# Calendar No. 388

118TH CONGRESS
2D 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.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 12, 2023

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

MAY 15, 2024

Reported by Ms. KLOBUCHAR, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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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".

1 SEC. 2. PROHIBITION ON DISTRIBUTION OF MATERIALLY

2 DECEPTIVE AI-GENERATED AUDIO OR VIS-

3 UAL MEDIA PRIOR TO ELECTION.

4 (a) IN GENERAL.—Title III of the Federal Election

5 Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is

6 amended by adding at the end the following new section:

7 "SEC. 325. PROHIBITION ON DISTRIBUTION OF MATERI-

8 ALLY DECEPTIVE AI-GENERATED AUDIO OR

9 VISUAL MEDIA.

10 "(a) DEFINITIONS.—In this section:

11 "(1) COVERED INDIVIDUAL.—The term 'cov-

12 ered individual' means a candidate for Federal of-

13 fice.

14 "(2) DECEPTIVE AI-GENERATED AUDIO OR VIS-

15 UAL MEDIA.—The term 'deceptive AI-generated

16 audio or visual media' means an image, audio, or

17 video that—

18 "(A) is the product of artificial intelligence

19 or machine learning, including deep learning

20 techniques, that—

21 "(i) merges, combines, replaces, or su-

22 perimposes content onto an image, audio,

23 or video, creating an image, audio, or video

24 that appears authentic; or

25 "(ii) generates an inauthentic image,

26 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

4

in carrying out a Federal election activity, with the intent
to—

"(1) influence an election; or

"(2) solicit funds.

"(c) INAPPLICABILITY TO CERTAIN ENTITIES.—This
section shall not apply to the following:

"(1) A radio or television broadcasting station,
including a cable or satellite television operator, pro-
grammer, or producer, or a streaming service that
broadcasts materially deceptive AI-generated audio
or visual media prohibited by this section as part of
a bona fide newscast, news interview, news documen-
tary, or on-the-spot coverage of bona fide news
events, if the broadcast clearly acknowledges through
content or a disclosure, in a manner that can be eas-
ily heard or read by the average listener or viewer,
that there are questions about the authenticity of
the materially deceptive AI-generated audio or visual
media.

"(2) A regularly published newspaper, maga-
zine, or other periodical of general circulation, in-
cluding an internet or electronic publication, that
routinely carries news and commentary of general
interest, and that publishes materially deceptive AI-
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) I<small>N</small> <small>GENERAL</small>.—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) A<small>TTORNEY'S</small> <small>FEES</small> <small>AND</small> <small>COSTS</small>.—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) R<small>ULE</small> <small>OF</small> <small>CONSTRUCTION</small>.—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) B<small>URDEN</small> <small>OF</small> <small>PROOF</small>.—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) E<small>FFECT</small> <small>ON</small> <small>DEFAMATION</small> <small>ACTION</small>.—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.

10  **SECTION 1. SHORT TITLE.**

11      *This Act may be cited as the "Protect Elections from*

12  *Deceptive AI Act".*

13  **SEC. 2. PROHIBITION ON DISTRIBUTION OF MATERIALLY**

14                **DECEPTIVE AI-GENERATED AUDIO OR VISUAL**

15                **MEDIA PRIOR TO ELECTION.**

16      *(a) IN GENERAL.—Title III of the Federal Election*

17  *Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is amended*

18  *by adding at the end the following new section:*

19  **"SEC. 325. PROHIBITION ON DISTRIBUTION OF MATERIALLY**

20                **DECEPTIVE AI-GENERATED AUDIO OR VISUAL**

21                **MEDIA.**

22      *"(a) DEFINITIONS.—In this section:*

23          *"(1) COVERED INDIVIDUAL.—The term 'covered*

24      *individual' means a candidate for Federal office.*

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

*"(A) is the product of artificial intelligence technology that uses machine learning (including deep learning models, natural learning processing, or any other computational processing techniques of similar or greater complexity), 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*

*"(B) a reasonable person, having considered the qualities of the image, audio, or video and the nature of the distribution channel in which the image, audio, or video appears—*

*"(i) would have a fundamentally different understanding or impression of the appearance, speech, or expressive conduct exhibited in the image, audio, or video than that person would have if that person were*

1     *hearing or seeing the unaltered, original*

2     *version of the image, audio, or video; or*

3     *"(ii) would believe that the image,*

4     *audio, or video accurately exhibits any ap-*

5     *pearance, speech, or expressive conduct of a*

6     *person who did not actually exhibit such*

7     *appearance, speech, or expressive conduct.*

8     *"(3) FEDERAL ELECTION ACTIVITY.—The term*

9 *'Federal election activity' has the meaning given the*

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

11     *"(b) PROHIBITION.—Except as provided in subsection*

12 *(c), a person, political committee, or other entity may not*

13 *knowingly distribute materially deceptive AI-generated*

14 *audio or visual media in carrying out a Federal election*

15 *activity or of a covered individual for the purpose of—*

16     *"(1) influencing an election; or*

17     *"(2) soliciting funds.*

18     *"(c) INAPPLICABILITY TO CERTAIN ENTITIES.—This*

19 *section shall not apply to the following:*

20     *"(1) A radio or television broadcasting station,*

21     *including a cable or satellite television operator, pro-*

22     *grammer, or producer, or a streaming service that*

23     *broadcasts materially deceptive AI-generated audio or*

24     *visual media prohibited by this section as part of a*

25     *bona fide newscast, news interview, news documen-*

1    *tary, or on-the-spot coverage of bona fide news events,*

2    *if the broadcast clearly acknowledges through content*

3    *or a disclosure, in a manner that can be easily heard*

4    *or read by the average listener or viewer, that there*

5    *are questions about the authenticity of the materially*

6    *deceptive AI-generated audio or visual media.*

7    *"(2) A regularly published newspaper, magazine,*

8    *or other periodical of general circulation, including*

9    *an internet or electronic publication, that routinely*

10    *carries news and commentary of general interest, and*

11    *that publishes materially deceptive AI-generated*

12    *audio or visual media prohibited under this section,*

13    *if the publication clearly states that the materially*

14    *deceptive AI-generated audio or visual media does not*

15    *accurately represent the speech or conduct of the cov-*

16    *ered individual.*

17    *"(3) Materially deceptive AI-generated audio or*

18    *visual media that constitutes satire or parody.*

19    *"(d) CIVIL ACTION.—*

20    *"(1) INJUNCTIVE OR OTHER EQUITABLE RE-*

21    *LIEF.—*

22    *"(A) IN GENERAL.—A covered individual*

23    *whose voice or likeness appears in, or who is the*

24    *subject of, a materially deceptive AI-generated*

25    *audio or visual media, including content distrib-*

1 *uted as part of a Federal election activity, dis-*

2 *tributed in violation of this section may seek in-*

3 *junctive or other equitable relief prohibiting the*

4 *distribution of materially deceptive AI-generated*

5 *audio or visual media in violation of this sec-*

6 *tion.*

7 *"(B) PRECEDENCE.—An action under this*

8 *paragraph shall be entitled to precedence in ac-*

9 *cordance with the Federal Rules of Civil Proce-*

10 *dure.*

11 *"(2) DAMAGES.—*

12 *"(A) IN GENERAL.—A covered individual*

13 *whose voice or likeness appears in, or who is the*

14 *subject of, a materially deceptive AI-generated*

15 *audio or visual media, including content distrib-*

16 *uted as part of a Federal election activity, dis-*

17 *tributed in violation of this section may bring*

18 *an action for general or special damages against*

19 *the person, committee, or other entity that dis-*

20 *tributed the materially deceptive AI-generated*

21 *audio or visual media.*

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

23 *addition to any damages awarded under sub-*

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

1  *vailing party reasonable attorney's fees and*

2  *costs.*

3  *"(C) RULE OF CONSTRUCTION.—Nothing in*

4  *this paragraph shall be construed to limit or*

5  *preclude a plaintiff from securing or recovering*

6  *any other available remedy.*

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

8  *alleging a violation of this section, the plaintiff shall*

9  *bear the burden of establishing the violation through*

10  *clear and convincing evidence.".*

11  *(b) SEVERABILITY.—If any provision of this Act, or*

12  *an amendment made by this Act, or the application of such*

13  *provision to any person or circumstance, is held to be in-*

14  *valid, the remainder of this Act, or an amendment made*

15  *by this Act, or the application of such provision to other*

16  *persons or circumstances, shall not be affected.*

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