate; and

16 (4) Synthetic media that constitutes satire or parody.

17 (h) If any provision of this section, or the application
18 thereof to any person or circumstance, is held invalid, the
19 invalidity does not affect other provisions or applications of
20 this section that can be given effect without the invalid



1 provision or application, and to this end the provisions of this
2 section are severable.

3 (i) As used in this section:

4 "Advertisement" has the same meaning as in section 11-302.

5 "Deceptive and fraudulent deepfake" means synthetic media

6 that depicts a candidate with the intent to injure the

7 reputation of the candidate or otherwise deceive a voter and

8 that:

9 (1) Appears to a reasonable person to depict a real

10 individual saying or doing something that did not

11 actually occur in reality; or

12 (2) Provides a reasonable person a fundamentally different

13 understanding or impression of the appearance, action,

14 or speech than a reasonable person would have from the

15 unaltered, original version of an image, an audio

16 recording, or a video recording.

17 "Synthetic media" means an image, an audio recording, or a

18 video recording of an individual's appearance, speech, or

19 conduct that has been created or intentionally manipulated by

20 any means or in a manner to create a realistic but false image,

21 audio recording, or video recording."



1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

Elections; Advertisements; Synthetic Media; Deepfakes;
Prohibitions

Description:

Prohibits the distribution of synthetic media messages in advertisements before an election that a person knows or should have known are deceptive and fraudulent deepfakes of a candidate. Effective 7/1/3000. (HD1)

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