
HOUSE BILL 1442

State of Washington

68th Legislature

2023 Regular Session

By Representatives Low, Christian, Abbarno, Chapman, Eslick, and Pollet; by request of Secretary of State

Read first time 01/19/23. Referred to Committee on State Government & Tribal Relations.

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 whose appearance, action, or speech is altered
2 through the use of a synthetic media with actual malice in an
3 electioneering communication may seek injunctive or other equitable
4 relief prohibiting the publication of such synthetic media.

5 (3) A candidate whose appearance, action, or speech is altered
6 through the use of a synthetic media in an electioneering
7 communication may bring an action for general or special damages
8 against the sponsor. The court may also award a prevailing party
9 reasonable attorneys' fees and costs. This subsection does not limit
10 or preclude a plaintiff from securing or recovering any other
11 available remedy.

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

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

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

29 (5) In any action commenced under this section, the plaintiff
30 bears the burden of establishing the use of synthetic media by clear
31 and convincing evidence.

32 (6) An action under this section takes precedence over other
33 cases, and must be speedily heard and determined.

34 NEW SECTION. **Sec. 3.** (1) Responsibility for compliance with
35 this chapter is with the sponsor of the electioneering communication
36 and not with the broadcasting station or other medium.

37 (2) If a broadcasting station or other medium changes the content
38 of an electioneering communication, the station or medium is

1 responsible for any failure of the advertisement to comply with this
2 chapter that results from that change.

3 (3) Enforcement of the provisions of this chapter are to be
4 accomplished under the provisions of section 2 of this act by private
5 right of action.

6 NEW SECTION. **Sec. 4.** The public disclosure commission may adopt
7 rules in furtherance of the purpose of this chapter. Nothing in this
8 chapter constitutes a violation under chapter 42.17A RCW, or
9 otherwise authorizes the public disclosure commission to take action
10 under RCW 42.17A.755.

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

13 NEW SECTION. **Sec. 6.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

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