

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2353 Session of 2024

INTRODUCED BY KHAN, MERCURI, GREEN, MERSKI, PIELLI, MARCELL, McNEILL, HILL-EVANS, KINSEY, GUENST, SANCHEZ, HANBIDGE, DONAHUE, KENYATTA, PROBST, SCOTT, GIRAL, BRENNAN, KINKEAD, CIRESI, BOROWSKI, SHUSTERMAN, JAMES, ROZZI, FREEMAN, HADDOCK, PASHINSKI AND WARREN, MAY 29, 2024

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 24, 2024

AN ACT

1 Providing for civil liability for fraudulent misrepresentation
2 of candidates; and imposing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Fraudulent
7 Misrepresentation of a Candidate Prevention Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Artificial intelligence." ~~Any of the following:~~ <--

13 ~~(1) An artificial system that performs tasks under~~
14 ~~varying and unpredictable circumstances without significant~~
15 ~~human oversight or that can learn from experience and improve~~
16 ~~performance when exposed to data sets.~~

1 ~~(2) An artificial system developed in computer software,~~
2 ~~physical hardware or other context that solves tasks~~
3 ~~requiring human like perception, cognition, planning,~~
4 ~~learning, communication or physical action.~~

5 ~~(3) An artificial system designed to think or act like a~~
6 ~~human, including cognitive architectures and neural networks.~~

7 ~~(4) A set of techniques, including machine learning,~~
8 ~~that is designed to approximate a cognitive task.~~

9 ~~(5) An artificial system designed to act rationally,~~
10 ~~including an intelligent software agent or embodied robot~~
11 ~~that achieves goals using perception, planning, reasoning,~~
12 ~~learning, communicating, decision making and acting.~~

13 ~~"Artificially generated impersonation." A form of media,~~
14 ~~including text, image, video or sound:~~

15 ~~(1) the production of which is wholly dependent upon the~~
16 ~~use of artificial intelligence; and~~

17 ~~(2) that appears to establish, resemble or represent an~~
18 ~~individual in a way that did not occur in reality.~~

19 AS FOLLOWS: <--

20 (1) A MACHINE-BASED SYSTEM THAT CAN, FOR A GIVEN SET OF
21 HUMAN-DEFINED OBJECTIVES, MAKE PREDICTIONS, RECOMMENDATIONS
22 OR DECISIONS INFLUENCING REAL OR VIRTUAL ENVIRONMENTS,
23 INCLUDING THE ABILITY TO:

24 (I) PERCEIVE REAL AND VIRTUAL ENVIRONMENTS;

25 (II) ABSTRACT PERCEPTIONS MADE UNDER SUBPARAGRAPH

26 (I) INTO MODELS THROUGH ANALYSIS IN AN AUTOMATED MANNER;

27 AND

28 (III) USE MODEL INFERENCE TO FORMULATE OPTIONS FOR
29 INFORMATION OR ACTION BASED ON OUTCOMES UNDER

30 SUBPARAGRAPHS (I) AND (II).

1 (2) THE TERM INCLUDES GENERATIVE ARTIFICIAL
2 INTELLIGENCE.

3 "Campaign advertisement." A public advertisement for the
4 purposes of influencing public opinion with respect to
5 legislative, administrative or electoral matters utilizing a
6 medium that includes mailings, emails, telephone calls, radio,
7 television, billboards, yard signs or other electronic media.

8 "Candidate." As defined in section 102(a) of the
9 Pennsylvania Election Code~~7~~, INCLUDING A CANDIDATE FOR PRESIDENT <--
10 OF THE UNITED STATES.

11 "COVERED PERSON." ANY OF THE FOLLOWING:

12 (1) A FIRM, PARTNERSHIP, CORPORATION, LIMITED LIABILITY
13 COMPANY, ASSOCIATION, ORGANIZATION OR SIMILAR ENTITY.

14 (2) A POLITICAL COMMITTEE, INCLUDING A POLITICAL ACTION
15 COMMITTEE, A POLITICAL PARTY OR A POLITICAL BODY.

16 (3) A POLITICAL ACTION COMMITTEE THAT ONLY RECEIVES
17 CONTRIBUTIONS TO MAKE INDEPENDENT EXPENDITURES.

18 (4) A FOREIGN GOVERNMENT, INCLUDING ANY AGENCY OR
19 INSTRUMENTALITY THEREOF.

20 (5) AN EMPLOYEE, CONTRACTOR OR INDIVIDUAL ACTING AT THE
21 BEHEST OF AN ENTITY SPECIFIED UNDER PARAGRAPH (1), (2), (3)
22 OR (4) OR AN OFFICER, DIRECTOR, EMPLOYEE, OWNER, SHAREHOLDER
23 OR CONTRACTOR THEREOF.

24 "Disseminate." To produce, publish, distribute, broadcast,
25 publicize, display, transmit or otherwise publicly share.

26 "Election." As defined in section 102(f) of the Pennsylvania
27 Election Code.

28 "GENERATIVE ARTIFICIAL INTELLIGENCE." THE CLASS OF MODELS <--
29 THAT EMULATE THE STRUCTURE AND CHARACTERISTICS OF INPUT DATA IN
30 ORDER TO GENERATE DERIVED SYNTHETIC CONTENT.

1 "Pennsylvania Election Code." The act of June 3, 1937
2 (P.L.1333, No.320), known as the Pennsylvania Election Code.

3 "Public office." As defined in section 102(s) of the
4 Pennsylvania Election Code.

5 "SYNTHETIC CONTENT." INFORMATION SUCH AS IMAGES, VIDEOS, <--
6 AUDIO CLIPS AND TEXT THAT HAVE BEEN SIGNIFICANTLY MODIFIED OR
7 GENERATED BY ALGORITHMS, INCLUDING ARTIFICIAL INTELLIGENCE.

8 Section 3. Civil liability for fraudulent misrepresentation of
9 candidates.

10 (a) Liability.--A COVERED person shall be liable for <--
11 fraudulent misrepresentation of a candidate if, within 90 days
12 before an election and with willful or reckless disregard for
13 the possibility of influencing the outcome of an election, the
14 COVERED person disseminates or causes to be disseminated a <--
15 campaign advertisement that contains an artificially generated
16 impersonation of a current or former candidate for public office
17 with the intent to misrepresent the words, actions or beliefs of
18 the current or former candidate.

19 (A.1) CLEAR AND CONSPICUOUS DISCLOSURE.--A COVERED PERSON <--
20 SHALL NOT BE LIABLE FOR A FRAUDULENT MISREPRESENTATION UNDER
21 SUBSECTION (A) IF THE CAMPAIGN ADVERTISEMENT CONTAINS A CLEAR
22 AND CONSPICUOUS DISCLOSURE. THE DISCLOSURE UNDER THIS SUBSECTION
23 MUST:

24 (1) STATE THAT THE CAMPAIGN ADVERTISEMENT CONTAINS
25 SYNTHETIC CONTENT OF A CURRENT OR FORMER CANDIDATE FOR PUBLIC
26 OFFICE. THE DISCLOSURE SHALL BE IN SUBSTANTIALLY THE
27 FOLLOWING FORM:

28 THIS (TEXT/IMAGE/VIDEO/SOUND) HAS BEEN MANIPULATED OR
29 GENERATED USING SYNTHETIC CONTENT.

30 (2) BE DISPLAYED IN THE FIRST INSTANCE WHEN THE CAMPAIGN

1 ADVERTISEMENT IS PRESENTED.

2 (3) BE PRESENTED IN A MANNER REASONABLY UNDERSTANDABLE
3 AND READILY NOTICEABLE. THE FOLLOWING SHALL APPLY:

4 (I) FOR CONTENT PRESENTED IN STATIC IMAGES, THE
5 DISCLOSURE SHALL BE IN WRITTEN FORM, IN A SIZE AND FONT
6 THAT IS EASILY READABLE BY THE AVERAGE VIEWER, ACCESSIBLE
7 SCREEN READERS AND OTHER TECHNOLOGY TO ASSIST VISUALLY
8 IMPAIRED USERS.

9 (II) FOR CONTENT PRESENTED IN VIDEO FORMATS, THE
10 DISCLOSURE SHALL APPEAR FOR THE DURATION OF THE VIDEO IN
11 A FORMAT THAT IS EASILY READABLE BY THE AVERAGE VIEWER.
12 THE DISCLOSURE SHALL BE READ IN A CLEARLY SPOKEN MANNER
13 AND IN A PITCH AND AT A SPEED THAT CAN BE EASILY HEARD BY
14 THE AVERAGE LISTENER AT THE BEGINNING AND END OF THE
15 VIDEO.

16 (III) FOR CONTENT THAT CONSISTS OF ONLY AUDIO, THE
17 DISCLOSURE SHALL BE READ IN A CLEARLY SPOKEN MANNER AND
18 IN A PITCH AND AT A SPEED THAT CAN BE EASILY HEARD BY THE
19 AVERAGE LISTENER AT THE BEGINNING AND END OF THE AUDIO,
20 AND, IF THE AUDIO IS MORE THAN TWO MINUTES IN LENGTH,
21 INTERSPERSED WITHIN THE AUDIO AT INTERVALS OF NOT MORE
22 THAN TWO MINUTES EACH.

23 (b) Relief.--A current or former candidate for public office
24 aggrieved by a COVERED person under subsection (a) may bring a <--
25 civil action against the COVERED person in a court of competent <--
26 jurisdiction and shall be entitled to recover punitive damages,
27 reasonable attorney fees and other reasonably related litigation
28 costs incurred relating to the civil action. Upon a showing of
29 cause for the issuance of injunctive relief, a court may issue a
30 temporary restraining order, preliminary injunction or permanent

1 injunction as the court deems appropriate. During any period
2 that a civil action under this subsection is pending, a court
3 may order the IMMEDIATE REMOVAL OF THE CAMPAIGN ADVERTISEMENT <--
4 AND cessation of the activity forming the basis of the
5 complaint.

6 (c) Civil penalties.--

7 (1) In addition to any other judgment or relief awarded
8 under subsection (b) to an aggrieved current or former
9 candidate for public office, a court may, for each campaign
10 advertisement containing ~~a unique artificially generated~~ <--
11 ~~impersonation~~ UNIQUE SYNTHETIC CONTENT, impose a civil <--
12 penalty on the COVERED person for each day the fraudulent <--
13 misrepresentation is disseminated in an amount not exceeding:

14 (i) ~~An amount of \$15,000 when the individual~~ <--
15 ~~impersonated is~~ CAMPAIGN ADVERTISEMENT CONTAINS UNIQUE <--
16 SYNTHETIC CONTENT OF a current or former candidate for a
17 municipal public office in this Commonwealth. FOR WHICH <--
18 THE CANDIDATE FILES WITH THE COUNTY BOARD OF ELECTIONS
19 UNDER SECTION 913 OF THE PENNSYLVANIA ELECTION CODE.

20 (ii) ~~An amount of~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH <--
21 (III), \$50,000 when the ~~individual impersonated is~~ <--
22 CAMPAIGN ADVERTISEMENT CONTAINS UNIQUE SYNTHETIC CONTENT <--
23 OF a current or former candidate for a State public
24 office in this Commonwealth. FOR WHICH THE CANDIDATE <--
25 FILES WITH THE SECRETARY OF THE COMMONWEALTH UNDER
26 SECTION 913 OF THE PENNSYLVANIA ELECTION CODE.

27 (iii) ~~An amount of \$250,000 when the individual~~ <--
28 ~~impersonated is~~ CAMPAIGN ADVERTISEMENT CONTAINS UNIQUE <--
29 SYNTHETIC CONTENT OF a current or former candidate for
30 President of the United States, presidential elector, the

1 United States Senate or the United States House of
2 Representatives.

3 (2) For a COVERED person that is a political action <--
4 committee that only receives contributions to make
5 independent expenditures, the court may impose twice the
6 amounts specified under paragraph (1) on the COVERED person. <--

7 (d) Defense.--It shall be a defense to a civil action
8 brought under this section that the COVERED person disseminated <--
9 the campaign advertisement CONTAINING SYNTHETIC CONTENT OF A <--
10 CURRENT OR FORMER CANDIDATE with the consent of the ~~individual~~ <--
11 ~~impersonated~~ CANDIDATE if the COVERED person who disseminated <--
12 the campaign advertisement can establish that the ~~individual~~ <--
13 ~~impersonated~~ CANDIDATE has given the ~~individual's~~ CANDIDATE'S <--
14 express, written consent.

15 (e) Location.--A COVERED person may be found liable in a <--
16 civil action brought under this section if the COVERED person or <--
17 candidate is located within this Commonwealth.

18 (f) Construction.--Nothing in this section shall be
19 construed to apply to any of the following:

20 (1) A law enforcement officer engaged in the performance
21 of the law enforcement officer's official duties.

22 (2) A radio or television broadcasting station,
23 including a cable or satellite television operator,
24 programmer or producer, that disseminates a campaign
25 advertisement as part of a bona fide newscast, news
26 interview, news documentary or on-the-spot coverage of bona
27 fide news events if the radio or television broadcasting
28 station clearly acknowledges through content or a disclosure
29 statement, in a manner that can be easily heard or read by
30 the average listener or viewer, that there are questions

1 about the authenticity of the campaign advertisement.

2 (3) A publicly accessible Internet website or a
3 regularly published newspaper, magazine or other periodical
4 of general circulation, including an Internet or electronic
5 publication, which routinely carries news and commentary of
6 general interest and that disseminates a campaign
7 advertisement as part of coverage of bona fide news events if
8 the publicly accessible Internet website, regularly published
9 newspaper, magazine or other periodical of general
10 circulation clearly acknowledges through content or a
11 disclosure statement, in a manner that can be easily heard or
12 read by the average listener or viewer, that there are
13 questions about the authenticity of the campaign
14 advertisement.

15 (4) A radio or television broadcasting station,
16 including a cable or satellite television operator,
17 programmer or producer, when the radio or television
18 broadcasting station is paid to disseminate a campaign
19 advertisement with the consent of the ~~individual impersonated~~ <--
20 CANDIDATE as specified under subsection (d). <--

21 ~~(g) Definitions. As used in this section, the term "person" <--~~
22 means any of the following:

23 ~~(1) A firm, partnership, corporation, limited liability~~
24 ~~company, association, organization or similar entity.~~

25 ~~(2) A political committee, including a political action~~
26 ~~committee, a political party or a member of a political~~
27 ~~committee or political party.~~

28 ~~(3) A political action committee that only receives~~
29 ~~contributions to make independent expenditures.~~

30 ~~(4) An individual employed by an entity specified under~~

1 ~~paragraph (1), (2) or (3).~~

2 (5) AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47 <--
3 U.S.C. § 230 (RELATING TO STATIONS LIABLE TO INTERFERE WITH
4 DISTRESS SIGNALS; DESIGNATION AND REGULATION).

5 (6) AN INTERNET SERVICE PROVIDER, CLOUD PROVIDER,
6 CYBERSECURITY PROVIDER, COMMUNICATION SERVICE PROVIDER OR
7 TELECOMMUNICATIONS NETWORK.

8 (G) CONSTRUCTION.--NOTHING IN THIS ACT SHALL BE CONSTRUED TO
9 RESTRICT THE ABILITY OF A COVERED PERSON TO DETECT, PREVENT,
10 RESPOND TO OR PROTECT AGAINST SECURITY INCIDENTS, IDENTITY
11 THEFT, FRAUD, HARASSMENT, MALICIOUS OR DECEPTIVE ACTIVITIES OR
12 ANY ILLEGAL ACTIVITY, PRESERVE THE INTEGRITY OR SECURITY OF
13 SYSTEMS OR INVESTIGATE, REPORT OR PROSECUTE THOSE RESPONSIBLE
14 FOR ANY SUCH ACTION.

15 Section 4. Severability.

16 The provisions of this act are severable. If any provision of
17 this act or its application to any COVERED person or <--
18 circumstance is held invalid, the invalidity shall not affect
19 other provisions or applications of this act which can be given
20 effect without the invalid provision or application.

21 Section 5. Effective date.

22 This act shall take effect in 60 days.