

118TH CONGRESS  
2D SESSION

# S. 3875

To amend the Federal Election Campaign Act of 1971 to provide further transparency for the use of content that is substantially generated by artificial intelligence in political advertisements by requiring such advertisements to include a statement within the contents of the advertisements if generative AI was used to generate any image, audio, or video footage in the advertisements, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 6, 2024

Ms. KLOBUCHAR (for herself and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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## A BILL

To amend the Federal Election Campaign Act of 1971 to provide further transparency for the use of content that is substantially generated by artificial intelligence in political advertisements by requiring such advertisements to include a statement within the contents of the advertisements if generative AI was used to generate any image, audio, or video footage in the advertisements, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “AI Transparency in  
3 Elections Act of 2024”.

4 **SEC. 2. REQUIRING DISCLAIMERS ON ADVERTISEMENTS**  
5 **CONTAINING CONTENT SUBSTANTIALLY GEN-**  
6 **ERATED BY ARTIFICIAL INTELLIGENCE.**

7 (a) REQUIREMENT.—Section 318 of the Federal  
8 Election Campaign Act of 1971 (52 U.S.C. 30120) is  
9 amended by adding at the end the following new sub-  
10 section:

11 “(e) SPECIAL DISCLAIMER FOR COVERED COMMU-  
12 NICATIONS CONTAINING CONTENT SUBSTANTIALLY GEN-  
13 ERATED BY ARTIFICIAL INTELLIGENCE.—

14 “(1) DEFINITIONS.—For purposes of this sub-  
15 section:

16 “(A) COVERED COMMUNICATION.—

17 “(i) IN GENERAL.—The term ‘covered  
18 communication’ means a communication  
19 through any broadcasting station, news-  
20 paper, magazine, outdoor advertising facil-  
21 ity, mailing, telephone bank, internet or  
22 other digital medium, or any other type of  
23 general public political advertising that—

24 “(I) expressly advocates for or  
25 against the nomination or election of  
26 a candidate;

1                   “(II) refers to a candidate at any  
2                   time during the period beginning 120  
3                   days before the date of a primary  
4                   election or nominating caucus or con-  
5                   vention and ending on the date on  
6                   which a general election occurs; or

7                   “(III) solicits a contribution for a  
8                   candidate or political committee or  
9                   any other person who makes disburse-  
10                  ments for communications described  
11                  in subclause (I) or (II).

12                  “(ii) VOICE AND LIKENESS.—A com-  
13                  munication that invokes the likeness or  
14                  voice of a candidate shall be treated as a  
15                  communication that refers to such can-  
16                  didate.

17                  “(B) GENERATIVE ARTIFICIAL INTEL-  
18                  LIGENCE.—The term ‘generative artificial intel-  
19                  ligence’ means artificial intelligence technology  
20                  that uses machine learning (including deep-  
21                  learning models, natural language processing,  
22                  or other computational processing techniques of  
23                  similar or greater complexity) to generate text,  
24                  images, audio, video, or other media.

1                   “(C) SUBSTANTIALLY GENERATED BY AR-  
2                   TIFICIAL INTELLIGENCE.—

3                   “(i) IN GENERAL.—The term ‘sub-  
4                   stantially generated by artificial intel-  
5                   ligence’ means an image, audio, or video  
6                   that was created or materially altered  
7                   using generative artificial intelligence.

8                   “(ii) EXCEPTION.—Such term does  
9                   not include an image, audio, or video  
10                  that—

11                  “(I) has only minor alterations  
12                  by generative artificial intelligence (in-  
13                  cluding cosmetic adjustments, color  
14                  editing, cropping, resizing, and other  
15                  immaterial uses); and

16                  “(II) does not create a fun-  
17                  damentally different understanding  
18                  than a reasonable person would have  
19                  from an unaltered version of the  
20                  media.

21                  “(2) REQUIREMENT.—If a covered communica-  
22                  tion contains an image, audio, or video that was sub-  
23                  stantially generated by artificial intelligence, the cov-  
24                  ered communication shall include, in a clear and  
25                  conspicuous manner, a statement that the covered

1 communication contains such an image, audio, or  
2 video.

3 “(3) SAFE HARBOR FOR DETERMINING CLEAR  
4 AND CONSPICUOUS MANNER.—A statement required  
5 under this subsection shall be considered to be made  
6 in a clear and conspicuous manner if the statement  
7 meets the following requirements:

8 “(A) IMAGE COVERED COMMUNICA-  
9 TIONS.—In the case of an image that is a cov-  
10 ered communication, the statement—

11 “(i) appears in letters at least as large  
12 as the majority of the text in the covered  
13 communication or otherwise meets the re-  
14 quirements under subsection (c)(1);

15 “(ii) meets the requirements of para-  
16 graphs (2) and (3) of subsection (c);

17 “(iii) states that the covered commu-  
18 nication was created or materially altered  
19 by artificial intelligence; and

20 “(iv) is permanently affixed to the  
21 covered communication.

22 “(B) AUDIO COVERED COMMUNICA-  
23 TIONS.—In the case of an audio covered com-  
24 munication, the statement—

1 “(i) is spoken in a clearly audible and  
2 intelligible manner at the beginning or end  
3 of the covered communication and lasts not  
4 fewer than 4 seconds; and

5 “(ii) includes the following audio  
6 statement in a clearly spoken manner:  
7 ‘ \_\_\_\_\_ used artificial  
8 intelligence to generate the contents of this  
9 communication.’ (with the blank filled in  
10 with the name of person who made the dis-  
11 bursement to pay for such covered commu-  
12 nication).

13 “(C) VIDEO COVERED COMMUNICA-  
14 TIONS.—In the case of a video covered commu-  
15 nication that also includes audio, the statement  
16 is made both in—

17 “(i) a written format that meets the  
18 requirements of subparagraph (A) and ap-  
19 pears throughout the length of the video  
20 covered communication; and

21 “(ii) an audible format that meets the  
22 requirements of subparagraph (B).”.

23 (b) ENFORCEMENT.—

1           (1) IN GENERAL.—Section 309(a)(4)(C)(i) of  
2 the Federal Election Campaign Act of 1971 (52  
3 U.S.C. 30109(a)(4)(C)(i)) is amended—

4           (A) in the matter before subclause (I), by  
5 inserting “or a qualified disclaimer require-  
6 ment” after “a qualified disclosure require-  
7 ment”; and

8           (B) in subclause (II)—

9           (i) by striking “a civil money penalty  
10 in an amount determined, for violations of  
11 each qualified disclosure requirement” and  
12 inserting “a civil money penalty—

13           “(aa) for violations of each quali-  
14 fied disclosure requirement, in an  
15 amount determined”;

16           (ii) by striking the period at the end  
17 and inserting “; and”; and

18           (iii) by adding at the end the fol-  
19 lowing new item:

20           “(bb) for violations of each quali-  
21 fied disclaimer requirement, in an  
22 amount which is determined under a  
23 schedule of penalties which is estab-  
24 lished and published by the Commis-  
25 sion and which takes into account the

1 existence of previous violations by the  
2 person and how broadly the commu-  
3 nication is distributed and such other  
4 factors as the Commission considers  
5 appropriate, provided that any such  
6 civil penalty shall not exceed \$50,000  
7 per covered communication.”.

8 (2) FAILURE TO RESPOND.—Section  
9 309(a)(4)(C)(ii) of such Act (52 U.S.C.  
10 30109(a)(4)(C)(ii)) is amended by striking the pe-  
11 riod at the end and inserting “, except that in the  
12 case of a violation of a qualified disclaimer require-  
13 ment, failure to timely respond after the Commission  
14 has notified the person of an alleged violation under  
15 subsection (a)(1) shall constitute the person’s admis-  
16 sion of the factual allegations of the complaint.”.

17 (3) QUALIFIED DISCLAIMER REQUIREMENT DE-  
18 FINED.—Section 309(a)(4)(C) of such Act (52  
19 U.S.C. 30109(a)(4)(C)) is amended by redesignating  
20 clause (v) as clause (vi) and by inserting after clause  
21 (iv) the following new clause:

22 “(v) In this subparagraph, the term ‘quali-  
23 fied disclaimer requirement’ means the require-  
24 ment of section 318(e)(2).”.



1           (4) APPLICATION.—Clause (vi) of section  
2   309(a)(4)(C) of such Act (52 U.S.C.  
3   30109(a)(4)(C)), as redesignated by paragraph (3),  
4   is amended—

5           (A) by striking “shall apply with respect to  
6   violations” and inserting “shall apply—

7                   “(I) with respect to violations of  
8                   qualified disclosure requirements”;

9           (B) by striking the period at the end and  
10   inserting “; and”; and

11           (C) by adding at the end the following new  
12   subclause:

13                   “(II) with respect to violations of  
14                   qualified disclaimer requirements oc-  
15                   curring on or after the date of the en-  
16                   actment of the AI Transparency in  
17                   Elections Act of 2024.”.

18           (5) TIME OF JUDICIAL REVIEW.—Section  
19   309(a)(8)(A) of the Federal Election Campaign Act  
20   of 1971 (52 U.S.C. 30109(a)(8)(A)) is amended by  
21   inserting “(45-day period in the case of any com-  
22   plaint alleging a violation of section 318(e)(2))”  
23   after “120-day period”.

24           (c) REGULATIONS.—Not later than 90 days after the  
25   date of enactment of the AI Transparency in Elections

1 Act of 2024, the Federal Election Commission shall, in  
2 consultation with the Director of the National Institute  
3 of Standards and Technology, promulgate a regulation to  
4 carry out the amendments made by subsections (a) and  
5 (b), including—

6 (1) criteria for determining whether a covered  
7 communication (as defined in section 318(e) of the  
8 Federal Election Campaign Act of 1971, as added  
9 by subsection (a)) contains an image, audio, or video  
10 substantially generated by artificial intelligence (as  
11 defined in such section); and

12 (2) requirements for the contents of the state-  
13 ment required under section 318(e)(2) of the Fed-  
14 eral Election Campaign Act of 1971, as added by  
15 subsection (a).

16 (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall—

18 (1) apply with respect to any communication  
19 made after the date of enactment of this Act; and

20 (2) take effect without regard to whether the  
21 Federal Election Commission has promulgated regu-  
22 lations to carry out such amendments.

23 **SEC. 3. REPORTS.**

24 Not later than 2 years after the date of enactment  
25 of this Act, and biannually thereafter, the Federal Elec-

1 tion Commission shall submit a report to the Committee  
2 on Rules and Administration of the Senate and the Com-  
3 mittee on House Administration of the House of Rep-  
4 resentatives that includes—

5           (1) an assessment of the compliance with and  
6           the enforcement of the requirements of subsection  
7           (e) of section 318 of the Federal Election Campaign  
8           Act of 1971, as added by this Act; and

9           (2) recommendations for any modifications to  
10          that subsection to assist in carrying out the pur-  
11          poses of that subsection.

12 **SEC. 4. SEVERABILITY.**

13          If any provision of this Act or any amendment made  
14 by this Act, or the application of any such provision or  
15 amendment to any person or circumstance, is held to be  
16 unconstitutional, the remainder of this Act, and the appli-  
17 cation of such provision or amendment to any other person  
18 or circumstance, shall not be affected by the holding.

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