118TH CONGRESS
1ST SESSION

S. 2770

To prohibit the distribution of materially deceptive AI-generated audio or visual media relating to candidates for Federal office, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2023

Ms. KLOBUCHAR (for herself, Mr. HAWLEY, Mr. COONS, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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A BILL

To prohibit the distribution of materially deceptive AI-generated audio or visual media relating to candidates for Federal office, and for other purposes.

1   *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4   This Act may be cited as the "Protect Elections from

5 Deceptive AI Act".

SEC. 2. PROHIBITION ON DISTRIBUTION OF MATERIALLY DECEPTIVE AI-GENERATED AUDIO OR VISUAL MEDIA PRIOR TO ELECTION.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is amended by adding at the end the following new section:

"SEC. 325. PROHIBITION ON DISTRIBUTION OF MATERIALLY DECEPTIVE AI-GENERATED AUDIO OR VISUAL MEDIA.

"(a) DEFINITIONS.—In this section:

"(1) COVERED INDIVIDUAL.—The term 'covered individual' means a candidate for Federal office.

"(2) DECEPTIVE AI-GENERATED AUDIO OR VISUAL MEDIA.—The term 'deceptive AI-generated audio or visual media' means an image, audio, or video that—

"(A) is the product of artificial intelligence or machine learning, including deep learning techniques, that—

"(i) merges, combines, replaces, or superimposes content onto an image, audio, or video, creating an image, audio, or video that appears authentic; or

"(ii) generates an inauthentic image, audio, or video that appears authentic; and

1 "(B) a reasonable person, having consid-

2 ered the qualities of the image, audio, or video

3 and the nature of the distribution channel in

4 which the image, audio, or video appears—

5 "(i) would have a fundamentally dif-

6 ferent understanding or impression of the

7 appearance, speech, or expressive conduct

8 exhibited in the image, audio, or video

9 than that person would have if that person

10 were hearing or seeing the unaltered, origi-

11 nal version of the image, audio, or video;

12 or

13 "(ii) would believe that the image,

14 audio, or video accurately exhibits any ap-

15 pearance, speech, or expressive conduct of

16 a person who did not actually exhibit such

17 appearance, speech, or expressive conduct.

18 "(3) FEDERAL ELECTION ACTIVITY.—The term

19 'Federal election activity' has the meaning given the

20 term in section 301(20)(A)(iii).

21 "(b) PROHIBITION.—Except as provided in sub-

22 section (c), a person, political committee, or other entity

23 may not knowingly distribute materially deceptive AI-gen-

24 erated audio or visual media of a covered individual, or

1 in carrying out a Federal election activity, with the intent

2 to—

3   ''(1) influence an election; or

4   ''(2) solicit funds.

5   ''(c) INAPPLICABILITY TO CERTAIN ENTITIES.—This

6 section shall not apply to the following:

7   ''(1) A radio or television broadcasting station,

8   including a cable or satellite television operator, pro-

9   grammer, or producer, or a streaming service that

10   broadcasts materially deceptive AI-generated audio

11   or visual media prohibited by this section as part of

12   a bona fide newscast, news interview, news documen-

13   tary, or on-the-spot coverage of bona fide news

14   events, if the broadcast clearly acknowledges through

15   content or a disclosure, in a manner that can be eas-

16   ily heard or read by the average listener or viewer,

17   that there are questions about the authenticity of

18   the materially deceptive AI-generated audio or visual

19   media.

20   ''(2) A regularly published newspaper, maga-

21   zine, or other periodical of general circulation, in-

22   cluding an internet or electronic publication, that

23   routinely carries news and commentary of general

24   interest, and that publishes materially deceptive AI-

25   generated audio or visual media prohibited under

1 this section, if the publication clearly states that the

2 materially deceptive AI-generated audio or visual

3 media does not accurately represent the speech or

4 conduct of the covered individual.

5 "(3) Materially deceptive AI-generated audio or

6 visual media that constitutes satire or parody.

7 "(d) CIVIL ACTION.—

8 "(1) INJUNCTIVE OR OTHER EQUITABLE RE-

9 LIEF.—

10 "(A) IN GENERAL.—A covered individual

11 whose voice or likeness appears in, or who is

12 the subject of, a materially deceptive AI-gen-

13 erated audio or visual media, including content

14 distributed as part of a Federal election activ-

15 ity, distributed in violation of this section may

16 seek injunctive or other equitable relief prohib-

17 iting the distribution of materially deceptive AI-

18 generated audio or visual media in violation of

19 this section.

20 "(B) PRECEDENCE.—An action under this

21 paragraph shall be entitled to precedence in ac-

22 cordance with the Federal Rules of Civil Proce-

23 dure.

24 "(2) DAMAGES.—

1   "(A) IN GENERAL.—A covered individual

2   whose voice or likeness appears in, or who is

3   the subject of, a materially deceptive AI-gen-

4   erated audio or visual media, including content

5   distributed as part of a Federal election activ-

6   ity, distributed in violation of this section may

7   bring an action for general or special damages

8   against the person, committee, or other entity

9   that distributed the materially deceptive AI-gen-

10   erated audio or visual media.

11   "(B) ATTORNEY'S FEES AND COSTS.—In

12   addition to any damages awarded under sub-

13   paragraph (A), the court may also award a pre-

14   vailing party reasonable attorney's fees and

15   costs.

16   "(C) RULE OF CONSTRUCTION.—Nothing

17   in this paragraph shall be construed to limit or

18   preclude a plaintiff from securing or recovering

19   any other available remedy.

20   "(3) BURDEN OF PROOF.—In any civil action

21 alleging a violation of this section, the plaintiff shall

22 bear the burden of establishing the violation through

23 clear and convincing evidence.".

24 (b) EFFECT ON DEFAMATION ACTION.—For pur-

25 poses of an action for defamation, a violation of section

1 325 of the Federal Election Campaign Act of 1971, as

2 added by subsection (a), shall constitute defamation per

3 se.

4   (c) SEVERABILITY.—If any provision of this Act, or

5 an amendment made by this Act, or the application of

6 such provision to any person or circumstance, is held to

7 be invalid, the remainder of this Act, or an amendment

8 made by this Act, or the application of such provision to

9 other persons or circumstances, shall not be affected.

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