

HB172 INTRODUCED



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



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SYNOPSIS:

This bill would provide that the distribution of materially deceptive media intended to influence an upcoming election is a crime.

This bill would authorize certain parties to seek permanent injunctive relief against a person who distributes materially deceptive media with the intent to influence an upcoming election.

This bill would also provide definitions.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions



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29 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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36 Relating to elections; to provide that the distribution
37 of materially deceptive media in an attempt to influence an
38 upcoming election is a crime; to authorize certain parties to
39 seek permanent injunctive relief against anyone who
40 distributes materially deceptive media in an attempt to
41 influence an upcoming election; to provide definitions; and in
42 connection therewith would have as its purpose or effect the
43 requirement of a new or increased expenditure of local funds
44 within the meaning of Section 111.05 of the Constitution of
45 Alabama of 2022.

46 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

47 Section 1. For the purposes of this bill, the following
48 terms have the following meanings:

49 (1) ARTIFICIAL INTELLIGENCE. Any artificial system that
50 performs tasks under varying and unpredictable circumstances
51 without significant human oversight or that can learn from
52 experience and improve performance when exposed to data sets.

53 (2) DEPICTED INDIVIDUAL. An individual who is falsely
54 represented in a materially deceptive media.

55 (3) ELECTION. A federal, state, legislative, judicial,
56 countywide, local, general, primary, runoff, or special



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57 election.

58 (4) MATERIALLY DECEPTIVE MEDIA. Any image, audio, or
59 video that meets all of the following requirements:

60 a. The media falsely depicts an individual engaging in
61 speech or conduct in which the depicted individual did not in
62 fact engage.

63 b. A reasonable viewer or listener would incorrectly
64 believe that the depicted individual engaged in the speech or
65 conduct depicted.

66 c. The media was produced by artificial intelligence.

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

71 (1) The person knows the media falsely represents a
72 depicted individual.

73 (2) The distribution occurs within 90 days before an
74 election.

75 (3) The person intends the distribution to harm the
76 reputation or electoral prospects of a candidate in the coming
77 election, and the distribution is reasonably likely to cause
78 that result.

79 (4) The person intends the distribution to change the
80 voting patterns of electors in the coming election by
81 deceiving the electors into incorrectly believing that the
82 depicted individual in fact engaged in the speech or conduct
83 depicted, and the distribution is reasonably likely to cause
84 that result.



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

87 (1) The media includes a disclaimer informing the
88 viewer both that the media has been manipulated by technical
89 means and depicts speech or conduct that did not occur. The
90 following disclaimer is sufficient, but not necessary, to
91 satisfy the requirements of this subdivision:

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

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

96 a. Appears throughout the entirety of the video.

97 b. Is clearly visible to and readable by the average
98 viewer.

99 c. Is in letters in a size that is easily readable by
100 the average viewer.

101 d. Is in the same language as the language used in the
102 video media.

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

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

110 a. Is clearly visible to and readable by the average
111 viewer.

112 b. Is in the same language as the language used in the



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113 image media.

114 (5) If the media was generated by editing an existing
115 image, audio, or video, the media includes a citation
116 directing the viewer or listener to the original source from
117 which the unedited version of the existing image, audio, or
118 video was obtained.

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

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

124 (1) The Attorney General.

125 (2) A depicted individual.

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

129 (4) Any entity that represents the interests of voters
130 likely to be deceived by the distribution of materially
131 deceptive media.

132 (b) (1) If a court determines that a complaint for
133 permanent injunctive relief filed pursuant to subsection (a)
134 is frivolous, the court shall issue an order suspending the
135 defendant's obligation to respond to the complaint and shall
136 order the plaintiff to show cause why the complaint should not
137 be dismissed. If the plaintiff fails to respond to the court
138 or the plaintiff's response to the court confirms that the
139 complaint is frivolous, the court shall dismiss the complaint
140 and may award costs and attorney fees to the defendant and may



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141 issue any appropriate sanctions against the plaintiff and the
142 plaintiff's attorney.

143 (2) If the plaintiff's response to the court assures
144 the court that the complaint is not frivolous, the court shall
145 direct the defendant to answer the complaint.

146 (c) A plaintiff seeking permanent injunctive relief
147 under subsection (a) must prove by clear and convincing
148 evidence that the defendant against whom the injunction is
149 sought knew the media at issue falsely represented the
150 depicted individual.

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

154 Section 4. Although this bill would have as its purpose
155 or effect the requirement of a new or increased expenditure of
156 local funds, the bill is excluded from further requirements
157 and application under Section 111.05 of the Constitution of
158 Alabama of 2022, because the bill defines a new crime or
159 amends the definition of an existing crime.

160 Section 5. This act shall become effective on October
161 1, 2024.