CS FOR HOUSE BILL NO. 358(2d JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/2/24
Referred: Rules

Sponsor(s): REPRESENTATIVES CRONK, McCabe

A BILL

FOR AN ACT ENTITLED

1   **"An Act relating to defamation claims based on the use of deepfakes; and relating to the**

2   **use of deepfakes in electioneering communications."**

3   **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4   *** Section 1.** AS 09.65 is amended by adding a new section to read:

5   **Sec. 09.65.360. Civil liability for defamation based on deepfakes.** An action

6   for defamation based on the use of a deepfake is a claim for defamation per se. In this

7   section, "deepfake" has the meaning given in AS 15.80.009(f).

8   *** Sec. 2.** AS 15.80 is amended by adding a new section to read:

9   **Sec. 15.80.009. Deepfakes in electioneering communications.** (a) A person

10   may not knowingly use a deepfake in an electioneering communication with the intent

11   to influence an election.

12   (b) An individual who is harmed by an electioneering communication that

13   violates this section may bring an action in the superior court to recover damages, full

14   reasonable attorney fees, and costs from

1   (1)   the person who created the electioneering communication or

2   retained the services of another to create the electioneering communication;

3   (2)   a person who disseminates an electioneering communication

4   knowing that the electioneering communication includes a deepfake; or

5   (3)   a person who removes a disclosure statement described in (d) of

6   this section from an electioneering communication with the intent to influence an

7   election and knowing that the electioneering communication includes a deepfake.

8   (c)   An individual who is harmed by an electioneering communication that

9   violates this section may seek injunctive relief in the superior court to prohibit

10   publication of the deepfake.

11   (d)   It is a defense to an action under this section that the electioneering

12   communication included the following disclosure statement: "This

13   (image/video/audio) has been manipulated." and

14   (1)   for visual media that included other text, the text of the disclosure

15   statement remained visible throughout the entirety of the communication, was easily

16   readable by the average viewer, and was in a font not smaller than the largest font size

17   of any other text that appeared in the visual component;

18   (2)   for visual media that did not include any other text, the disclosure

19   statement was in a font size that was easily readable by the average viewer;

20   (3)   for a communication that consisted of only audio, the disclosure

21   statement was read

22   (A) at the beginning of the audio, at the end of the audio, and,

23   if the audio was longer than two minutes in duration, at intervals interspersed

24   within the audio that occurred at least once every two minutes; and

25   (B) in a clear manner and in a pitch that was easily heard by the

26   average listener.

27   (e)   An interactive computer service, Internet service provider, cloud service

28   provider, telecommunications network, or radio or television broadcaster, including a

29   cable or satellite television operator, programmer, or producer, is not liable under this

30   section for hosting, publishing, or distributing an electioneering communication

31   provided by another person. This subsection does not prevent an individual from

1   bringing an action under (b)(3) of this section for removing a disclosure statement.

2   (f) In this section,

3   (1) "access software provider" means a provider of client, server, or

4   other software or enabling tools that

5   (A) filter, screen, allow, or disallow content;

6   (B) pick, choose, analyze, or digest content; or

7   (C) transmit, receive, display, forward, cache, search, subset,

8   organize, reorganize, or translate content;

9   (2) "artificial intelligence" means a machine-based system that, for

10   explicit or implicit objectives, infers, from the input the system receives, how to

11   generate outputs, including predictions, content, recommendations, and decisions that

12   can influence physical or virtual environments, with different artificial intelligence

13   systems varying in levels of autonomy and adaptiveness after deployment;

14   (3) "deepfake" means any visual or audio media that is created, altered,

15   or otherwise manipulated by artificial intelligence in a manner that

16   (A) to a reasonable observer, appears to be an authentic record

17   of an individual's actual speech, conduct, or likeness; and

18   (B)   conveys a fundamentally different understanding or

19   impression of the individual's appearance, action, or speech than a reasonable

20   person would have from the unaltered, original version of the individual's

21   appearance, action, or speech;

22   (4) "electioneering communication" means a communication that

23   (A)   directly or indirectly identifies a candidate or political

24   party;

25   (B)   is disseminated through a mailing, a newspaper, the

26   Internet, or broadcast media, including radio, television, cable, or satellite, to

27   an audience that includes voters who will have the opportunity to vote on a

28   candidate identified in the communication or on a candidate of a party

29   identified in the communication; and

30   (C) when read as a whole and with limited reference to outside

31   events, is susceptible of no other reasonable interpretation but as an

1   exhortation to vote for or against a specific candidate;

2   (5)   "interactive computer service" means an information service,

3   system, or access software provider that provides or enables computer access by

4   multiple users to a computer server, including specifically a service or system that

5   provides access to the Internet and such systems operated or services offered by

6   libraries or educational institutions.

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