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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 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 that aids, promotes, or assists, 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 AI-generated or computer-  
16 synthesized depiction, audio, or video that realistically  
17 appears to portray an actual individual's voice, face, likeness,  
18 or performance.

19 "Harm" includes reputational injury, financial loss,  
20 emotional distress, or the misappropriation of identity for  
21 commercial gain.



1 "Publish" means to display, present, or release to the  
2 public, or cause to be displayed, presented, or released to the  
3 public.

4 "Realistic" means so lifelike that a reasonable person  
5 would believe that a depiction, audio, or video that appears to  
6 portray an actual individual's voice, face, likeness, or  
7 performance is authentic.

8 § -2 **Prohibited acts.** It shall be unlawful for any  
9 person to knowingly publish a realistic digital imitation of an  
10 identifiable individual without that individual's consent if the  
11 imitation:

- 12 (1) Is used in connection with a commercial transaction or  
13 advertisement;
- 14 (2) Causes legally cognizable harm; or
- 15 (3) Is used to commit fraud, defamation, harassment, or  
16 other unlawful acts.

17 § -3 **Disclosure; requirement.** (a) Any realistic  
18 digital imitation that is published without the depicted  
19 individual's consent shall include a clear and conspicuous  
20 disclosure that it is generated or altered by artificial  
21 intelligence, unless exempted by section -4.



- 1 (b) The disclosure required under subsection (a) shall be:  
2 (1) Visible for video depictions or images;  
3 (2) Audible for audio recordings; and  
4 (3) Expressed in plain language, such as "This is an AI-  
5 generated depiction and not an authentic recording of  
6 [person].".

7 § -4 Exemptions. This chapter shall not apply to  
8 content generated or altered by artificial intelligence that is:

- 9 (1) A form of parody, satire, commentary, or political  
10 expression, as permitted by law; provided that the  
11 content is not intended to deceive a reasonable person  
12 into believing that it is authentic;  
13 (2) News reporting, where the content generated or altered  
14 by artificial intelligence is used to illustrate a  
15 story and is clearly disclosed as altered or  
16 simulated; and  
17 (3) An artistic or educational use, where the content is  
18 clearly labeled and no harm is intended or reasonably  
19 foreseeable.

20 § -5 Civil actions; civil remedies. (a) If:

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

4 (2) The realistic digital imitation is not exempted under  
5 section -4,  
6 the individual or the individual's estate, for up to ten years  
7 after the death of the individual, may bring an action for civil  
8 remedies pursuant to subsection (b); provided that nothing in  
9 this section shall be construed to extend the period of  
10 limitation under chapter 657 applicable to the action in this  
11 subsection.

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.

11 (e) This chapter shall apply to the fullest extent  
12 permitted by federal law."

13 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  
18 ARTIFICIAL INTELLIGENCE; SYNTHETIC PERFORMERS;  
19 ADVERTISING; DISCLOSURE

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



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

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



1 "Synthetic performer" means a digital asset created,  
2 reproduced, or modified by computer, using generative artificial  
3 intelligence or a software algorithm and that is intended to  
4 create the impression that the asset is engaging in an  
5 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.



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

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 in violation of this chapter is published or  
12 disseminated; provided that this subsection shall only apply to  
13 activities of the medium in publishing or disseminating such  
14 third-party content, and shall not be construed to exempt the  
15 underlying advertising conduct regulated by this chapter.

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





**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. (HD3)

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

