
Civil Rights & Judiciary Committee

HB 2142

Brief Description: Publishing digitally altered photographs.

Sponsors: Representatives Mosbrucker, Frame, Dent and Orwall.

Brief Summary of Bill

- Requires any advertisement that includes photography that has been digitally altered to materially change the appearance and physical characteristics of a person's face or body to include a written notification that digital alteration was applied.
- Makes a violation a per se violation of the Consumer Protection Act.

Hearing Date: 1/14/20

Staff: Cece Clynch (786-7195).

Background:

Addressing the Alteration of Photographs in Advertising.

In 2011 the American Medical Association adopted a policy encouraging advertising associations to work with public and private organizations concerned with child and adolescent health to create guidelines for advertisements, particularly those appearing in publications marketed to teens, that would discourage the altering of photographs in a manner that could promote unrealistic expectations of appropriate body image. In the years since, bills have been introduced in Congress which would task the Federal Trade Commission with reporting to Congress with a strategy and recommendations to reduce the use of images that have been altered to materially change the physical characteristics of faces and bodies in the advertising of commercial products. In France, if a commercial image has been digitally altered to make the model look thinner, it must bear a label indicating that it is an edited photograph.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Consumer Protection Act.

Under Washington's Consumer Protection Act (CPA), a variety of business practices are declared unlawful. These practices include engaging in unfair methods of competition and unfair or deceptive acts or practices in the conduct of commerce and monopolizing trade or commerce.

A person injured by a violation of the CPA may bring a private cause of action for injunctive relief and the recovery of actual damages and reasonable attorneys' fees. Recovery may also include triple damages in some circumstances. In addition, the CPA allows the Attorney General to bring a CPA action in the name of the state or on behalf of persons residing in the state. An action by the Attorney General may seek to prevent or restrain violations of the CPA and may seek to restore to any person any moneys or property which may have been acquired by means of any act that constitutes a violation of the CPA.

Summary of Bill:

Any advertisement that includes photography that has been digitally altered to materially change the appearance and physical characteristics of a person's face or body is required to include a written notification that digital alteration was applied. This notification must appear on the photograph, or in a prominent place within the advertisement. The notice must be in a size and color that are clearly visible and cover an area that is no smaller than at least 7 percent of the area of the advertisement.

Certain terms are defined, as follows:

- "Material changes" include, but are not limited to, alterations to the photograph which change the shape, size, proportion, or color of a person's face or body, and any changes made to enhance or remove features of a person's face or body.
- "Advertisements" include, but are not limited to, a photograph that is used to advertise a product, a service, or a brand in print or by any technological or electronic means, which is intended for or accessible to the public.
- To "photograph" means to make a print, negative, slide, digital image, motion picture, or videotape. A "photograph" means anything tangible or intangible produced by photographing.

A violation constitutes a per se violation of the Consumer Protection Act. The Attorney General may bring an action in the name of the state, or on behalf of persons residing in the state, to restrain and prevent prohibited and unlawful acts.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.