
SENATE BILL 6513

State of Washington

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By Senators Frockt, Hunt, Nguyen, Billig, Hasegawa, Kuderer, and Wilson, C.

Read first time 01/20/20. Referred to Committee on State Government, Tribal Relations & Elections.

1 AN ACT Relating to restricting the use of deepfake audio or
2 visual media in campaigns for elective office; amending RCW
3 42.17A.005 and 42.17A.340; and adding a new section to chapter 42.17A
4 RCW.

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

6 **Sec. 1.** RCW 42.17A.005 and 2019 c 428 s 3 are each amended to
7 read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Actual malice" means to act with knowledge of falsity or
11 with reckless disregard as to truth or falsity.

12 (2) "Agency" includes all state agencies and all local agencies.
13 "State agency" includes every state office, department, division,
14 bureau, board, commission, or other state agency. "Local agency"
15 includes every county, city, town, municipal corporation, quasi-
16 municipal corporation, or special purpose district, or any office,
17 department, division, bureau, board, commission, or agency thereof,
18 or other local public agency.

19 (3) "Authorized committee" means the political committee
20 authorized by a candidate, or by the public official against whom

1 recall charges have been filed, to accept contributions or make
2 expenditures on behalf of the candidate or public official.

3 (4) "Ballot proposition" means any "measure" as defined by RCW
4 29A.04.091, or any initiative, recall, or referendum proposition
5 proposed to be submitted to the voters of the state or any municipal
6 corporation, political subdivision, or other voting constituency from
7 and after the time when the proposition has been initially filed with
8 the appropriate election officer of that constituency before its
9 circulation for signatures.

10 (5) "Benefit" means a commercial, proprietary, financial,
11 economic, or monetary advantage, or the avoidance of a commercial,
12 proprietary, financial, economic, or monetary disadvantage.

13 (6) "Bona fide political party" means:

14 (a) An organization that has been recognized as a minor political
15 party by the secretary of state;

16 (b) The governing body of the state organization of a major
17 political party, as defined in RCW 29A.04.086, that is the body
18 authorized by the charter or bylaws of the party to exercise
19 authority on behalf of the state party; or

20 (c) The county central committee or legislative district
21 committee of a major political party. There may be only one
22 legislative district committee for each party in each legislative
23 district.

24 (7) "Books of account" means:

25 (a) In the case of a campaign or political committee, a ledger or
26 similar listing of contributions, expenditures, and debts, such as a
27 campaign or committee is required to file regularly with the
28 commission, current as of the most recent business day; or

29 (b) In the case of a commercial advertiser, details of political
30 advertising or electioneering communications provided by the
31 advertiser, including the names and addresses of persons from whom it
32 accepted political advertising or electioneering communications, the
33 exact nature and extent of the services rendered and the total cost
34 and the manner of payment for the services.

35 (8) "Candidate" means any individual who seeks nomination for
36 election or election to public office. An individual seeks nomination
37 or election when the individual first:

38 (a) Receives contributions or makes expenditures or reserves
39 space or facilities with intent to promote the individual's candidacy
40 for office;

1 (b) Announces publicly or files for office;

2 (c) Purchases commercial advertising space or broadcast time to
3 promote the individual's candidacy; or

4 (d) Gives consent to another person to take on behalf of the
5 individual any of the actions in (a) or (c) of this subsection.

6 (9) "Caucus political committee" means a political committee
7 organized and maintained by the members of a major political party in
8 the state senate or state house of representatives.

9 (10) "Commercial advertiser" means any person that sells the
10 service of communicating messages or producing material for broadcast
11 or distribution to the general public or segments of the general
12 public whether through brochures, fliers, newspapers, magazines,
13 television, radio, billboards, direct mail advertising, printing,
14 paid internet or digital communications, or any other means of mass
15 communications used for the purpose of appealing, directly or
16 indirectly, for votes or for financial or other support in any
17 election campaign.

18 (11) "Commission" means the agency established under RCW
19 42.17A.100.

20 (12) "Committee" unless the context indicates otherwise, includes
21 a political committee such as a candidate, ballot proposition,
22 recall, political, or continuing political committee.

23 (13) "Compensation" unless the context requires a narrower
24 meaning, includes payment in any form for real or personal property
25 or services of any kind. For the purpose of compliance with RCW
26 42.17A.710, "compensation" does not include per diem allowances or
27 other payments made by a governmental entity to reimburse a public
28 official for expenses incurred while the official is engaged in the
29 official business of the governmental entity.

30 (14) "Continuing political committee" means a political committee
31 that is an organization of continuing existence not limited to
32 participation in any particular election campaign or election cycle.

33 (15)(a) "Contribution" includes:

34 (i) A loan, gift, deposit, subscription, forgiveness of
35 indebtedness, donation, advance, pledge, payment, transfer of funds,
36 or anything of value, including personal and professional services
37 for less than full consideration;

38 (ii) An expenditure made by a person in cooperation,
39 consultation, or concert with, or at the request or suggestion of, a
40 candidate, a political or incidental committee, the person or persons

1 named on the candidate's or committee's registration form who direct
2 expenditures on behalf of the candidate or committee, or their
3 agents;

4 (iii) The financing by a person of the dissemination,
5 distribution, or republication, in whole or in part, of broadcast,
6 written, graphic, digital, or other form of political advertising or
7 electioneering communication prepared by a candidate, a political or
8 incidental committee, or its authorized agent;

9 (iv) Sums paid for tickets to fund-raising events such as dinners
10 and parties, except for the actual cost of the consumables furnished
11 at the event.

12 (b) "Contribution" does not include:

13 (i) Accrued interest on money deposited in a political or
14 incidental committee's account;

15 (ii) Ordinary home hospitality;

16 (iii) A contribution received by a candidate or political or
17 incidental committee that is returned to the contributor within ten
18 business days of the date on which it is received by the candidate or
19 political or incidental committee;

20 (iv) A news item, feature, commentary, or editorial in a
21 regularly scheduled news medium that is of interest to the public,
22 that is in a news medium controlled by a person whose business is
23 that news medium, and that is not controlled by a candidate or a
24 political or incidental committee;

25 (v) An internal political communication primarily limited to the
26 members of or contributors to a political party organization or
27 political or incidental committee, or to the officers, management
28 staff, or stockholders of a corporation or similar enterprise, or to
29 the members of a labor organization or other membership organization;

30 (vi) The rendering of personal services of the sort commonly
31 performed by volunteer campaign workers, or incidental expenses
32 personally incurred by volunteer campaign workers not in excess of
33 fifty dollars personally paid for by the worker. "Volunteer
34 services," for the purposes of this subsection, means services or
35 labor for which the individual is not compensated by any person;

36 (vii) Messages in the form of reader boards, banners, or yard or
37 window signs displayed on a person's own property or property
38 occupied by a person. However, a facility used for such political
39 advertising for which a rental charge is normally made must be

1 reported as an in-kind contribution and counts toward any applicable
2 contribution limit of the person providing the facility;

3 (viii) Legal or accounting services rendered to or on behalf of:

4 (A) A political party or caucus political committee if the person
5 paying for the services is the regular employer of the person
6 rendering such services; or

7 (B) A candidate or an authorized committee if the person paying
8 for the services is the regular employer of the individual rendering
9 the services and if the services are solely for the purpose of
10 ensuring compliance with state election or public disclosure laws; or

11 (ix) The performance of ministerial functions by a person on
12 behalf of two or more candidates or political or incidental
13 committees either as volunteer services defined in (b)(vi) of this
14 subsection or for payment by the candidate or political or incidental
15 committee for whom the services are performed as long as:

16 (A) The person performs solely ministerial functions;

17 (B) A person who is paid by two or more candidates or political
18 or incidental committees is identified by the candidates and
19 political committees on whose behalf services are performed as part
20 of their respective statements of organization under RCW 42.17A.205;
21 and

22 (C) The person does not disclose, except as required by law, any
23 information regarding a candidate's or committee's plans, projects,
24 activities, or needs, or regarding a candidate's or committee's
25 contributions or expenditures that is not already publicly available
26 from campaign reports filed with the commission, or otherwise engage
27 in activity that constitutes a contribution under (a)(ii) of this
28 subsection.

29 A person who performs ministerial functions under this subsection
30 (15)(b)(ix) is not considered an agent of the candidate or committee
31 as long as the person has no authority to authorize expenditures or
32 make decisions on behalf of the candidate or committee.

33 (c) Contributions other than money or its equivalent are deemed
34 to have a monetary value equivalent to the fair market value of the
35 contribution. Services or property or rights furnished at less than
36 their fair market value for the purpose of assisting any candidate or
37 political committee are deemed a contribution. Such a contribution
38 must be reported as an in-kind contribution at its fair market value
39 and counts towards any applicable contribution limit of the provider.

1 (16) "Deepfake audio or visual media" means an image or an audio
2 or video recording of a candidate's appearance, speech, or conduct
3 that has been intentionally manipulated in a manner such that both of
4 the following conditions are met:

5 (a) The image or audio or video recording would falsely appear to
6 a reasonable person to depict a real person performing an action or
7 making a statement that did not actually occur in reality; and

8 (b) The image or audio or video recording would cause a
9 reasonable person to have a fundamentally different understanding or
10 impression of the expressive content of the image or audio or video
11 recording than that person would have if the person were hearing or
12 seeing the unaltered, original version of the image or audio or video
13 recording.

14 (17) "Depository" means a bank, mutual savings bank, savings and
15 loan association, or credit union doing business in this state.

16 (~~(17)~~) (18) "Elected official" means any person elected at a
17 general or special election to any public office, and any person
18 appointed to fill a vacancy in any such office.

19 (~~(18)~~) (19) "Election" includes any primary, general, or
20 special election for public office and any election in which a ballot
21 proposition is submitted to the voters. An election in which the
22 qualifications for voting include other than those requirements set
23 forth in Article VI, section 1 (Amendment 63) of the Constitution of
24 the state of Washington shall not be considered an election for
25 purposes of this chapter.

26 (~~(19)~~) (20) "Election campaign" means any campaign in support
27 of or in opposition to a candidate for election to public office and
28 any campaign in support of, or in opposition to, a ballot
29 proposition.

30 (~~(20)~~) (21) "Election cycle" means the period beginning on the
31 first day of January after the date of the last previous general
32 election for the office that the candidate seeks and ending on
33 December 31st after the next election for the office. In the case of
34 a special election to fill a vacancy in an office, "election cycle"
35 means the period beginning on the day the vacancy occurs and ending
36 on December 31st after the special election.

37 (~~(21)~~) (22) (a) "Electioneering communication" means any
38 broadcast, cable, or satellite television, radio transmission,
39 digital communication, United States postal service mailing,
40 billboard, newspaper, or periodical that:

1 (i) Clearly identifies a candidate for a state, local, or
2 judicial office either by specifically naming the candidate, or
3 identifying the candidate without using the candidate's name;

4 (ii) Is broadcast, transmitted electronically or by other means,
5 mailed, erected, distributed, or otherwise published within sixty
6 days before any election for that office in the jurisdiction in which
7 the candidate is seeking election; and

8 (iii) Either alone, or in combination with one or more
9 communications identifying the candidate by the same sponsor during
10 the sixty days before an election, has a fair market value or cost of
11 one thousand dollars or more.

12 (b) "Electioneering communication" does not include:

13 (i) Usual and customary advertising of a business owned by a
14 candidate, even if the candidate is mentioned in the advertising when
15 the candidate has been regularly mentioned in that advertising
16 appearing at least twelve months preceding the candidate becoming a
17 candidate;

18 (ii) Advertising for candidate debates or forums when the
19 advertising is paid for by or on behalf of the debate or forum
20 sponsor, so long as two or more candidates for the same position have
21 been invited to participate in the debate or forum;

22 (iii) A news item, feature, commentary, or editorial in a
23 regularly scheduled news medium that is:

24 (A) Of interest to the public;

25 (B) In a news medium controlled by a person whose business is
26 that news medium; and

27 (C) Not a medium controlled by a candidate or a political or
28 incidental committee;

29 (iv) Slate cards and sample ballots;

30 (v) Advertising for books, films, dissertations, or similar works
31 (A) written by a candidate when the candidate entered into a contract
32 for such publications or media at least twelve months before becoming
33 a candidate, or (B) written about a candidate;

34 (vi) Public service announcements;

35 (vii) An internal political communication primarily limited to
36 the members of or contributors to a political party organization or
37 political or incidental committee, or to the officers, management
38 staff, or stockholders of a corporation or similar enterprise, or to
39 the members of a labor organization or other membership organization;

1 (viii) An expenditure by or contribution to the authorized
2 committee of a candidate for state, local, or judicial office; or

3 (ix) Any other communication exempted by the commission through
4 rule consistent with the intent of this chapter.

5 ~~((22))~~ (23) "Expenditure" includes a payment, contribution,
6 subscription, distribution, loan, advance, deposit, or gift of money
7 or anything of value, and includes a contract, promise, or agreement,
8 whether or not legally enforceable, to make an expenditure.
9 "Expenditure" also includes a promise to pay, a payment, or a
10 transfer of anything of value in exchange for goods, services,
11 property, facilities, or anything of value for the purpose of
12 assisting, benefiting, or honoring any public official or candidate,
13 or assisting in furthering or opposing any election campaign. For the
14 purposes of this chapter, agreements to make expenditures, contracts,
15 and promises to pay may be reported as estimated obligations until
16 actual payment is made. "Expenditure" shall not include the partial
17 or complete repayment by a candidate or political or incidental
18 committee of the principal of a loan, the receipt of which loan has
19 been properly reported.

20 ~~((23))~~ (24) "Final report" means the report described as a
21 final report in RCW 42.17A.235(11) (a).

22 ~~((24))~~ (25) "General election" for the purposes of RCW
23 42.17A.405 means the election that results in the election of a
24 person to a state or local office. It does not include a primary.

25 ~~((25))~~ (26) "Gift" has the definition in RCW 42.52.010.

26 ~~((26))~~ (27) "Immediate family" includes the spouse or domestic
27 partner, dependent children, and other dependent relatives, if living
28 in the household. For the purposes of the definition of
29 "intermediary" in this section, "immediate family" means an
30 individual's spouse or domestic partner, and child, stepchild,
31 grandchild, parent, stepparent, grandparent, brother, half brother,
32 sister, or half sister of the individual and the spouse or the
33 domestic partner of any such person and a child, stepchild,
34 grandchild, parent, stepparent, grandparent, brother, half brother,
35 sister, or half sister of the individual's spouse or domestic partner
36 and the spouse or the domestic partner of any such person.

37 ~~((27))~~ (28) "Incidental committee" means any nonprofit
38 organization not otherwise defined as a political committee but that
39 may incidentally make a contribution or an expenditure in excess of
40 the reporting thresholds in RCW 42.17A.235, directly or through a

1 political committee. Any nonprofit organization is not an incidental
2 committee if it is only remitting payments through the nonprofit
3 organization in an aggregated form and the nonprofit organization is
4 not required to report those payments in accordance with this
5 chapter.

6 ~~((28))~~ (29) "Incumbent" means a person who is in present
7 possession of an elected office.

8 ~~((29))~~ (30)(a) "Independent expenditure" means an expenditure
9 that has each of the following elements:

10 (i) It is made in support of or in opposition to a candidate for
11 office by a person who is not:

12 (A) A candidate for that office;

13 (B) An authorized committee of that candidate for that office;

14 and

15 (C) A person who has received the candidate's encouragement or
16 approval to make the expenditure, if the expenditure pays in whole or
17 in part for political advertising supporting that candidate or
18 promoting the defeat of any other candidate or candidates for that
19 office;

20 (ii) It is made in support of or in opposition to a candidate for
21 office by a person with whom the candidate has not collaborated for
22 the purpose of making the expenditure, if the expenditure pays in
23 whole or in part for political advertising supporting that candidate
24 or promoting the defeat of any other candidate or candidates for that
25 office;

26 (iii) The expenditure pays in whole or in part for political
27 advertising that either specifically names the candidate supported or
28 opposed, or clearly and beyond any doubt identifies the candidate
29 without using the candidate's name; and

30 (iv) The expenditure, alone or in conjunction with another
31 expenditure or other expenditures of the same person in support of or
32 opposition to that candidate, has a value of one thousand dollars or
33 more. A series of expenditures, each of which is under one thousand
34 dollars, constitutes one independent expenditure if their cumulative
35 value is one thousand dollars or more.

36 (b) "Independent expenditure" does not include: Ordinary home
37 hospitality; communications with journalists or editorial staff
38 designed to elicit a news item, feature, commentary, or editorial in
39 a regularly scheduled news medium that is of primary interest to the
40 general public, controlled by a person whose business is that news

1 medium, and not controlled by a candidate or a political committee;
2 participation in the creation of a publicly funded voters pamphlet
3 statement in written or video form; an internal political
4 communication primarily limited to contributors to a political party
5 organization or political action committee, the officers, management
6 staff, and stockholders of a corporation or similar enterprise, or
7 the members of a labor organization or other membership organization;
8 or the rendering of personal services of the sort commonly performed
9 by volunteer campaign workers or incidental expenses personally
10 incurred by volunteer campaign workers not in excess of two hundred
11 fifty dollars personally paid for by the worker.

12 ~~((30))~~ (31) (a) "Intermediary" means an individual who transmits
13 a contribution to a candidate or committee from another person unless
14 the contribution is from the individual's employer, immediate family,
15 or an association to which the individual belongs.

16 (b) A treasurer or a candidate is not an intermediary for
17 purposes of the committee that the treasurer or candidate serves.

18 (c) A professional fund-raiser is not an intermediary if the
19 fund-raiser is compensated for fund-raising services at the usual and
20 customary rate.

21 (d) A volunteer hosting a fund-raising event at the individual's
22 home is not an intermediary for purposes of that event.

23 ~~((31))~~ (32) "Legislation" means bills, resolutions, motions,
24 amendments, nominations, and other matters pending or proposed in
25 either house of the state legislature, and includes any other matter
26 that may be the subject of action by either house or any committee of
27 the legislature and all bills and resolutions that, having passed
28 both houses, are pending approval by the governor.

29 ~~((32))~~ (33) "Legislative office" means the office of a member
30 of the state house of representatives or the office of a member of
31 the state senate.

32 ~~((33))~~ (34) "Lobby" and "lobbying" each mean attempting to
33 influence the passage or defeat of any legislation by the legislature
34 of the state of Washington, or the adoption or rejection of any rule,
35 standard, rate, or other legislative enactment of any state agency
36 under the state administrative procedure act, chapter 34.05 RCW.
37 Neither "lobby" nor "lobbying" includes an association's or other
38 organization's act of communicating with the members of that
39 association or organization.

1 (~~(34)~~) (35) "Lobbyist" includes any person who lobbies either
2 on the person's own or another's behalf.

3 (~~(35)~~) (36) "Lobbyist's employer" means the person or persons
4 by whom a lobbyist is employed and all persons by whom the lobbyist
5 is compensated for acting as a lobbyist.

6 (~~(36)~~) (37) "Ministerial functions" means an act or duty
7 carried out as part of the duties of an administrative office without
8 exercise of personal judgment or discretion.

9 (~~(37)~~) (38) "Participate" means that, with respect to a
10 particular election, an entity:

11 (a) Makes either a monetary or in-kind contribution to a
12 candidate;

13 (b) Makes an independent expenditure or electioneering
14 communication in support of or opposition to a candidate;

15 (c) Endorses a candidate before contributions are made by a
16 subsidiary corporation or local unit with respect to that candidate
17 or that candidate's opponent;

18 (d) Makes a recommendation regarding whether a candidate should
19 be supported or opposed before a contribution is made by a subsidiary
20 corporation or local unit with respect to that candidate or that
21 candidate's opponent; or

22 (e) Directly or indirectly collaborates or consults with a
23 subsidiary corporation or local unit on matters relating to the
24 support of or opposition to a candidate, including, but not limited
25 to, the amount of a contribution, when a contribution should be
26 given, and what assistance, services or independent expenditures, or
27 electioneering communications, if any, will be made or should be made
28 in support of or opposition to a candidate.

29 (~~(38)~~) (39) "Person" includes an individual, partnership, joint
30 venture, public or private corporation, association, federal, state,
31 or local governmental entity or agency however constituted,
32 candidate, committee, political committee, political party, executive
33 committee thereof, or any other organization or group of persons,
34 however organized.

35 (~~(39)~~) (40) "Political advertising" includes any advertising
36 displays, newspaper ads, billboards, signs, brochures, articles,
37 tabloids, flyers, letters, radio or television presentations, digital
38 communication, or other means of mass communication, used for the
39 purpose of appealing, directly or indirectly, for votes or for
40 financial or other support or opposition in any election campaign.

1 (~~(40)~~) (41) "Political committee" means any person (except a
2 candidate or an individual dealing with the candidate's or
3 individual's own funds or property) having the expectation of
4 receiving contributions or making expenditures in support of, or
5 opposition to, any candidate or any ballot proposition.

6 (~~(41)~~) (42) "Primary" for the purposes of RCW 42.17A.405 means
7 the procedure for nominating a candidate to state or local office
8 under chapter 29A.52 RCW or any other primary for an election that
9 uses, in large measure, the procedures established in chapter 29A.52
10 RCW.

11 (~~(42)~~) (43) "Public office" means any federal, state, judicial,
12 county, city, town, school district, port district, special district,
13 or other state political subdivision elective office.

14 (~~(43)~~) (44) "Public record" has the definition in RCW
15 42.56.010.

16 (~~(44)~~) (45) "Recall campaign" means the period of time
17 beginning on the date of the filing of recall charges under RCW
18 29A.56.120 and ending thirty days after the recall election.

19 (~~(45)~~) (46) "Remediable violation" means any violation of this
20 chapter that:

21 (a) Involved expenditures or contributions totaling no more than
22 the contribution limits set out under RCW 42.17A.405(2) per election,
23 or one thousand dollars if there is no statutory limit;

24 (b) Occurred:

25 (i) More than thirty days before an election, where the
26 commission entered into an agreement to resolve the matter; or

27 (ii) At any time where the violation did not constitute a
28 material violation because it was inadvertent and minor or otherwise
29 has been cured and, after consideration of all the circumstances,
30 further proceedings would not serve the purposes of this chapter;

31 (c) Does not materially harm the public interest, beyond the harm
32 to the policy of this chapter inherent in any violation; and

33 (d) Involved:

34 (i) A person who:

35 (A) Took corrective action within five business days after the
36 commission first notified the person of noncompliance, or where the
37 commission did not provide notice and filed a required report within
38 twenty-one days after the report was due to be filed; and

39 (B) Substantially met the filing deadline for all other required
40 reports within the immediately preceding twelve-month period; or

1 (ii) A candidate who:

2 (A) Lost the election in question; and

3 (B) Did not receive contributions over one hundred times the
4 contribution limit in aggregate per election during the campaign in
5 question.

6 (~~(46)~~) (47) (a) "Sponsor" for purposes of an electioneering
7 communications, independent expenditures, or political advertising
8 means the person paying for the electioneering communication,
9 independent expenditure, or political advertising. If a person acts
10 as an agent for another or is reimbursed by another for the payment,
11 the original source of the payment is the sponsor.

12 (b) "Sponsor," for purposes of a political or incidental
13 committee, means any person, except an authorized committee, to whom
14 any of the following applies:

15 (i) The committee receives eighty percent or more of its
16 contributions either from the person or from the person's members,
17 officers, employees, or shareholders;

18 (ii) The person collects contributions for the committee by use
19 of payroll deductions or dues from its members, officers, or
20 employees.

21 (~~(47)~~) (48) "Sponsored committee" means a committee, other than
22 an authorized committee, that has one or more sponsors.

23 (~~(48)~~) (49) "State office" means state legislative office or
24 the office of governor, lieutenant governor, secretary of state,
25 attorney general, commissioner of public lands, insurance
26 commissioner, superintendent of public instruction, state auditor, or
27 state treasurer.

28 (~~(49)~~) (50) "State official" means a person who holds a state
29 office.

30 (~~(50)~~) (51) "Surplus funds" mean, in the case of a political
31 committee or candidate, the balance of contributions that remain in
32 the possession or control of that committee or candidate subsequent
33 to the election for which the contributions were received, and that
34 are in excess of the amount necessary to pay remaining debts or
35 expenses incurred by the committee or candidate with respect to that
36 election. In the case of a continuing political committee, "surplus
37 funds" mean those contributions remaining in the possession or
38 control of the committee that are in excess of the amount necessary
39 to pay all remaining debts or expenses when it makes its final report
40 under RCW 42.17A.255.

1 (~~(51)~~) (52) "Technical correction" means the correction of a
2 minor or ministerial error in a required report that does not
3 materially harm the public interest and needs to be corrected for the
4 report to be in full compliance with the requirements of this
5 chapter.

6 (~~(52)~~) (53) "Treasurer" and "deputy treasurer" mean the
7 individuals appointed by a candidate or political or incidental
8 committee, pursuant to RCW 42.17A.210, to perform the duties
9 specified in that section.

10 (~~(53)~~) (54) "Violation" means a violation of this chapter that
11 is not a remediable violation, minor violation, or an error
12 classified by the commission as appropriate to address by a technical
13 correction.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.17A
15 RCW to read as follows:

16 (1) No person may, within sixty days of an election, distribute
17 with actual malice deepfake audio or visual media of a candidate with
18 the intent to injure the candidate's reputation or deceive a voter
19 into voting for or against the candidate, unless the audio or visual
20 media includes a disclosure stating: "This (image/video/audio) has
21 been manipulated."

22 (2)(a) For visual media, the text of the disclosure shall appear
23 in size easily readable by the average viewer and no smaller than the
24 largest font size of other text appearing in the visual media. If the
25 visual media does not include any other text, the disclosure shall
26 appear in a size that is easily readable by the average viewer. For
27 visual media that is a video, the disclosure shall appear for the
28 duration of the video.

29 (b) If the media consists of audio only, the disclosure shall be
30 read in a clearly spoken manner and in a pitch that can be easily
31 heard by the average listener, at the beginning of the audio, at the
32 end of the audio, and, if the audio is greater than two minutes in
33 length, interspersed within the audio at intervals of not more than
34 two minutes each.

35 (3)(a) This section does not alter or negate any rights,
36 obligations, or immunities of an information content provider under
37 the communications decency act, 47 U.S.C. Sec. 230.

1 (b) This section does not apply to a radio or television
2 broadcasting station, including a cable or satellite television
3 operator, programmer, or producer:

4 (i) That broadcasts deepfake audio or visual media prohibited by
5 this section as part of a bona fide newscast, news interview, news
6 documentary, or on-the-spot coverage of bona fide news events, if the
7 broadcast clearly acknowledges through content or a disclosure, in a
8 manner that can be easily heard or read by the average listener or
9 viewer, that there are questions about the authenticity of the
10 deepfake audio or visual media; or

11 (ii) When it is paid to broadcast deepfake audio or visual media.

12 (c) This section does not apply to an internet web site, or a
13 regularly published newspaper, magazine, or other periodical of
14 general circulation, including an internet or electronic publication,
15 that routinely carries news and commentary of general interest, and
16 that publishes deepfake audio or visual media prohibited by this
17 section, if the publication clearly states that the deepfake audio or
18 visual media does not accurately represent the speech or conduct of
19 the candidate.

20 (d) This section does not apply to deepfake audio or visual media
21 that constitutes satire or parody.

22 (4) (a) A candidate whose voice or likeness appears in a deepfake
23 audio or visual media distributed in violation of this section may
24 seek injunctive or other equitable relief prohibiting the
25 distribution of audio or visual media in violation of this section.
26 An action under this subsection takes precedence over other cases,
27 and must be speedily heard and determined.

28 (b) A candidate whose voice or likeness appears in a deepfake
29 audio or visual media distributed in violation of this section may
30 bring an action for general or special damages against the person,
31 committee, or entity that distributed the deepfake audio or visual
32 media. The court may also award a prevailing party reasonable
33 attorneys' fees and costs. This subsection does not limit or preclude
34 a plaintiff from securing or recovering any other available remedy.

35 (c) In any action alleging a violation of this section, the
36 plaintiff bears the burden of establishing the violation through
37 clear and convincing evidence.

38 **Sec. 3.** RCW 42.17A.340 and 2010 c 204 s 507 are each amended to
39 read as follows:

1 (1) Except as provided in subsection (2) of this section, the
2 responsibility for compliance with RCW 42.17A.320 through 42.17A.335
3 and section 2 of this act shall be with the sponsor of the political
4 advertising and not with the broadcasting station or other medium.

5 (2) If a broadcasting station or other medium changes the content
6 of a political advertisement, the station or medium shall be
7 responsible for any failure of the advertisement to comply with RCW
8 42.17A.320 through 42.17A.335 and section 2 of this act that results
9 from that change.

10 NEW SECTION. **Sec. 4.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

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