
SUBSTITUTE HOUSE BILL 1442

State of Washington

68th Legislature

2023 Regular Session

By House State Government & Tribal Relations (originally sponsored by Representatives Low, Christian, Abbarno, Chapman, Eslick, and Pollet; by request of Secretary of State)

1 AN ACT Relating to defining synthetic media in campaigns for
2 elective office, and providing relief for candidates and campaigns;
3 and adding a new chapter to Title 42 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions used in chapter 42.17A RCW
6 apply throughout this chapter unless the context clearly requires
7 otherwise.

8 NEW SECTION. **Sec. 2.** (1) For purposes of this section
9 "synthetic media" means an image, an audio recording, or a video
10 recording of an individual's appearance, speech, or conduct that has
11 been intentionally manipulated with the use of generative adversarial
12 network techniques or other digital technology in a manner to create
13 a realistic but false image, audio, or video that produces:

14 (a) A depiction that to a reasonable individual is of a real
15 individual in appearance, action, or speech that did not actually
16 occur in reality; and

17 (b) A fundamentally different understanding or impression of the
18 appearance, action, or speech than a reasonable person would have
19 from the unaltered, original version of the image, audio recording,
20 or video recording.

1 (2) A candidate who is the subject of synthetic media in an
2 electioneering communication may bring a cause of action against the
3 person or entity who sponsored, with actual malice, the
4 electioneering communication containing the synthetic media. Such
5 candidate may seek injunctive or other equitable relief prohibiting
6 the publication of such synthetic media. The candidate may also seek
7 general or special damages against the sponsor of the electioneering
8 communication, or a broadcasting station or other medium in
9 accordance with section 3 of this act. The court may also award a
10 prevailing party reasonable attorneys' fees and costs. This
11 subsection does not limit or preclude a plaintiff from securing or
12 recovering any other available remedy.

13 (3) It is an affirmative defense for any action brought under
14 this section that the electioneering communication containing a
15 synthetic media includes a disclosure stating, "This (image/video/
16 audio) has been manipulated," in the following manner:

17 (a) For visual media, the text of the disclosure must appear in
18 size easily readable by the average viewer and no smaller than the
19 largest font size of other text appearing in the visual media. If the
20 visual media does not include any other text, the disclosure must
21 appear in a size that is easily readable by the average viewer. For
22 visual media that is a video, the disclosure must appear for the
23 duration of the video; or

24 (b) If the media consists of audio only, the disclosure must be
25 read in a clearly spoken manner and in a pitch that can be easily
26 heard by the average listener, at the beginning of the audio, at the
27 end of the audio, and, if the audio is greater than two minutes in
28 length, interspersed within the audio at intervals of not more than
29 two minutes each.

30 (4) In any action commenced under this section, the plaintiff
31 bears the burden of proof by clear and convincing evidence.

32 (5) Courts are encouraged to determine matters under this section
33 expediently.

34 NEW SECTION. **Sec. 3.** (1) For an action brought under section 2
35 of this act, the sponsor of the electioneering communication may be
36 held liable, and not the broadcasting station or other medium except
37 as provided in subsection (2) of this section.

38 (2) A broadcasting station or other medium may be held liable in
39 a cause of action brought under section 2 of this act if:

1 (a) The broadcasting station or other medium removes any
2 disclosure described in section 2(3) of this act from the
3 electioneering communication it broadcasts; or

4 (b) Subject to affirmative defenses described in section 2 of
5 this act, the broadcasting station or other medium changes, with
6 actual malice, the content of an electioneering communication such
7 that it then qualifies as synthetic media, as defined in section 2 of
8 this act.

9 (3)(a) No provider or user of an interactive computer service
10 shall be treated as the publisher or speaker of any information
11 provided by another information content provider. However, an
12 interactive computer service may be held liable in accordance with
13 subsection (2) of this section.

14 (b) "Interactive computer service" means any information service,
15 system, or access software provider that provides or enables computer
16 access by multiple users to a computer server, including specifically
17 a service or system that provides access to the internet and such
18 systems operated or services offered by libraries or educational
19 institutions.

20 (c) "Information content provider" means any person or entity
21 that is responsible, in whole or in part, for the creation or
22 development of information provided through the internet or any other
23 interactive computer service.

24 NEW SECTION. **Sec. 4.** The public disclosure commission may adopt
25 rules in furtherance of the purpose of this chapter. Nothing in this
26 chapter constitutes a violation under chapter 42.17A RCW, or
27 otherwise authorizes the public disclosure commission to take action
28 under RCW 42.17A.755.

29 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act
30 constitute a new chapter in Title 42 RCW.

31 NEW SECTION. **Sec. 6.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

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