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# A BILL FOR AN ACT

RELATING TO ARTIFICIAL INTELLIGENCE.

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

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

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



1 protect Hawaii residents from identity-based harm caused by the  
2 malicious use of artificial intelligence (AI) while safeguarding  
3 constitutional rights to free expression, parody, satire, and  
4 journalism.

5 Therefore, the purpose of this Act is to:

- 6 (1) Prohibit certain harmful uses of AI-generated personal
- 7 likenesses; and
- 8 (2) Provide civil remedies for individuals injured by
- 9 unauthorized AI-generated realistic digital
- 10 imitations.

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

14 **"CHAPTER**

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

16 **PROTECTIONS**

17 § -1 **Definitions.** As used in this chapter:

18 "Advertisement" means a message published in any medium  
19 with the primary purpose of promoting, directly or indirectly, a  
20 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 **Exemptions.** This chapter shall not apply to  
20 content generated or altered by artificial intelligence that is:



- 1 (1) A form of parody, satire, commentary, criticism,
- 2 scholarship, or political or educational expression;
- 3 (2) News reporting, where the content generated or altered
- 4 by artificial intelligence is used to illustrate a
- 5 story;
- 6 (3) A representation of the applicable individual as the
- 7 individual in a documentary or in a historical or
- 8 biographical manner, including some degree of
- 9 fictionalization; and
- 10 (4) An advertisement or commercial announcement for
- 11 content described in paragraphs (1) through (3);
- 12 provided that the applicable digital imitation is
- 13 relevant to the subject of the work so advertised or
- 14 announced.

15 § -4 Civil actions; civil remedies. (a) If:

- 16 (1) A realistic digital imitation of an individual is
- 17 published in violation of section -2 without the
- 18 individual's consent; and
- 19 (2) The realistic digital imitation is not exempted under
- 20 section -3,



1 the individual or the individual's estate, for up to ten years  
2 after the death of the individual, may bring an action for civil  
3 remedies pursuant to subsection (b); provided that nothing in  
4 this section shall be construed to extend the period of  
5 limitation under chapter 657 applicable to the action in this  
6 subsection.

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

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

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

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

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

16 (c) A cause of action for injunctive or other equitable  
17 relief may be brought by the attorney general in instances in  
18 which the distribution of realistic digital imitations involves  
19 broad public interest or widespread harm. This subsection shall  
20 not be construed to limit the right of an individual or



1 individual's estate, if applicable, to bring a civil action  
2 pursuant to subsection (b).

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

6 § -5 **Application.** (a) Except as provided in subsection  
7 (b), this chapter shall apply to the fullest extent permitted by  
8 federal law.

9 (b) This chapter shall not apply to any medium used for  
10 the publication or dissemination of third-party content,  
11 including but not limited to newspapers, magazines, television  
12 networks and stations, streaming services, cable television  
13 systems, and transit advertisements, by whom any content in  
14 violation of this chapter is disseminated; provided that this  
15 exemption shall apply only to the medium's role in publishing or  
16 disseminating the third-party content and shall not be construed  
17 to exempt the underlying conduct regulated by this chapter.

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



1 SECTION 3. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

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

10 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Artificial Intelligence; Realistic Digital Imitations;  
Protections for Individuals

**Description:**

Prohibits certain harmful uses of 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. (CD1)

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