

---

---

# A BILL FOR AN ACT

RELATING TO ARTIFICIAL INTELLIGENCE.

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

1 PART I

2 SECTION 1. The legislature finds that deepfake technology  
3 enables the realistic digital imitation of an individual's  
4 voice, face, likeness, and performance. The legislature further  
5 finds that malicious uses of deepfake technology have been  
6 documented in identity theft, fraud, election interference,  
7 cyberbullying, and non-consensual pornography. Victims often  
8 face reputational, financial, and emotional harm, with detection  
9 rates for the use of deepfake imitations as low as sixty-two per  
10 cent even among experts.

11 The legislature additionally finds that federal law  
12 addresses limited scenarios of the malicious use of deepfake  
13 technology, including explicit content targeting minors, but  
14 leaves broad gaps in consumer and reputational protection.  
15 Furthermore, the legislature finds that the State has a  
16 compelling interest in preventing fraud, identity theft,  
17 defamation, and emotional distress while also protecting lawful



1 speech. Moreover, the legislature finds that it is important to  
2 protect Hawaii residents from identity-based harm caused by the  
3 malicious use of artificial intelligence (AI) and synthetic  
4 media while safeguarding constitutional rights to free  
5 expression, parody, satire, and journalism.

6 Therefore, the purpose of this part is to:

- 7 (1) Prohibit certain harmful uses of AI-generated
- 8 likenesses;
- 9 (2) Mandate disclosure for realistic AI depictions; and
- 10 (3) Provide civil remedies for individuals injured by
- 11 unauthorized uses of AI.

12 SECTION 2. The Hawaii Revised Statutes is amended by  
13 adding a new chapter to be appropriately designated and to read  
14 as follows:

15 **"CHAPTER**

16 **ARTIFICIAL INTELLIGENCE; DIGITAL IMITATION; PERSONAL LIKENESS;**

17 **PROTECTIONS**

18 § -1 **Definitions.** As used in this chapter:

19 "Advertisement" means a message published in any medium  
20 with the primary purpose of promoting, directly or indirectly, a  
21 product, service, or commercial transaction.



1 "Artificial intelligence" or "AI" means a machine-based  
2 system that can, for a given set of human-defined objectives,  
3 make predictions, recommendations, or decisions influencing real  
4 or virtual environments, and that uses machine and human-based  
5 inputs to:

- 6 (1) Perceive real and virtual environments;
- 7 (2) Abstract perceptions of real and virtual environments  
8 into models through analysis in an automated manner;  
9 and
- 10 (3) Use model inference to formulate opinions for  
11 information or action.

12 "Consent" means express, written permission from a depicted  
13 individual or the depicted individual's authorized  
14 representative.

15 "Digital imitation" means any highly realistic AI-generated  
16 depiction, audio, or video that is derived from or based upon  
17 identifying characteristics of an actual, particular individual  
18 and portrays that individual's voice, face, or likeness in a  
19 sound recording or audiovisual work in which the individual did  
20 not actually perform or appear.



1 "Harm" includes reputational injury, financial loss,  
2 emotional distress, or the misappropriation of identity for  
3 commercial gain.

4 "Publish" means to display, present, or release to the  
5 public, or cause to be displayed, presented, or released to the  
6 public.

7 "Realistic" means so lifelike that a reasonable person  
8 would believe that the depiction, audio, or video portraying an  
9 actual, particular individual's voice, face, or likeness is  
10 authentic.

11 § -2 **Prohibited acts.** It shall be unlawful for any  
12 person to knowingly publish a realistic digital imitation of an  
13 identifiable individual without that individual's consent if the  
14 imitation:

- 15 (1) Is used in connection with an advertisement;  
16 (2) Causes harm; or  
17 (3) Is used to commit fraud, defamation, harassment, or  
18 other criminal acts.

19 § -3 **Disclosure; requirement.** (a) Any realistic  
20 digital imitation that is published without the depicted  
21 individual's consent shall include a clear and conspicuous



1 disclosure that it is generated or altered by artificial  
2 intelligence, unless exempted by section -4.

3 (b) The disclosure required under subsection (a) shall be:

4 (1) Visible for video depictions or images;

5 (2) Audible for audio recordings; and

6 (3) Expressed in plain language, such as "This is an  
7 AI-generated depiction and not an authentic recording  
8 of [person].".

9 § -4 **Exemptions.** This chapter shall not apply to  
10 content generated or altered by artificial intelligence that is:

11 (1) A form of parody, satire, commentary, criticism,  
12 scholarship, or political or educational expression;

13 (2) News reporting, where the content generated or altered  
14 by artificial intelligence is used to illustrate a  
15 story;

16 (3) A representation of the applicable individual as the  
17 individual in a documentary or in a historical or  
18 biographical manner, including some degree of  
19 fictionalization; and

20 (4) An advertisement or commercial announcement for  
21 content described in paragraphs 1 through 3; provided



1           that the applicable digital imitation is relevant to  
2           the subject of the work so advertised or announced.

3       § **-5 Civil actions; civil remedies.** (a) If:

4       (1) A realistic digital imitation of an individual is  
5           published in violation of section -2 without the  
6           individual's consent; and

7       (2) The realistic digital imitation is not exempted under  
8           section -4,

9       the individual or the individual's estate, for up to ten years  
10       after the death of the individual, may bring an action for civil  
11       remedies pursuant to subsection (b); provided that nothing in  
12       this section shall be construed to extend the period of  
13       limitation under chapter 657 applicable to the action in this  
14       subsection.

15       (b) In accordance with subsection (a), an individual or an  
16       individual's estate may bring a civil action for:

17       (1) Injunctive relief, including an order to remove or  
18           cease distribution of the realistic digital imitation;

19       (2) Monetary damages of up to \$25,000 per advertisement or  
20           recovery of actual damages, including for reputational  
21           injury and emotional distress;



1 (3) Punitive damages, where malice is proven; and

2 (4) Reasonable attorneys' fees and court costs.

3 (c) A cause of action for injunctive or other equitable  
4 relief may be brought by the attorney general in instances in  
5 which the distribution of realistic digital imitations involves  
6 broad public interest or widespread harm. This subsection shall  
7 not be construed to limit the right of an individual or  
8 individual's estate, if applicable, to bring a civil action  
9 pursuant to subsection (b).

10 (d) This section shall not limit or preclude the  
11 individual or individual's estate, if applicable, from pursuing  
12 any other available remedy.

13 § -6 **Application.** (a) Except as provided in subsection  
14 (b), this chapter shall apply to the fullest extent permitted by  
15 federal law.

16 (b) This chapter shall not apply to any medium used for  
17 the publication or dissemination of third-party content,  
18 including but not limited to newspapers, magazines, television  
19 networks and stations, streaming services, cable television  
20 systems, and transit advertisements, by whom any content in  
21 violation of this chapter is disseminated; provided that this



1 exemption shall apply only to the medium's role in publishing or  
2 disseminating the third-party content and shall not be construed  
3 to exempt the underlying conduct regulated by this chapter.

4 (c) Nothing in this chapter shall be construed to limit or  
5 expand the protections conferred by title 47 United States Code  
6 section 230 on an interactive computer service for content  
7 provided by another information content provider."

8 PART II

9 SECTION 3. The Hawaii Revised Statutes is amended by  
10 adding a new chapter to be appropriately designated and to read  
11 as follows:

12 **"CHAPTER**  
13 **ARTIFICIAL INTELLIGENCE; SYNTHETIC PERFORMERS;**  
14 **ADVERTISING; DISCLOSURE**

15 § -1 **Definitions.** As used in this chapter:

16 "Advertisement" means a message published in any medium  
17 with the primary purpose of promoting, directly or indirectly, a  
18 product, service, or commercial transaction.

19 "Artificial intelligence" means a machine-based system that  
20 can, for a given set of human-defined objectives, make  
21 predictions, recommendations, or decisions influencing real or



1 virtual environments, and that uses machine and human-based  
2 inputs to:

- 3 (1) Perceive real and virtual environments;
- 4 (2) Abstract perceptions of real and virtual environments  
5 into models through analysis in an automated manner;  
6 and
- 7 (3) Use model inference to formulate opinions for  
8 information or action.

9 "Artificial intelligence" includes but is not limited to systems  
10 that use machine learning, large language models, natural  
11 language processing, and computer vision technologies, including  
12 generative artificial intelligence.

13 "Generative artificial intelligence" means a class of  
14 artificial intelligence models that are self-supervised and  
15 emulate the structure and characteristics of input data to  
16 generate derived synthetic content, including but not limited to  
17 images, videos, audio, text, and other digital content.

18 "Materially deceptive manner" means the presentation of a  
19 synthetic performer in an advertisement in a manner that:

- 20 (1) Deceptively presents the synthetic performer as a real  
21 person using their name or biographical details and



1           recounting that person's own personal experience with  
2           a product or service; or  
3           (2) Deceptively states that the synthetic performer holds  
4           a specific professional license, certification,  
5           degree, or institutional affiliation, including but  
6           not limited to stating that the synthetic performer is  
7           a licensed physician, attorney, scientist, or  
8           financial advisor.

9           "Synthetic performer" means a highly realistic digital  
10          asset created, reproduced, or modified by computer, using  
11          generative artificial intelligence or a software algorithm and  
12          that is intended to create the impression that the asset is  
13          engaging in an audiovisual or visual performance of a human  
14          performer who is not recognizable as any identifiable natural  
15          performer.

16          §   -2 **Advertising.** Any person engaged in the business of  
17          dealing in any property or service who, for any commercial  
18          purpose, produces or creates an advertisement that uses a  
19          synthetic performer with respect to the property or service,  
20          shall conspicuously disclose in any medium or media in which the  
21          advertisement appears, that a synthetic performer is in the



1 advertisement, where the person has actual knowledge that a  
2 synthetic performer is used in a materially deceptive manner in  
3 the advertisement.

4       §   **-3 Non-applicability of this chapter.** (a) This  
5 chapter shall not apply to any medium used for the publication  
6 or dissemination of third-party content, including but not  
7 limited to motion pictures, television programs, streaming  
8 content, documentaries, video games, or other similar  
9 audiovisual works; provided that the use of a synthetic  
10 performer in the advertisement or promotional material is  
11 consistent with its use in the expressive work.

12       (b) This chapter shall not apply to advertisements and  
13 promotional materials under any of the following conditions:

14       (1) Audio advertisements; or

15       (2) Where the use of artificial intelligence solely  
16 involves the language translation of a human  
17 performer.

18       (c) This chapter shall not apply to any medium used for  
19 the publication or dissemination of third-party content,  
20 including but not limited to newspapers, magazines, television  
21 networks and stations, streaming services, cable television



1 systems, and transit advertisements, by which any advertisement  
2 in violation of this chapter is published or disseminated;  
3 provided that this exemption shall apply only to the medium's  
4 role in publishing or disseminating the third-party content and  
5 shall not be construed to exempt the underlying advertising  
6 conduct regulated by this chapter.

7 (d) Nothing in this chapter shall be construed to limit or  
8 expand the protections conferred by title 47 United States Code  
9 section 230 on an interactive computer service for content  
10 provided by another information content provider.

11 § -4 **Civil penalties.** The attorney general shall  
12 enforce and assess civil penalties against any person who  
13 violates this chapter as follows:

- 14 (1) \$1,000 for a first violation; and  
15 (2) \$5,000 for a second or subsequent violation."

16 PART III

17 SECTION 4. If any provision of this Act, or the  
18 application thereof to any person or circumstance, is held  
19 invalid, the invalidity does not affect other provisions or  
20 applications of the Act that can be given effect without the



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

3 SECTION 5. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 6. This Act shall take effect on January 1, 2077.



**Report Title:**

Artificial Intelligence; Realistic Digital Imitations;  
Protections for Individuals; Synthetic Performers; Advertising;  
Disclosure

**Description:**

Part I: Prohibits certain harmful uses of and mandates disclosure for realistic digital imitations generated by artificial intelligence (AI). Establishes certain exemptions. Provides for civil actions and civil remedies for individuals injured by unauthorized AI-generated realistic digital imitations. Part II: Requires the disclosure of the use of synthetic performers in advertising. Establishes civil fines. Effective 1/1/2077. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

