

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



1 or 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 "Consent" means express, written permission from a depicted
10 individual or the depicted individual's authorized
11 representative.

12 "Digital imitation" means any AI-generated or computer-
13 synthesized depiction, audio, or video that realistically
14 appears to portray an actual individual's voice, face, likeness,
15 or performance.

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

17 "Harm" includes reputational injury, financial loss,
18 emotional distress, or misappropriation of identity for
19 commercial gain.

20 "Realistic" means so lifelike that a reasonable person
21 would believe that a depiction, audio, or video that appears to



1 portray an actual individual's voice, face, likeness, or
2 performance is authentic.

3 **§ -2 Prohibited acts.** It shall be unlawful for any
4 person to knowingly create, publish, or distribute a realistic
5 digital imitation of an identifiable individual without that
6 individual's consent if the imitation:

7 (1) Is used in connection with a commercial transaction or
8 advertisement;

9 (2) Is likely to cause harm;

10 (3) Falsely implies endorsement or authorship; or

11 (4) Is used to commit fraud, defamation, harassment, or
12 other unlawful acts.

13 **§ -3 Disclosure; requirement.** (a) Any realistic
14 digital imitation that is publicly distributed shall include a
15 clear and conspicuous disclosure that it is generated or altered
16 by artificial intelligence, unless exempted by section -4.

17 (b) The disclosure required under subsection (a) shall be:
18 (1) Visible for video depictions or images;
19 (2) Audible for audio recordings; and



4 **§ -4 Exemptions.** This chapter shall not apply to:

5 (1) Newspapers, magazines, television networks and
6 stations, streaming services, cable television
7 systems, or transit advertisements; or
8 (2) Content generated or altered by artificial
9 intelligence that is:

10 (A) A form of parody, satire, commentary, or
11 political expression, as permitted by law;
12 provided that the content:
13 (i) Includes a clear disclosure that it is
14 fictional or a parody; and
15 (ii) Is not intended, and could not reasonably be
16 foreseen, to deceive a reasonable person
17 into believing that it is authentic;
18 (B) News reporting, where the content generated or
19 altered by artificial intelligence is used to
20 illustrate a story and is clearly disclosed as
21 altered or simulated; and



1 (C) An artistic or educational use, where the content
2 is clearly labeled and no harm is intended or
3 reasonably foreseeable.

4 § -5 Civil actions; civil remedies. (a) If:

5 (1) A realistic digital imitation is made of an individual
6 without the 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).

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

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

16 (2) Monetary damages of up to \$50,000 per violation;

17 (3) Recovery of actual damages, including for reputational

18 injury and emotional distress;

19 (4) Punitive damages, where malice is proven; and

20 (5) Reasonable attorney's fees and court costs.

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

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

PART II

14 SECTION 3. The Hawaii Revised Statutes is amended by
15 adding a new chapter to be appropriately designated and to read
16 as follows:

17 "CHAPTER

20 ~~§~~ -1 **Definitions.** As used in this chapter:



1 "Artificial intelligence", "artificial intelligence
2 technology", or "AI" means a machine-based system that can, for
3 a given set of human-defined objectives, make predictions,
4 recommendations, or decisions influencing real or virtual
5 environments, and that uses machine and human-based 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 "Artificial intelligence", "artificial intelligence
13 technology", or "AI" includes but is not limited to systems that
14 use machine learning, large language model, natural language
15 processing, and computer vision technologies, including
16 generative artificial intelligence.

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



1 "Synthetic performer" means a digitally created asset
2 created, reproduced, or modified by computer, using generative
3 artificial intelligence or a software algorithm, that is
4 intended to create the impression that the asset is engaging in
5 an audiovisual or visual performance of a human performer who is
6 not recognizable as any identifiable natural performer.

7 **§ -2 Advertising.** Any person engaged in the business of
8 dealing in any property or service who, for any commercial
9 purpose, produces or creates an advertisement with respect to
10 the property or service, in any medium or media in which the
11 advertisement appears, shall conspicuously disclose in the
12 advertisement that a synthetic performer is in the
13 advertisement, where the person has actual knowledge.

14 **§ -3 Non-applicability of this chapter.** (a) This
15 chapter shall not apply to advertisements and promotional
16 materials for expressive works, including but not limited to
17 motion pictures, television programs, streaming content,
18 documentaries, video games, or other similar audiovisual works;
19 provided that the use of a synthetic performer in the
20 advertisement or promotional material is consistent with its use
21 in the expressive work.



3 (1) Audio advertisements; or

4 (2) Where the use of artificial intelligence solely
5 involves the language translation of a human
6 performer.

7 (c) This chapter shall not apply to any medium used for
8 advertising, including but not limited to newspapers, magazines,
9 television networks and stations, streaming services, cable
10 television systems, and transit advertisements, by whom any
11 advertisement or solicitation in violation of this chapter is
12 published or disseminated.

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

17 § -4 **Civil penalties.** Any person who violates this
18 chapter shall be civilly fined:

19 (1) \$1,000 for a first violation; and

20 (2) \$5,000 for a second and any subse

21 PART III



1 SECTION 4. 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 5. 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 6. This Act shall take effect on July 1, 3000.



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 7/1/3000. (HD1)

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