



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2026**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2137, H.D. 3, S.D. 1, RELATING TO ARTIFICIAL INTELLIGENCE.

**BEFORE THE:**

SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION AND ON JUDICIARY

**DATE:** Thursday, April 2, 2026

**TIME:** 9:20 a.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**

(For more information, contact Ashley M. Tanaka,  
Deputy Attorney General, at (808) 586-1180)

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Chairs Keohokalole and Rhoads and Members of the Committees:

The Department of the Attorney General (Department) provides the following comments.

This bill adds two new chapters to the Hawaii Revised Statutes (HRS) to prohibit certain unauthorized uses of artificial intelligence-generated likenesses, mandate disclosure for the public distribution of such likenesses, and provide civil actions and civil remedies for injured individuals.

Paragraph (4) of section -4, "Exemptions," of the first new chapter to be added to the HRS by section 2 of this bill provides that this chapter shall not apply to content generated or altered by artificial intelligence that is "[a]ny other use protected by the First Amendment of the United States Constitution or article I, section 4, of the Hawaii State Constitution" (page 6, lines 3-5). This paragraph may preclude most applications of section -3, "Disclosure; requirement," on page 5, lines 1-11, which requires disclosures for certain published content, content which likely includes commercial speech that is protected by the First Amendment but is nevertheless still subject to permissible disclosure requirements. To mitigate this issue, we recommend deleting paragraph (4) on page 6, lines 3-5.

In the alternative, we recommend amending paragraph (4) by adding "non-commercial" in front of "use," so that paragraph (4) instead reads as follows (suggested additions highlighted in bold and underlined):

- (4) Any other **non-commercial** use protected by the First Amendment of the United States Constitution or article I, section 4, of the Hawaii State Constitution.

Thank you for the opportunity to provide comments.



April 1, 2026

Position: **SUPPORT** of **HB2137 HD3 SD1** with **COMMENTS**, Relating to Artificial Intelligence

**To:** Senators Jarrett Keohokalole and Karl Rhoads, Chairs  
Senators Carol Fukunaga and Mike Gabbard, Vice Chairs  
Members of the Senate Committees on Commerce and Consumer Protection, and Judiciary

**From:** Llasmin Chaine, LSW, Executive Director, Hawaii State Commission on the Status of Women

**Re:** Testimony in **SUPPORT** of **HB2137 HD3 SD1** with **COMMENTS**, Relating to Artificial Intelligence

Hearing: Thursday, April 2, 2026, 9:20 a.m.  
Conference Room 229, State Capitol

The Hawaii State Commission on the Status of Women **supports HB2137 HD3 SD1**, which establishes important protections and disclosure requirements regarding artificial intelligence-generated realistic digital imitations and synthetic performers in advertising.

Our mission is to advance equality and well-being for women and girls in Hawai'i. The proliferation of AI-generated digital imitations poses unique risks, including the unauthorized use of likenesses, potential for gender-based harassment, and the spread of harmful or misleading representations. These risks disproportionately impact women and girls, who are often the targets of digital exploitation and misrepresentation.

By mandating disclosure and prohibiting certain harmful uses of AI-generated likenesses, this bill aligns with our commitment to equity, safety, and the prevention of gender-based violence. The civil remedies and enforcement mechanisms provided will empower individuals to seek recourse when their image or voice is misused, supporting victim-centered approaches to policy.

**To strengthen the effectiveness of this measure and prevent the provision of loopholes for unauthorized use of a realistic digital imitation of an individual**, we provide the following suggested amendment for the Committees' consideration:

- The verbiage regarding "**prohibited acts**" **be restored to the HD3 version** on page 4, lines 13-14, requiring an individual's consent prior to publication, to read:

(13) identifiable individual ~~with the knowledge that the individual~~ **without that individual's consent if the**

(14) ~~did not consent if the~~ imitation:

We respectfully urge the Committees to **pass HB2137 HD3 SD1 with the suggested amendment**, strengthening community safety and public health. Thank you for this opportunity to submit testimony.



The Senate Committees on Commerce and Consumer Protection and Judiciary  
April 2, 2026  
Room 229  
9:20 AM

RE: **HB 2137 HD3, SD1, Relating to Artificial Intelligence**

Attention: Chairs Jarrett Keohokalole and Karl Rhoads, Vice Chairs Carol Fukunaga and Mike Gabbard, Members of the Committees

The University of Hawaii Professional Assembly (UHPA), the exclusive bargaining representative for all University of Hawai'i faculty members across Hawai'i's statewide 10-campus system, **supports HB 2137 HD3, SD1.**

As public educators and subject matter experts, our faculty members are increasingly vulnerable to having their likenesses or voices used in unauthorized "deepfakes" to manufacture false endorsements, spread misinformation, or damage their professional reputations. We strongly agree that the state must establish clear prohibitions and penalties for the malicious distribution of these realistic digital imitations.

We extend our appreciation to prior committees for reinstating and preserving the exemption for educational use in Section -4 of the bill. Faculty members who teach media literacy, digital arts, communications, and computer science utilize, generate, and alter synthetic media as part of legitimate pedagogical activities to help students understand and combat these emerging technologies. By explicitly exempting non-commercial educational use, this measure ensures that academic freedom is not inadvertently chilled and that faculty are not exposed to legal liability for simply doing their jobs.

**UHPA supports the passage of HB 2137 HD3, SD1.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'C. L. Fern'.

Christian L. Fern  
Executive Director  
University of Hawaii Professional Assembly



APRIL 2, 2026

## HOUSE BILL 2137 HD3 SD1

CURRENT REFERRAL: CPN/JDC

808-679-7454  
kris@imuaalliance.org  
www.imuaalliance.org  
@imuaalliance

Kris Coffield,  
*President*

David Negaard,  
*Director*

Mireille Ellsworth,  
*Director*

Justin Salisbury,  
*Director*

Eileen Roco,  
*Director*

Beatrice DeRego,  
*Director*

Corey Rosenlee,  
*Director*

Amy Zhao,  
*Policy and Partnerships  
Strategist*

### POSITION: SUPPORT

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Imua Alliance supports HB 2137 HD3 SD1, relating to artificial intelligence, which prohibits certain harmful uses of and mandates disclosure for realistic digital imitations generated by artificial intelligence; provides for civil actions and civil remedies for individuals injured by unauthorized AI-generated realistic digital imitations; and requires the disclosure of the use of synthetic performers in advertising.

Imua Alliance is a Hawai'i-based organization dedicated to ending all forms of exploitation, including digital gender violence. As a service provider for survivors of image-based sexual abuse, we know that these harms are no longer theoretical; they are happening now, and they are accelerating. Survivors increasingly report cases where perpetrators create or threaten to create synthetic sexual images, audio, or video to harass, extort, or control victims, even when no original images exist. The ability to fabricate a person's likeness removes the last barrier to exploitation and dramatically expands the pool of potential victims.

This measure addresses this emerging threat in three critical ways. First, it establishes clear guardrails around the use of AI-generated likenesses. The bill makes it unlawful to knowingly create or distribute a realistic digital imitation of an identifiable individual without consent when it is used for commercial purposes, to cause harm, to falsely imply endorsement, or to facilitate unlawful conduct such as harassment or fraud. This directly targets the most harmful uses of synthetic media while preserving space for legitimate expression, parody, and journalism.

Second, it requires transparency in synthetic media. The proposal mandates clear and conspicuous disclosure when realistic AI-generated depictions are distributed publicly. This is a critical consumer protection measure that helps prevent deception, protects democratic processes, and allows the public to distinguish authentic content from manipulated media.

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Third, it creates meaningful remedies for victims. The bill allows individuals whose likeness is used without consent to seek injunctive relief, damages, and removal of harmful content, with enforcement authority also available to the Attorney General in cases of widespread harm. These remedies are essential for survivors, who often face ongoing, repeated harm once synthetic content is released.

From a public health and safety perspective, this bill is urgently needed. Technology-facilitated abuse—including deepfake sexual imagery—has been linked to severe psychological harm, reputational damage, financial exploitation, and social isolation. Hawai'i has already taken important steps to address image-based sexual abuse; the measure ensures that our laws remain effective as technology evolves.

The proposal also balances free expression and constitutional protections, explicitly recognizing exemptions for parody, satire, journalism, and clearly disclosed artistic or educational uses. This careful tailoring strengthens the bill's legal durability while ensuring that it targets only harmful, deceptive, and nonconsensual uses.

This is a commonsense consumer protection and civil rights measure that protects Hawai'i residents from identity-based harm, supports survivors of digital abuse, promotes transparency in emerging technologies, and helps ensure that innovation develops in a way that is ethical, and accountable.

With aloha,

*Kris Coffield*

President, Imua Alliance



# MOTION PICTURE ASSOCIATION

## House Bill 2137 – Oppose Unless Amended

### Senate Committee on Commerce & Consumer Protection Senate Committee on Judiciary Joint Hearing

**April 1, 2026**

The Motion Picture Association, Inc. (“MPA”) and its members respectfully oppose House Bill 2137 (H.D. 3 S.D. 1) (“HB 2137” or “the Bill”) unless it is amended. The MPA is a not-for-profit trade association founded in 1922 to address issues of concern to the motion picture industry. Since that time, MPA has advanced the business and art of storytelling, protecting the creative and artistic freedoms of storytellers, and bringing entertainment and inspiration to audiences worldwide. The MPA’s members are: Amazon Studios, LLC, Netflix Studios, LLC, Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Universal City Studios LLC, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment Inc.

Part I of HB 2137 would prohibit the unauthorized publication of a “digital imitation” of an individual and impose disclosure obligations on uses of such imitations. We appreciate the amendments made during the legislative process but request some narrow additional amendments that will protect against the unauthorized use of a digital imitation while safeguarding the First Amendment rights of filmmakers and others to use such imitations in ways protected by the First Amendment. Our proposed amendments are limited to the definition of “digital imitation,” the exemptions, and the provision addressing entities that carry third-party content. MPA’s requested amendments are attached to the Memo and highlighted below.

#### **Amendment 1: page 3 of the Bill, lines 15-19:**

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

**Amendment 2: page 5, line 14 through page 6, line 5:**

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

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

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

(3) **A representation of the applicable individual as the individual in a documentary or in a historical or biographical manner, including some degree of fictionalization;** ~~A non-commercial artistic or educational use, where the content is clearly labeled pursuant to section -3 and no harm is intended or reasonably foreseeable;~~ and

**(4) an advertisement or commercial announcement for content described in any of subsections (1)-(4) and the applicable digital imitation is relevant to the subject of the work so advertised or announced; and**

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

**Amendment 3: page 8, line 2:**

After “any” and before “in”, change “advertisement” to “**content**”

These modest, limited amendments will ensure that individuals are protected from inappropriate uses of their digital imitations while protecting filmmakers’ rights to tell their stories. MPA appreciates the consideration of the Committees on Commerce & Consumer Protection and Judiciary.

**MPA REQUESTED AMENDMENTS TO HOUSE BILL 2137**

HOUSE OF REPRESENTATIVES	H.B. NO.	2137
THIRTY-THIRD LEGISLATURE, 2026		H.D. 3
STATE OF HAWAII		S.D. 1

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A BILL FOR AN ACT

RELATING TO ARTIFICIAL INTELLIGENCE.

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

PART I

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

The legislature additionally finds that federal law addresses limited scenarios of the malicious use of deepfake technology, including explicit content targeting minors, but

leaves broad gaps in consumer and reputational protection. Furthermore, the legislature finds that the State has a compelling interest in preventing fraud, identity theft, defamation, and emotional distress while also protecting lawful speech. Moreover, the legislature finds that it is important to protect Hawaii residents from identity-based harm caused by the malicious use of artificial intelligence (AI) and synthetic media while safeguarding constitutional rights to free expression, parody, satire, and journalism.

Therefore, the purpose of this part is to:

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

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

## **"Chapter**

### **ARTIFICIAL INTELLIGENCE; DIGITAL IMITATION; PERSONAL LIKENESS; PROTECTIONS**

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

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

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

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

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

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

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

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

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

**§ -2 Prohibited acts.** It shall be unlawful for any person to knowingly publish a realistic digital imitation of an identifiable individual with the knowledge that the individual did not consent if the imitation:

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

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

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

- (1) Visible for video depictions or images;
- (2) Audible for audio recordings; and
- (3) Expressed in plain language, such as "This is an AI-generated depiction and not an authentic recording of [person].".

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

- (1) A form of parody, satire, commentary, **criticism, scholarship**, or political or **educational** expression;
- (2) News reporting, where the content generated or altered by artificial intelligence is used to illustrate a story;
- (3) **A representation of the applicable individual as the individual in a documentary or in a historical or biographical manner, including some degree of**

**fictionalization;** A non-commercial artistic or educational use, where the content is clearly labeled pursuant to section -3 and no harm is intended or reasonably foreseeable; and

**(4) an advertisement or commercial announcement for content described in any of subsections (1)-(4) and the applicable digital imitation is relevant to the subject of the work so advertised or announced;** and

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

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

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

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

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

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

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

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

(4) Reasonable attorneys' fees and court costs.

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

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

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

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

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

## PART II

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

### "Chapter

### **ARTIFICIAL INTELLIGENCE; SYNTHETIC PERFORMERS;**

### **ADVERTISING; DISCLOSURE**

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

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

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

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

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

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

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

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

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

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

**§ -2 Advertising.** Any person engaged in the business of dealing in any property or service who, for any commercial purpose, produces or creates an advertisement that uses a synthetic performer with respect to the property or service, shall conspicuously disclose in any medium or media in which the advertisement appears, that a synthetic performer is in the advertisement, where the person has actual knowledge that a synthetic performer is used in a materially deceptive manner in the advertisement.

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

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

(1) Audio advertisements; or

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

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

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

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

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

### PART III

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

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

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)



April 2, 2026

Senate Commerce and Consumer Protection and Judiciary Committees  
Hawaii State Capitol  
415 S Beretania St.  
Honolulu, HI 96813

**LATE**

## RE: HB 2137 – “Relating to Artificial Intelligence” (Neutral)

Dear Chair Keohokalole, Chair Rhoads, and Members of the Senate Commerce and Consumer Protection and Judiciary Committees:

On behalf of the Computer & Communications Industry Association (CCIA), I am writing to express our appreciation for the Senate Labor and Technology Committee’s willingness to engage with industry stakeholders regarding HB 2137. Following the incorporation of several critical amendments in the previous committee, CCIA is pleased to move its position from "Oppose Unless Amended" to Neutral.

We would like to thank the Committee for adopting the following amendments, which were essential to addressing constitutional concerns and ensuring the bill provides a clear, workable framework for responsible innovation:

### Refinement of Definitions

The adopted revisions provide essential clarity and protect free expression by narrowing the scope of key legal definitions. By replacing vague phrasing with precise standards, the law now specifically targets digital imitations derived from an actual person's characteristics and limits actionable harm to specific, provable injuries like financial loss or emotional distress. Additionally, the refined definition of advertisement; which now focuses on content where the "primary purpose" is commercial promotion, ensures that common online activities and expressive works are no longer at risk of inadvertent legal consequences.

### Knowledge and Intent Standards

The Committee’s decision to adjust the liability standard for "Prohibited Acts" is a vital improvement. By changing the threshold to require that a person publish an imitation "with the knowledge that the individual did not consent," the bill now properly targets bad actors who maliciously exploit likenesses rather than those acting without intent or awareness of a lack of permission.

### Intermediary Protections and Safe Harbors

The revised language protects intermediaries by ensuring that "Non-applicability" provisions shield publishers and platforms from liability when they act merely as a medium for third-party content. By placing responsibility solely on the party that intentionally posted the offending material, the bill avoids unfairly penalizing the platforms themselves. Crucially, the explicit alignment with Section 230 preserves federal legal certainties, allowing interactive computer



services to host diverse user-generated content without the threat of being held liable for unauthorized material shared without their knowledge.

## Balanced Civil Remedies

Finally, we appreciate the adjustment to statutory damages. Reducing the maximum statutory damages per violation from \$50,00 to \$25,000 helps mitigate the risk of frivolous, "shakedown" litigation while still providing a robust deterrent against unauthorized AI-generated replications.

CCIA supports the State's goal of protecting Hawaii residents from the malicious use of "deepfake" technology and synthetic media. We believe the current version of HB 2137 strikes a much-improved balance between protecting individual rights and safeguarding the constitutional right to free expression.

We would appreciate this committee's understanding of the robust stakeholder engagement that has taken place to get the bill to this point and ask that the committee not to make an amendment that would disrupt the newly established framework.

Respectfully submitted,

Aodhan Downey  
State Policy Manager, West Region  
Computer & Communications Industry Association

**HB-2137-SD-1**

Submitted on: 3/29/2026 6:25:26 PM

Testimony for CPN on 4/2/2026 9:20:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
William Caron	Individual	Support	Written Testimony Only

Comments:

Aloha Chair, Vice Chair, and Members of the Committee,

I am writing in strong support of HB2137, but I must express profound concern about the amendments inserted by the previous committee. These changes appear to reflect industry demands to water down this legislation, and they would significantly undermine the very protections this bill is meant to provide.

I urge this committee to reject these weakening amendments and restore the strongest possible regulations to protect Hawai‘i residents from the harms of unauthorized AI-generated likenesses.

**Why This Bill Matters More Than Ever**

Artificial intelligence has advanced at a breathtaking pace, and with it comes the capacity to create "realistic digital imitations"—convincing depictions of real people doing or saying things they never actually did or said.

Without strong, clear legal protections, any individual—whether a public figure or a private citizen—can have their face, voice, or likeness used without consent in ways that cause reputational, emotional, or financial injury. The amendments made to this bill would carve out dangerous exceptions, lower penalties, and create loopholes that leave victims without meaningful recourse.

**The Amendments Dangerously Narrow the Scope of Harm**

The original bill provided protection against "legally cognizable harm"—a broad, victim-centered standard that allowed individuals to seek justice when they were wronged. The amended version replaces this with a narrow, specified list requiring reputational injury, financial loss, emotional distress, **or** misappropriation for commercial gain.

This is a significant weakening of the bill. Under the amended language, if someone creates a non-commercial deepfake of you engaged in humiliating conduct—purely to cause you emotional distress—you must prove reputational injury or financial loss, or the conduct falls outside the commercial gain provision.

**Emotional distress alone should be sufficient.** The original standard recognized that harm is harm. The amended standard forces victims to jump through unnecessary legal hoops.

**I urge the committee to restore "legally cognizable harm" as the standard.**

### **The Exceptions Have Become Loopholes**

The original bill included reasonable exemptions for news reporting and legitimate speech. The amended version has expanded these exemptions to a dangerous degree:

- **Parody, satire, commentary, or political expression** now enjoy blanket immunity. While parody and satire are protected speech, the line between legitimate satire and malicious impersonation is thin. A realistic digital imitation of a private citizen engaging in fabricated criminal conduct—labeled as "satire"—would be immunized under this language. This exception is dangerously overbroad and invites abuse.
- **Non-commercial artistic or educational use** is now exempt if the content is "clearly labeled" and "no harm is intended or reasonably foreseeable." This places an impossible burden on victims. How does an individual prove what the creator "intended"? And the "reasonably foreseeable" standard asks victims to argue what the creator should have known, rather than focusing on the actual harm suffered. **If a realistic digital imitation causes harm, the victim should have recourse regardless of the creator's intent.**
- **Any other use protected by the First Amendment** creates a catch-all exemption that could swallow the entire bill. Courts should interpret constitutional protections; the statute should not preemptively surrender to an undefined and limitless exemption.

**I urge the committee to narrow these exemptions to their original, reasonable scope and reject any blanket immunity for categories that can easily be exploited to cause harm.**

### **Lowering Damages Caps and Restricting Recovery Weakens Accountability**

The amended bill makes two critical changes to remedies:

1. **It forces victims to choose between statutory damages and actual damages**, rather than allowing recovery of both. A victim who suffers severe reputational injury and emotional distress may find that actual damages are difficult to quantify and prove. Statutory damages exist precisely to provide a remedy when actual damages are hard to measure. Forcing an election between the two means victims must gamble on which path will yield justice. **Restoring the ability to recover both ensures victims are made whole.**
2. **It lowers the statutory damages cap from \$50,000 to \$25,000 per advertisement.** This is a direct reduction in accountability. For a powerful deterrent, penalties must be meaningful. Cutting the cap in half sends a message that this conduct is not taken seriously. **The \$50,000 cap should be restored.**

### **The Platform Immunity Provisions Create a Safe Harbor for Harm**

The amended bill inserts language clarifying that it shall not apply to any medium used for the publication or dissemination of third-party content, and that nothing in the chapter limits or expands Section 230 protections for interactive computer services.

While I understand the intent to avoid conflict with federal law, this language as drafted could be interpreted as creating broad immunity for platforms that host and profit from realistic digital imitations. **If a platform knowingly hosts AI-generated content that uses someone's likeness without consent and causes harm, they should not enjoy blanket immunity.** The bill should make clear that platforms are not exempt when they have knowledge of unlawful content and fail to act.

### **The Synthetic Performer Disclosure Provisions Have Been Weakened**

In Part II of the bill, the amendments insert a "materially deceptive manner" standard for synthetic performer disclosures and similarly exempt platforms hosting third-party content. This creates the same loopholes: a platform that profits from deceptive AI-generated advertisements can claim it merely hosts third-party content and escape liability. **Consumers have a right to know when they are seeing a synthetic performer, and the entities that publish and profit from these advertisements should bear responsibility for clear disclosure.**

### **A Balanced Approach Requires Strength, Not Weakening**

This bill was carefully constructed to set basic, common-sense guardrails: you cannot use someone's likeness without their permission in ways that cause harm, and you must be transparent when you use AI-generated performers in advertising. The amendments made by the previous committee carve out exceptions, lower penalties, and create loopholes that benefit industry interests at the expense of individual rights.

Other states are moving aggressively to regulate AI deepfakes and digital imitations. Hawai'i has the opportunity to lead with strong, effective protections. But that requires rejecting watered-down language that reflects industry demands rather than community needs.

### **I urge this committee to:**

1. **Restore "legally cognizable harm"** as the standard for unlawful conduct.
2. **Narrow the exceptions** to prevent parody, satire, and artistic use from becoming blanket immunities for harmful conduct.
3. **Restore the ability to recover both statutory and actual damages, and reinstate the \$50,000 statutory damages cap.**
4. **Clarify that platform immunity does not shield entities that knowingly host and profit from unauthorized digital imitations.**
5. **Pass the strongest possible version of HB2137**—one that provides meaningful protections for individuals and transparency for consumers, without loopholes that benefit bad actors.

When a person's face or voice is used without their consent to create content they never agreed to, it is a violation of their fundamental dignity. When consumers are shown an advertisement featuring a synthetic performer with no disclosure, it is a violation of their right to know what they are seeing. HB2137 can address both harms—but only if it remains strong.

I urge this committee to reject industry-backed weakening amendments and pass the strongest possible bill to protect Hawai'i residents in the age of AI.

Mahalo for the opportunity to testify.

**LATE**

**HB-2137-SD-1**

Submitted on: 4/1/2026 4:48:03 PM

Testimony for CPN on 4/2/2026 9:20:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nancy Depicolzuane	Individual	Support	Written Testimony Only

Comments:

I support HB2137 relating to Artificial Intelligence.

Members of the film industry are at risk because they are required to supply photos, audition videos, and personal information for every audition, production job, and special project. Those persons really have no control over how their information is used once it's in the MANY hands who have access to it within a company and their associates. Or, by those who might hack into it and create digital imitations/ A.I. images. Those who don't want to risk the misuse, won't get to work.

Sadly, those actors, other creatives, and the likeness and information of those in the general population are not nearly as protected as they need to be. At this time, a nefarious person or system can utilize what they have gathered to create imitations; then, the harmful possibilities are endless.

Even on a scale with less criminal original intent, there are NUMEROUS circumstances when the digital imitations (A.I.) of one's likeness and information can be used without permission or compensation and negatively impact the subject/person(s). The dangers are immeasurable and could be extensive without strict protections and enforced penalties.

I respectfully request our legislators to support HB2137. Thank you very much for your time, hard work, and consideration. Aloha!