

HB172 ENROLLED



1 HB172
2 L84TWYW-3
3 By Representatives Chestnut, Almond, Tillman, Gray, Robbins,
4 Daniels, Shaw, Pringle
5 RFD: Judiciary
6 First Read: 15-Feb-24



HB172 Enrolled

1 Enrolled, An Act,

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3 Relating to elections; to provide that the distribution
4 of materially deceptive media in an attempt to influence an
5 upcoming election is a crime; to authorize certain parties to
6 seek permanent injunctive relief against anyone who
7 distributes materially deceptive media in an attempt to
8 influence an upcoming election; to provide definitions; and to
9 provide exceptions.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. For the purposes of this bill, the following
12 terms have the following meanings:

13 (1) ARTIFICIAL INTELLIGENCE. Any artificial system or
14 generative artificial intelligence system that performs tasks
15 under varying and unpredictable circumstances without
16 significant human oversight or that can learn from experience
17 and improve performance when exposed to data sets.

18 (2) CREATOR. Any candidate, candidate campaign
19 committee, political party, political action committee, other
20 political committee or entity, any employee, representative,
21 or agent of the foregoing, or any other person who prepares,
22 creates, or causes the preparation or creation and the
23 dissemination of any political advertising, material, or media
24 produced by generative artificial intelligence. The term does
25 not include a broadcaster, cable provider, digital newspaper,
26 online service, Internet service provider, streaming platform,
27 provider, or developer of any technology in the generation of
28 media by artificial intelligence, or any employee,



HB172 Enrolled

29 representative, or agent thereof, solely for the distribution
30 of a creator, sponsor, or purchaser's political advertising,
31 material, or media

32 (3) DEPICTED INDIVIDUAL. An individual who is falsely
33 represented in a materially deceptive media.

34 (4) ELECTION. A federal, state, legislative, judicial,
35 countywide, local, general, primary, runoff, or special
36 election.

37 (5) MATERIALLY DECEPTIVE MEDIA. Any image, audio, or
38 video that meets all of the following requirements:

39 a. The media falsely depicts an individual engaging in
40 speech or conduct in which the depicted individual did not in
41 fact engage.

42 b. A reasonable viewer or listener would incorrectly
43 believe that the depicted individual engaged in the speech or
44 conduct depicted.

45 c. The media was produced by artificial intelligence.

46 (6) SPONSOR. A person at whose request or on whose
47 behalf any political advertisement, material, or media is
48 created, prepared, placed, published, or disseminated.

49 Section 2. (a) Except as provided in subsection (b), a
50 person shall not distribute, or enter into an agreement with
51 another person to distribute, materially deceptive media if
52 all of the following apply:

53 (1) The person knows the media falsely represents a
54 depicted individual.

55 (2) The distribution occurs within 90 days before an
56 election.



HB172 Enrolled

57 (3) The person intends the distribution to harm the
58 reputation or electoral prospects of a candidate in the coming
59 election, and the distribution is reasonably likely to cause
60 that result.

61 (4) The person intends the distribution to change the
62 voting patterns of electors in the coming election by
63 deceiving the electors into incorrectly believing that the
64 depicted individual in fact engaged in the speech or conduct
65 depicted, and the distribution is reasonably likely to cause
66 that result.

67 (b) The prohibition in subsection (a) does not apply if
68 all of the following conditions are met:

69 (1) The creator, sponsor, or purchaser includes a
70 disclaimer in any presentation of the media informing the
71 viewer both that the media has been manipulated by technical
72 means and depicts speech or conduct that did not occur. The
73 following disclaimer is sufficient, but not necessary, to
74 satisfy the requirements of this subdivision:

75 "This media has been manipulated by technical means and
76 depicts speech or conduct that did not occur."

77 (2) If the media is a video, the disclaimer meets all
78 of the following requirements:

79 a. Appears throughout the entirety of the video.

80 b. Is clearly visible to and readable by the average
81 viewer.

82 c. Is in letters in a size that is easily readable by
83 the average viewer.

84 d. Is in the same language as the language used in the



HB172 Enrolled

85 video media.

86 (3) If the media consists only of audio and contains no
87 image or video, the disclaimer is read at the beginning and
88 end of the media in a clearly spoken manner, in a pitch that
89 can be easily heard by the average listener, and in the same
90 language as the audio media.

91 (4) If the media is an image, the disclaimer meets all
92 of the following requirements:

93 a. Is clearly visible to and readable by the average
94 viewer.

95 b. Is in the same language as the language used in the
96 image media.

97 (5) If the media was generated by editing an existing
98 image, audio, or video, the media includes a citation
99 directing the viewer or listener to the original source from
100 which the unedited version of the existing image, audio, or
101 video was obtained.

102 (c) A violation of this section is a Class A
103 misdemeanor, except that a second or subsequent conviction
104 within five years is a Class D felony.

105 (d) (1) Distribution of material that is prohibited by
106 this section shall not be a violation of this section if the
107 distributor does not have actual knowledge that the material
108 is prohibited, the distributor does not intend to injure or
109 harm the reputation or prospects of the depicted individual,
110 influence an election, the results of an election, or the
111 voting patterns in an election, or deter any individual from
112 voting in an election, and the distributor is: a. an Internet



HB172 Enrolled

113 website, interactive computer service, or radio or television
114 broadcasting station, including, but not limited to, a cable
115 or satellite television operator; b. a regularly published
116 newspaper, magazine, or other periodical, including, but not
117 limited to, an Internet or electronic publication, programmer,
118 or producer; or c. a website or streaming service, including,
119 but not limited to, an information service as defined in 47
120 U.S.C. § 153.

121 (2) This act shall not be construed to alter any
122 rights, obligations, or immunities created by 47 U.S.C.
123 Chapter 5 or under the regulations of the Federal
124 Communications Commission pertaining to the broadcast or
125 distribution of political programming or campaign advertising,
126 or under any other federal law.

127 (3) This act shall not be construed to alter any
128 rights, obligations, or immunities created by 47 U.S.C. § 230.

129 (4) This act shall not apply to content that
130 constitutes satire or parody which is substantially dependent
131 on the ability of an individual to impersonate a candidate
132 physically or verbally and not upon technology or artificial
133 intelligence.

134 (5) This act shall not apply to a radio or television
135 broadcasting station, including a cable or satellite
136 television operator, programmer, or producer, streaming
137 provider, Internet website, or a regularly published
138 newspaper, magazine, or other periodical of general
139 circulation, including an Internet or electronic publication,
140 that routinely carries news and commentary of general interest



HB172 Enrolled

141 that distributes any materially deceptive media prohibited by
142 this act as part of a bona fide newscast, news interview, news
143 documentary, or on-the-spot coverage of a bona fide news event
144 if the broadcast or publication clearly acknowledges, through
145 content or disclosure, in a manner that can easily be heard
146 and understood by the average listener or viewer, that there
147 are questions about the authenticity of the media.

148 (e) A distributor shall not intentionally remove a
149 disclaimer included with any media by the creator, sponsor, or
150 purchaser of the media.

151 Section 3. (a) All of the following may seek permanent
152 injunctive relief against a person that violates this section:

153 (1) The Attorney General.

154 (2) A depicted individual.

155 (3) A candidate for office who has been injured or is
156 likely to be injured by the distribution of materially
157 deceptive media.

158 (4) Any entity that represents the interests of voters
159 likely to be deceived by the distribution of materially
160 deceptive media.

161 (b) (1) If a court determines that a complaint for
162 permanent injunctive relief filed pursuant to subsection (a)
163 is frivolous, the court shall issue an order suspending the
164 defendant's obligation to respond to the complaint and shall
165 order the plaintiff to show cause why the complaint should not
166 be dismissed. If the plaintiff fails to respond to the court
167 or the plaintiff's response to the court confirms that the
168 complaint is frivolous, the court shall dismiss the complaint



HB172 Enrolled

169 and may award costs and attorney fees to the defendant and may
170 issue any appropriate sanctions against the plaintiff and the
171 plaintiff's attorney.

172 (2) If the plaintiff's response to the court assures
173 the court that the complaint is not frivolous, the court shall
174 direct the defendant to answer the complaint.

175 (c) A plaintiff seeking permanent injunctive relief
176 under subsection (a) must prove by clear and convincing
177 evidence that the defendant against whom the injunction is
178 sought knew the media at issue falsely represented the
179 depicted individual.

180 (d) If a plaintiff, other than the Attorney General, is
181 awarded permanent injunctive relief under this section, the
182 court may award costs and attorney fees to the plaintiff.

183 Section 4. Although this bill would have as its purpose
184 or effect the requirement of a new or increased expenditure of
185 local funds, the bill is excluded from further requirements
186 and application under Section 111.05 of the Constitution of
187 Alabama of 2022, because the bill defines a new crime or
188 amends the definition of an existing crime.

189 Section 5. This act shall become effective on October
190 1, 2024.



HB172 Enrolled

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 21-Mar-24, as amended.

John Treadwell
Clerk

Senate

08-May-24

Amended and Passed

House

09-May-24

Concurred in Senate
Amendment