
SENATE BILL 5817

State of Washington

67th Legislature

2022 Regular Session

By Senator Frockt; by request of Secretary of State

1 AN ACT Relating to restricting the use of synthetic media in
2 campaigns for elective office; amending RCW 42.17A.005 and
3 42.17A.340; and adding a new section to chapter 42.17A RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 42.17A.005 and 2020 c 152 s 2 are each amended to
6 read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Actual malice" means to act with knowledge of falsity or
10 with reckless disregard as to truth or falsity.

11 (2) "Agency" includes all state agencies and all local agencies.
12 "State agency" includes every state office, department, division,
13 bureau, board, commission, or other state agency. "Local agency"
14 includes every county, city, town, municipal corporation, quasi-
15 municipal corporation, or special purpose district, or any office,
16 department, division, bureau, board, commission, or agency thereof,
17 or other local public agency.

18 (3) "Authorized committee" means the political committee
19 authorized by a candidate, or by the public official against whom
20 recall charges have been filed, to accept contributions or make
21 expenditures on behalf of the candidate or public official.

1 (4) "Ballot proposition" means any "measure" as defined by RCW
2 29A.04.091, or any initiative, recall, or referendum proposition
3 proposed to be submitted to the voters of the state or any municipal
4 corporation, political subdivision, or other voting constituency from
5 and after the time when the proposition has been initially filed with
6 the appropriate election officer of that constituency before its
7 circulation for signatures.

8 (5) "Benefit" means a commercial, proprietary, financial,
9 economic, or monetary advantage, or the avoidance of a commercial,
10 proprietary, financial, economic, or monetary disadvantage.

11 (6) "Bona fide political party" means:

12 (a) An organization that has been recognized as a minor political
13 party by the secretary of state;

14 (b) The governing body of the state organization of a major
15 political party, as defined in RCW 29A.04.086, that is the body
16 authorized by the charter or bylaws of the party to exercise
17 authority on behalf of the state party; or

18 (c) The county central committee or legislative district
19 committee of a major political party. There may be only one
20 legislative district committee for each party in each legislative
21 district.

22 (7) "Books of account" means:

23 (a) In the case of a campaign or political committee, a ledger or
24 similar listing of contributions, expenditures, and debts, such as a
25 campaign or committee is required to file regularly with the
26 commission, current as of the most recent business day; or

27 (b) In the case of a commercial advertiser, details of political
28 advertising or electioneering communications provided by the
29 advertiser, including the names and addresses of persons from whom it
30 accepted political advertising or electioneering communications, the
31 exact nature and extent of the services rendered and the total cost
32 and the manner of payment for the services.

33 (8) "Candidate" means any individual who seeks nomination for
34 election or election to public office. An individual seeks nomination
35 or election when the individual first:

36 (a) Receives contributions or makes expenditures or reserves
37 space or facilities with intent to promote the individual's candidacy
38 for office;

39 (b) Announces publicly or files for office;

1 (c) Purchases commercial advertising space or broadcast time to
2 promote the individual's candidacy; or

3 (d) Gives consent to another person to take on behalf of the
4 individual any of the actions in (a) or (c) of this subsection.

5 (9) "Caucus political committee" means a political committee
6 organized and maintained by the members of a major political party in
7 the state senate or state house of representatives.

8 (10) "Commercial advertiser" means any person that sells the
9 service of communicating messages or producing material for broadcast
10 or distribution to the general public or segments of the general
11 public whether through brochures, fliers, newspapers, magazines,
12 television, radio, billboards, direct mail advertising, printing,
13 paid internet or digital communications, or any other means of mass
14 communications used for the purpose of appealing, directly or
15 indirectly, for votes or for financial or other support in any
16 election campaign.

17 (11) "Commission" means the agency established under RCW
18 42.17A.100.

19 (12) "Committee" unless the context indicates otherwise, includes
20 a political committee such as a candidate, ballot proposition,
21 recall, political, or continuing political committee.

22 (13) "Compensation" unless the context requires a narrower
23 meaning, includes payment in any form for real or personal property
24 or services of any kind. For the purpose of compliance with RCW
25 42.17A.710, "compensation" does not include per diem allowances or
26 other payments made by a governmental entity to reimburse a public
27 official for expenses incurred while the official is engaged in the
28 official business of the governmental entity.

29 (14) "Continuing political committee" means a political committee
30 that is an organization of continuing existence not limited to
31 participation in any particular election campaign or election cycle.

32 (15)(a) "Contribution" includes:

33 (i) A loan, gift, deposit, subscription, forgiveness of
34 indebtedness, donation, advance, pledge, payment, transfer of funds,
35 or anything of value, including personal and professional services
36 for less than full consideration;

37 (ii) An expenditure made by a person in cooperation,
38 consultation, or concert with, or at the request or suggestion of, a
39 candidate, a political or incidental committee, the person or persons
40 named on the candidate's or committee's registration form who direct

1 expenditures on behalf of the candidate or committee, or their
2 agents;

3 (iii) The financing by a person of the dissemination,
4 distribution, or republication, in whole or in part, of broadcast,
5 written, graphic, digital, or other form of political advertising or
6 electioneering communication prepared by a candidate, a political or
7 incidental committee, or its authorized agent;

8 (iv) Sums paid for tickets to fund-raising events such as dinners
9 and parties, except for the actual cost of the consumables furnished
10 at the event.

11 (b) "Contribution" does not include:

12 (i) Accrued interest on money deposited in a political or
13 incidental committee's account;

14 (ii) Ordinary home hospitality;

15 (iii) A contribution received by a candidate or political or
16 incidental committee that is returned to the contributor within ten
17 business days of the date on which it is received by the candidate or
18 political or incidental committee;

19 (iv) A news item, feature, commentary, or editorial in a
20 regularly scheduled news medium that is of interest to the public,
21 that is in a news medium controlled by a person whose business is
22 that news medium, and that is not controlled by a candidate or a
23 political or incidental committee;

24 (v) An internal political communication primarily limited to the
25 members of or contributors to a political party organization or
26 political or incidental committee, or to the officers, management
27 staff, or stockholders of a corporation or similar enterprise, or to
28 the members of a labor organization or other membership organization;

29 (vi) The rendering of personal services of the sort commonly
30 performed by volunteer campaign workers, or incidental expenses
31 personally incurred by volunteer campaign workers not in excess of
32 fifty dollars personally paid for by the worker. "Volunteer
33 services," for the purposes of this subsection, means services or
34 labor for which the individual is not compensated by any person;

35 (vii) Messages in the form of reader boards, banners, or yard or
36 window signs displayed on a person's own property or property
37 occupied by a person. However, a facility used for such political
38 advertising for which a rental charge is normally made must be
39 reported as an in-kind contribution and counts toward any applicable
40 contribution limit of the person providing the facility;

1 (viii) Legal or accounting services rendered to or on behalf of:

2 (A) A political party or caucus political committee if the person
3 paying for the services is the regular employer of the person
4 rendering such services; or

5 (B) A candidate or an authorized committee if the person paying
6 for the services is the regular employer of the individual rendering
7 the services and if the services are solely for the purpose of
8 ensuring compliance with state election or public disclosure laws; or

9 (ix) The performance of ministerial functions by a person on
10 behalf of two or more candidates or political or incidental
11 committees either as volunteer services defined in (b)(vi) of this
12 subsection or for payment by the candidate or political or incidental
13 committee for whom the services are performed as long as:

14 (A) The person performs solely ministerial functions;

15 (B) A person who is paid by two or more candidates or political
16 or incidental committees is identified by the candidates and
17 political committees on whose behalf services are performed as part
18 of their respective statements of organization under RCW 42.17A.205;
19 and

20 (C) The person does not disclose, except as required by law, any
21 information regarding a candidate's or committee's plans, projects,
22 activities, or needs, or regarding a candidate's or committee's
23 contributions or expenditures that is not already publicly available
24 from campaign reports filed with the commission, or otherwise engage
25 in activity that constitutes a contribution under (a)(ii) of this
26 subsection.

27 A person who performs ministerial functions under this subsection
28 (15)(b)(ix) is not considered an agent of the candidate or committee
29 as long as the person has no authority to authorize expenditures or
30 make decisions on behalf of the candidate or committee.

31 (c) Contributions other than money or its equivalent are deemed
32 to have a monetary value equivalent to the fair market value of the
33 contribution. Services or property or rights furnished at less than
34 their fair market value for the purpose of assisting any candidate or
35 political committee are deemed a contribution. Such a contribution
36 must be reported as an in-kind contribution at its fair market value
37 and counts towards any applicable contribution limit of the provider.

38 (16) "Depository" means a bank, mutual savings bank, savings and
39 loan association, or credit union doing business in this state.

1 (17) "Elected official" means any person elected at a general or
2 special election to any public office, and any person appointed to
3 fill a vacancy in any such office.

4 (18) "Election" includes any primary, general, or special
5 election for public office and any election in which a ballot
6 proposition is submitted to the voters. An election in which the
7 qualifications for voting include other than those requirements set
8 forth in Article VI, section 1 (Amendment 63) of the Constitution of
9 the state of Washington shall not be considered an election for
10 purposes of this chapter.

11 (19) "Election campaign" means any campaign in support of or in
12 opposition to a candidate for election to public office and any
13 campaign in support of, or in opposition to, a ballot proposition.

14 (20) "Election cycle" means the period beginning on the first day
15 of January after the date of the last previous general election for
16 the office that the candidate seeks and ending on December 31st after
17 the next election for the office. In the case of a special election
18 to fill a vacancy in an office, "election cycle" means the period
19 beginning on the day the vacancy occurs and ending on December 31st
20 after the special election.

21 (21)(a) "Electioneering communication" means any broadcast,
22 cable, or satellite television, radio transmission, digital
23 communication, United States postal service mailing, billboard,
24 newspaper, or periodical that:

25 (i) Clearly identifies a candidate for a state, local, or
26 judicial office either by specifically naming the candidate, or
27 identifying the candidate without using the candidate's name;

28 (ii) Is broadcast, transmitted electronically or by other means,
29 mailed, erected, distributed, or otherwise published within sixty
30 days before any election for that office in the jurisdiction in which
31 the candidate is seeking election; and

32 (iii) Either alone, or in combination with one or more
33 communications identifying the candidate by the same sponsor during
34 the sixty days before an election, has a fair market value or cost of
35 one thousand dollars or more.

36 (b) "Electioneering communication" does not include:

37 (i) Usual and customary advertising of a business owned by a
38 candidate, even if the candidate is mentioned in the advertising when
39 the candidate has been regularly mentioned in that advertising

1 appearing at least twelve months preceding the candidate becoming a
2 candidate;

3 (ii) Advertising for candidate debates or forums when the
4 advertising is paid for by or on behalf of the debate or forum
5 sponsor, so long as two or more candidates for the same position have
6 been invited to participate in the debate or forum;

7 (iii) A news item, feature, commentary, or editorial in a
8 regularly scheduled news medium that is:

9 (A) Of interest to the public;

10 (B) In a news medium controlled by a person whose business is
11 that news medium; and

12 (C) Not a medium controlled by a candidate or a political or
13 incidental committee;

14 (iv) Slate cards and sample ballots;

15 (v) Advertising for books, films, dissertations, or similar works
16 (A) written by a candidate when the candidate entered into a contract
17 for such publications or media at least twelve months before becoming
18 a candidate, or (B) written about a candidate;

19 (vi) Public service announcements;

20 (vii) An internal political communication primarily limited to
21 the members of or contributors to a political party organization or
22 political or incidental committee, or to the officers, management
23 staff, or stockholders of a corporation or similar enterprise, or to
24 the members of a labor organization or other membership organization;

25 (viii) An expenditure by or contribution to the authorized
26 committee of a candidate for state, local, or judicial office; or

27 (ix) Any other communication exempted by the commission through
28 rule consistent with the intent of this chapter.

29 (22) "Expenditure" includes a payment, contribution,
30 subscription, distribution, loan, advance, deposit, or gift of money
31 or anything of value, and includes a contract, promise, or agreement,
32 whether or not legally enforceable, to make an expenditure.
33 "Expenditure" also includes a promise to pay, a payment, or a
34 transfer of anything of value in exchange for goods, services,
35 property, facilities, or anything of value for the purpose of
36 assisting, benefiting, or honoring any public official or candidate,
37 or assisting in furthering or opposing any election campaign. For the
38 purposes of this chapter, agreements to make expenditures, contracts,
39 and promises to pay may be reported as estimated obligations until
40 actual payment is made. "Expenditure" shall not include the partial

1 or complete repayment by a candidate or political or incidental
2 committee of the principal of a loan, the receipt of which loan has
3 been properly reported.

4 (23) "Final report" means the report described as a final report
5 in RCW 42.17A.235(11) (a).

6 (24) "Foreign national" means:

7 (a) An individual who is not a citizen of the United States and
8 is not lawfully admitted for permanent residence;

9 (b) A government, or subdivision, of a foreign country;

10 (c) A foreign political party; and

11 (d) Any entity, such as a partnership, association, corporation,
12 organization, or other combination of persons, that is organized
13 under the laws of or has its principal place of business in a foreign
14 country.

15 (25) "General election" for the purposes of RCW 42.17A.405 means
16 the election that results in the election of a person to a state or
17 local office. It does not include a primary.

18 (26) "Gift" has the definition in RCW 42.52.010.

19 (27) "Immediate family" includes the spouse or domestic partner,
20 dependent children, and other dependent relatives, if living in the
21 household. For the purposes of the definition of "intermediary" in
22 this section, "immediate family" means an individual's spouse or
23 domestic partner, and child, stepchild, grandchild, parent,
24 stepparent, grandparent, brother, half brother, sister, or half
25 sister of the individual and the spouse or the domestic partner of
26 any such person and a child, stepchild, grandchild, parent,
27 stepparent, grandparent, brother, half brother, sister, or half
28 sister of the individual's spouse or domestic partner and the spouse
29 or the domestic partner of any such person.

30 (28) "Incidental committee" means any nonprofit organization not
31 otherwise defined as a political committee but that may incidentally
32 make a contribution or an expenditure in excess of the reporting
33 thresholds in RCW 42.17A.235, directly or through a political
34 committee. Any nonprofit organization is not an incidental committee
35 if it is only remitting payments through the nonprofit organization
36 in an aggregated form and the nonprofit organization is not required
37 to report those payments in accordance with this chapter.

38 (29) "Incumbent" means a person who is in present possession of
39 an elected office.

1 (30) (a) "Independent expenditure" means an expenditure that has
2 each of the following elements:

3 (i) It is made in support of or in opposition to a candidate for
4 office by a person who is not:

5 (A) A candidate for that office;

6 (B) An authorized committee of that candidate for that office;
7 and

8 (C) A person who has received the candidate's encouragement or
9 approval to make the expenditure, if the expenditure pays in whole or
10 in part for political advertising supporting that candidate or
11 promoting the defeat of any other candidate or candidates for that
12 office;

13 (ii) It is made in support of or in opposition to a candidate for
14 office by a person with whom the candidate has not collaborated for
15 the purpose of making the expenditure, if the expenditure pays in
16 whole or in part for political advertising supporting that candidate
17 or promoting the defeat of any other candidate or candidates for that
18 office;

19 (iii) The expenditure pays in whole or in part for political
20 advertising that either specifically names the candidate supported or
21 opposed, or clearly and beyond any doubt identifies the candidate
22 without using the candidate's name; and

23 (iv) The expenditure, alone or in conjunction with another
24 expenditure or other expenditures of the same person in support of or
25 opposition to that candidate, has a value of one thousand dollars or
26 more. A series of expenditures, each of which is under one thousand
27 dollars, constitutes one independent expenditure if their cumulative
28 value is one thousand dollars or more.

29 (b) "Independent expenditure" does not include: Ordinary home
30 hospitality; communications with journalists or editorial staff
31 designed to elicit a news item, feature, commentary, or editorial in
32 a regularly scheduled news medium that is of primary interest to the
33 general public, controlled by a person whose business is that news
34 medium, and not controlled by a candidate or a political committee;
35 participation in the creation of a publicly funded voters' pamphlet
36 statement in written or video form; an internal political
37 communication primarily limited to contributors to a political party
38 organization or political action committee, the officers, management
39 staff, and stockholders of a corporation or similar enterprise, or
40 the members of a labor organization or other membership organization;

1 or the rendering of personal services of the sort commonly performed
2 by volunteer campaign workers or incidental expenses personally
3 incurred by volunteer campaign workers not in excess of two hundred
4 fifty dollars personally paid for by the worker.

5 (31) (a) "Intermediary" means an individual who transmits a
6 contribution to a candidate or committee from another person unless
7 the contribution is from the individual's employer, immediate family,
8 or an association to which the individual belongs.

9 (b) A treasurer or a candidate is not an intermediary for
10 purposes of the committee that the treasurer or candidate serves.

11 (c) A professional fund-raiser is not an intermediary if the
12 fund-raiser is compensated for fund-raising services at the usual and
13 customary rate.

14 (d) A volunteer hosting a fund-raising event at the individual's
15 home is not an intermediary for purposes of that event.

16 (32) "Legislation" means bills, resolutions, motions, amendments,
17 nominations, and other matters pending or proposed in either house of
18 the state legislature, and includes any other matter that may be the
19 subject of action by either house or any committee of the legislature
20 and all bills and resolutions that, having passed both houses, are
21 pending approval by the governor.

22 (33) "Legislative office" means the office of a member of the
23 state house of representatives or the office of a member of the state
24 senate.

25 (34) "Lobby" and "lobbying" each mean attempting to influence the
26 passage or defeat of any legislation by the legislature of the state
27 of Washington, or the adoption or rejection of any rule, standard,
28 rate, or other legislative enactment of any state agency under the
29 state administrative procedure act, chapter 34.05 RCW. Neither
30 "lobby" nor "lobbying" includes an association's or other
31 organization's act of communicating with the members of that
32 association or organization.

33 (35) "Lobbyist" includes any person who lobbies either on the
34 person's own or another's behalf.

35 (36) "Lobbyist's employer" means the person or persons by whom a
36 lobbyist is employed and all persons by whom the lobbyist is
37 compensated for acting as a lobbyist.

38 (37) "Ministerial functions" means an act or duty carried out as
39 part of the duties of an administrative office without exercise of
40 personal judgment or discretion.

1 (38) "Participate" means that, with respect to a particular
2 election, an entity:

3 (a) Makes either a monetary or in-kind contribution to a
4 candidate;

5 (b) Makes an independent expenditure or electioneering
6 communication in support of or opposition to a candidate;

7 (c) Endorses a candidate before contributions are made by a
8 subsidiary corporation or local unit with respect to that candidate
9 or that candidate's opponent;

10 (d) Makes a recommendation regarding whether a candidate should
11 be supported or opposed before a contribution is made by a subsidiary
12 corporation or local unit with respect to that candidate or that
13 candidate's opponent; or

14 (e) Directly or indirectly collaborates or consults with a
15 subsidiary corporation or local unit on matters relating to the
16 support of or opposition to a candidate, including, but not limited
17 to, the amount of a contribution, when a contribution should be
18 given, and what assistance, services or independent expenditures, or
19 electioneering communications, if any, will be made or should be made
20 in support of or opposition to a candidate.

21 (39) "Person" includes an individual, partnership, joint venture,
22 public or private corporation, association, federal, state, or local
23 governmental entity or agency however constituted, candidate,
24 committee, political committee, political party, executive committee
25 thereof, or any other organization or group of persons, however
26 organized.

27 (40) "Political advertising" includes any advertising displays,
28 newspaper ads, billboards, signs, brochures, articles, tabloids,
29 flyers, letters, radio or television presentations, digital
30 communication, or other means of mass communication, used for the
31 purpose of appealing, directly or indirectly, for votes or for
32 financial or other support or opposition in any election campaign.

33 (41) "Political committee" means any person (except a candidate
34 or an individual dealing with the candidate's or individual's own
35 funds or property) having the expectation of receiving contributions
36 or making expenditures in support of, or opposition to, any candidate
37 or any ballot proposition.

38 (42) "Primary" for the purposes of RCW 42.17A.405 means the
39 procedure for nominating a candidate to state or local office under

1 chapter 29A.52 RCW or any other primary for an election that uses, in
2 large measure, the procedures established in chapter 29A.52 RCW.

3 (43) "Public office" means any federal, state, judicial, county,
4 city, town, school district, port district, special district, or
5 other state political subdivision elective office.

6 (44) "Public record" has the definition in RCW 42.56.010.

7 (45) "Recall campaign" means the period of time beginning on the
8 date of the filing of recall charges under RCW 29A.56.120 and ending
9 thirty days after the recall election.

10 (46) "Remediable violation" means any violation of this chapter
11 that:

12 (a) Involved expenditures or contributions totaling no more than
13 the contribution limits set out under RCW 42.17A.405(2) per election,
14 or one thousand dollars if there is no statutory limit;

15 (b) Occurred:

16 (i) More than thirty days before an election, where the
17 commission entered into an agreement to resolve the matter; or

18 (ii) At any time where the violation did not constitute a
19 material violation because it was inadvertent and minor or otherwise
20 has been cured and, after consideration of all the circumstances,
21 further proceedings would not serve the purposes of this chapter;

22 (c) Does not materially harm the public interest, beyond the harm
23 to the policy of this chapter inherent in any violation; and

24 (d) Involved:

25 (i) A person who:

26 (A) Took corrective action within five business days after the
27 commission first notified the person of noncompliance, or where the
28 commission did not provide notice and filed a required report within
29 twenty-one days after the report was due to be filed; and

30 (B) Substantially met the filing deadline for all other required
31 reports within the immediately preceding twelve-month period; or

32 (ii) A candidate who:

33 (A) Lost the election in question; and

34 (B) Did not receive contributions over one hundred times the
35 contribution limit in aggregate per election during the campaign in
36 question.

37 (47) (a) "Sponsor" for purposes of an electioneering
38 communications, independent expenditures, or political advertising
39 means the person paying for the electioneering communication,
40 independent expenditure, or political advertising. If a person acts

1 as an agent for another or is reimbursed by another for the payment,
2 the original source of the payment is the sponsor.

3 (b) "Sponsor," for purposes of a political or incidental
4 committee, means any person, except an authorized committee, to whom
5 any of the following applies:

6 (i) The committee receives eighty percent or more of its
7 contributions either from the person or from the person's members,
8 officers, employees, or shareholders;

9 (ii) The person collects contributions for the committee by use
10 of payroll deductions or dues from its members, officers, or
11 employees.

12 (48) "Sponsored committee" means a committee, other than an
13 authorized committee, that has one or more sponsors.

14 (49) "State office" means state legislative office or the office
15 of governor, lieutenant governor, secretary of state, attorney
16 general, commissioner of public lands, insurance commissioner,
17 superintendent of public instruction, state auditor, or state
18 treasurer.

19 (50) "State official" means a person who holds a state office.

20 (51) "Surplus funds" mean, in the case of a political committee
21 or candidate, the balance of contributions that remain in the
22 possession or control of that committee or candidate subsequent to
23 the election for which the contributions were received, and that are
24 in excess of the amount necessary to pay remaining debts or expenses
25 incurred by the committee or candidate with respect to that election.
26 In the case of a continuing political committee, "surplus funds" mean
27 those contributions remaining in the possession or control of the
28 committee that are in excess of the amount necessary to pay all
29 remaining debts or expenses when it makes its final report under RCW
30 42.17A.255.

31 (52) "Synthetic media" means an image, an audio recording, or a
32 video recording of an individual's appearance, speech, or conduct
33 that has been intentionally manipulated with the use of generative
34 adversarial network techniques or other digital technology in a
35 manner to create a realistic but false image, audio, or video that
36 produces:

37 (a) A depiction that to a reasonable individual is of a real
38 individual in appearance, action, or speech that did not actually
39 occur in reality; and

1 (b) A fundamentally different understanding or impression of the
2 appearance, action, or speech than a reasonable person would have
3 from the unaltered, original version of the image, audio recording,
4 or video recording.

5 (53) "Technical correction" means the correction of a minor or
6 ministerial error in a required report that does not materially harm
7 the public interest and needs to be corrected for the report to be in
8 full compliance with the requirements of this chapter.

9 ~~((53))~~ (54) "Treasurer" and "deputy treasurer" mean the
10 individuals appointed by a candidate or political or incidental
11 committee, pursuant to RCW 42.17A.210, to perform the duties
12 specified in that section.

13 ~~((54))~~ (55) "Violation" means a violation of this chapter that
14 is not a remediable violation, minor violation, or an error
15 classified by the commission as appropriate to address by a technical
16 correction.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 42.17A
18 RCW to read as follows:

19 (1) No person may, with actual malice, distribute an
20 electioneering communication that contains any synthetic media that
21 alters the appearance, action, or speech of a candidate unless it
22 includes a disclosure stating: "This (image/video/audio) has been
23 manipulated."

24 (2)(a) For visual media, the text of the disclosure shall appear
25 in size easily readable by the average viewer and no smaller than the
26 largest font size of other text appearing in the visual media. If the
27 visual media does not include any other text, the disclosure shall
28 appear in a size that is easily readable by the average viewer. For
29 visual media that is a video, the disclosure shall appear for the
30 duration of the video.

31 (b) If the media consists of audio only, the disclosure shall be
32 read in a clearly spoken manner and in a pitch that can be easily
33 heard by the average listener, at the beginning of the audio, at the
34 end of the audio, and, if the audio is greater than two minutes in
35 length, interspersed within the audio at intervals of not more than
36 two minutes each.

37 (3)(a) This section does not alter or negate any rights,
38 obligations, or immunities of an information content provider under
39 the communications decency act, 47 U.S.C. Sec. 230, or the rights or

1 obligations of a radio or television station, including a cable or
2 satellite television operator, programmer, or producer, under the
3 provisions of the federal communications act governing political
4 broadcasting, 47 U.S.C. Sec. 315(a).

5 (b) This section does not apply to a radio or television
6 broadcasting station, including a cable or satellite television
7 operator, programmer, or producer:

8 (i) That broadcasts synthetic media prohibited by this section as
9 part of a bona fide newscast, news interview, news documentary, or
10 on-the-spot coverage of bona fide news events, if the broadcast
11 clearly acknowledges through content or a disclosure, in a manner
12 that can be easily heard or read by the average listener or viewer,
13 that there are questions about the authenticity of the synthetic
14 media; or

15 (ii) When it is paid to broadcast synthetic media.

16 (c) This section does not apply to an internet website, or a
17 regularly published newspaper, magazine, or other periodical of
18 general circulation, including an internet or electronic publication,
19 that routinely carries news and commentary of general interest, and
20 that publishes synthetic media prohibited by this section, if the
21 publication clearly states that the synthetic media does not
22 accurately represent the speech or conduct of the candidate.

23 (d) This section does not apply to synthetic media that
24 constitutes satire or parody.

25 (4)(a) A candidate whose voice or likeness appears in a synthetic
26 media distributed in violation of this section may seek injunctive or
27 other equitable relief prohibiting the distribution of audio or
28 visual media in violation of this section. An action under this
29 subsection takes precedence over other cases, and must be speedily
30 heard and determined.

31 (b) A candidate whose voice or likeness appears in a synthetic
32 media distributed in violation of this section may bring an action
33 for general or special damages against the person, committee, or
34 entity that distributed the synthetic media. The court may also award
35 a prevailing party reasonable attorneys' fees and costs. This
36 subsection does not limit or preclude a plaintiff from securing or
37 recovering any other available remedy.

38 (c) In any action alleging a violation of this section, the
39 plaintiff bears the burden of establishing the violation through
40 clear and convincing evidence.

1 **Sec. 3.** RCW 42.17A.340 and 2010 c 204 s 507 are each amended to
2 read as follows:

3 (1) Except as provided in subsection (2) of this section, the
4 responsibility for compliance with RCW 42.17A.320 through 42.17A.335
5 and section 2 of this act shall be with the sponsor of the political
6 advertising and not with the broadcasting station or other medium.

7 (2) If a broadcasting station or other medium changes the content
8 of a political advertisement, the station or medium shall be
9 responsible for any failure of the advertisement to comply with RCW
10 42.17A.320 through 42.17A.335 and section 2 of this act that results
11 from that change.

12 NEW SECTION. **Sec. 4.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

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