

SENATE CS FOR CS FOR HOUSE BILL NO. 358(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/13/24

Referred: Rules

Sponsor(s): REPRESENTATIVES CRONK, McCabe, Fields, Vance, Josephson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to defamation claims based on the use of synthetic media; relating to**
2 **the use of synthetic media in electioneering communications; and providing for an**
3 **effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 09.65 is amended by adding a new section to read:

6 **Sec. 09.65.360. Civil liability for defamation based on synthetic media.** An
7 action for defamation based on the use of synthetic media is a claim for defamation
8 per se. In this section, "synthetic media" has the meaning given in AS 15.80.009(f).

9 * **Sec. 2.** AS 15.80 is amended by adding a new section to read:

10 **Sec. 15.80.009. Synthetic media in electioneering communications.** (a) A
11 person may not knowingly use synthetic media in an electioneering communication
12 with the intent to influence an election.

13 (b) An individual who is harmed by an electioneering communication that
14 violates this section may bring an action in the superior court to recover damages, full

1 reasonable attorney fees, and costs from

2 (1) the person who created the electioneering communication or
3 retained the services of another to create the electioneering communication;

4 (2) a person who disseminates an electioneering communication
5 knowing that the electioneering communication includes synthetic media; or

6 (3) a person who removes a disclosure statement described in (d) of
7 this section from an electioneering communication with the intent to influence an
8 election and knowing that the electioneering communication includes synthetic media.

9 (c) An individual who is harmed by an electioneering communication that
10 violates this section may seek injunctive relief in the superior court to prohibit
11 publication of the synthetic media.

12 (d) It is a defense to an action under this section that

13 (1) the electioneering communication included the following
14 disclosure statement: "This (image/video/audio) has been manipulated" and

15 (A) for visual media that included other text, the text of the
16 disclosure statement remained visible throughout the entirety of the
17 communication, was easily readable by the average viewer, and was in a font
18 not smaller than the largest font size of any other text that appeared in the
19 visual component;

20 (B) for visual media that did not include any other text, the
21 disclosure statement was in a font size that was easily readable by the average
22 viewer;

23 (C) for a communication that consisted of only audio, the
24 disclosure statement was read

25 (i) at the beginning of the audio, at the end of the audio,
26 and, if the audio was longer than two minutes in duration, at intervals
27 interspersed within the audio that occurred at least once every two
28 minutes; and

29 (ii) in a clear manner and in a pitch and at a speed that
30 was easily heard by the average listener; or

31 (2) the synthetic media constitutes satire or parody.

1 (e) An interactive computer service, Internet service provider, cloud service
2 provider, telecommunications network, or radio or television broadcaster, including a
3 cable or satellite television operator, programmer, or producer, is not liable under this
4 section for hosting, publishing, or distributing an electioneering communication
5 provided by another person. This subsection does not prevent an individual from
6 bringing an action under (b)(3) of this section for removing a disclosure statement.

7 (f) In this section,

8 (1) "access software provider" means a provider of client, server, or
9 other software or enabling tools that

10 (A) filter, screen, allow, or disallow content;

11 (B) pick, choose, analyze, or digest content; or

12 (C) transmit, receive, display, forward, cache, search, subset,
13 organize, reorganize, or translate content;

14 (2) "artificial intelligence" means a machine-based system that, for
15 explicit or implicit objectives, infers, from the input the system receives, how to
16 generate outputs, including predictions, content, recommendations, and decisions that
17 can influence physical or virtual environments, with different artificial intelligence
18 systems varying in levels of autonomy and adaptiveness after deployment;

19 (3) "electioneering communication" means a communication that

20 (A) directly or indirectly identifies a candidate or political
21 party;

22 (B) is disseminated through a mailing, a newspaper, the
23 Internet, or broadcast media, including radio, television, cable, or satellite, to
24 an audience that includes voters who will have the opportunity to vote on a
25 candidate identified in the communication or on a candidate of a party
26 identified in the communication; and

27 (C) when read as a whole and with limited reference to outside
28 events, is susceptible of no other reasonable interpretation but as an
29 exhortation to vote for or against a specific candidate;

30 (4) "interactive computer service" means an information service,
31 system, or access software provider that provides or enables computer access by

1 multiple users to a computer server, including specifically a service or system that
2 provides access to the Internet and such systems operated or services offered by
3 libraries or educational institutions;

4 (5) "synthetic media"

5 (A) means an image, audio recording, or video recording of an
6 individual's appearance, speech, or conduct that is manipulated by artificial
7 intelligence in a manner that creates a realistic but false image, audio
8 recording, or video recording and produces

9 (i) a depiction that a reasonable person would believe is
10 of a real individual in appearance, speech, or conduct but did not
11 actually occur in reality; and

12 (ii) a materially different understanding or impression
13 than a reasonable person would have from the unaltered, original
14 version of the image, audio recording, or video recording;

15 (B) does not include an image, audio recording, or video
16 recording that is minimally edited, adjusted, or enhanced by artificial
17 intelligence without materially altering how the meaning or significance of the
18 depiction would be perceived by a reasonable person.

19 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).