



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, likeness, or  
19 performance.



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 with the knowledge that the individual  
14 did not consent if the imitation:

- 15 (1) Is used in connection with an advertisement;  
16 (2) Causes a reputational injury, financial loss,  
17 emotional distress, or the misappropriation of  
18 identity for commercial gain; or  
19 (3) Is used to commit fraud, defamation, harassment, or  
20 other criminal acts.



- 1           §   **-3 Disclosure; requirement.** (a) Any realistic  
2 digital imitation that is published without the depicted  
3 individual's consent shall include a clear and conspicuous  
4 disclosure that it is generated or altered by artificial  
5 intelligence, unless exempted by section   -4.
- 6           (b) The disclosure required under subsection (a) shall be:
- 7           (1) Visible for video depictions or images;
- 8           (2) Audible for audio recordings; and
- 9           (3) Expressed in plain language, such as "This is an AI-  
10 generated depiction and not an authentic recording of  
11 [person].".
- 12          §   **-4 Exemptions.** This chapter shall not apply to  
13 content generated or altered by artificial intelligence that is:
- 14          (1) A form of parody, satire, commentary, or political  
15 expression;
- 16          (2) News reporting, where the content generated or altered  
17 by artificial intelligence is used to illustrate a  
18 story;
- 19          (3) A non-commercial artistic or educational use, where  
20 the content is clearly labeled pursuant to



1 section -3 and no harm is intended or reasonably  
2 foreseeable; and

3 (4) Any other use protected by the First Amendment of the  
4 United States Constitution or article I, section 4, of  
5 the Hawaii State Constitution.

6 § -5 **Civil actions; civil remedies.** (a) If:

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

10 (2) The realistic digital imitation is not exempted under  
11 section -4,

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

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

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



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

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

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

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

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

16 § -6 **Application.** (a) Except as provided in subsection  
17 (b), this chapter shall apply to the fullest extent permitted by  
18 federal law.

19 (b) This chapter shall not apply to any medium used for  
20 the publication or dissemination of third-party content,  
21 including but not limited to newspapers, magazines, television



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

7 (c) 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 PART II

12 SECTION 3. 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; SYNTHETIC PERFORMERS;  
17 ADVERTISING; DISCLOSURE

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" 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 models, 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 "Materially deceptive manner" means the presentation of a  
2 synthetic performer in an advertisement in a manner that:

3 (1) Deceptively presents the synthetic performer as a real  
4 person using their name or biographical details and  
5 recounting that person's own personal experience with  
6 a product or service; or

7 (2) Deceptively states that the synthetic performer holds  
8 a specific professional license, certification,  
9 degree, or institutional affiliation, including but  
10 not limited to stating that the synthetic performer is  
11 a licensed physician, attorney, scientist, or  
12 financial advisor.

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

20 § -2 **Advertising.** Any person engaged in the business of  
21 dealing in any property or service who, for any commercial



1 purpose, produces or creates an advertisement that uses a  
2 synthetic performer with respect to the property or service,  
3 shall conspicuously disclose in any medium or media in which the  
4 advertisement appears, that a synthetic performer is in the  
5 advertisement, where the person has actual knowledge that a  
6 synthetic performer is used in a materially deceptive manner in  
7 the advertisement.

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

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

- 18       (1) Audio advertisements; or  
19       (2) Where the use of artificial intelligence solely  
20 involves the language translation of a human  
21 performer.



1 (c) This chapter shall not apply to any medium used for  
2 the publication or dissemination of third-party content,  
3 including but not limited to newspapers, magazines, television  
4 networks and stations, streaming services, cable television  
5 systems, and transit advertisements, by which any advertisement  
6 in violation of this chapter is published or disseminated;  
7 provided that this exemption shall apply only to the medium's  
8 role in publishing or disseminating the third-party content and  
9 shall not be construed to exempt the underlying advertising  
10 conduct regulated by this chapter.

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

15 § -4 **Civil penalties.** The attorney general shall  
16 enforce and assess civil penalties against any person who  
17 violates this chapter as follows:

- 18 (1) \$1,000 for a first violation; and  
19 (2) \$5,000 for a second or subsequent violation."

20 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 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. (SD1)

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