

**House Judiciary Reported Substitute for HB172**

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6 A BILL

7 TO BE ENTITLED

8 AN ACT

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10 Relating to elections; to provide that the distribution
11 of materially deceptive media in an attempt to influence an
12 upcoming election is a crime; to authorize certain parties to
13 seek permanent injunctive relief against anyone who
14 distributes materially deceptive media in an attempt to
15 influence an upcoming election; to provide definitions; and in
16 connection therewith would have as its purpose or effect the
17 requirement of a new or increased expenditure of local funds
18 within the meaning of Section 111.05 of the Constitution of
19 Alabama of 2022.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. For the purposes of this bill, the following
22 terms have the following meanings:

23 (1) ARTIFICIAL INTELLIGENCE. Any artificial system **or**
24 **generative artificial intelligence system** that performs tasks
25 under varying and unpredictable circumstances without
26 significant human oversight or that can learn from experience
27 and improve performance when exposed to data sets.

28 (2) DEPICTED INDIVIDUAL. An individual who is falsely

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29 represented in a materially deceptive media.

30 (3) ELECTION. A federal, state, legislative, judicial,
31 countywide, local, general, primary, runoff, or special
32 election.

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

35 a. The media falsely depicts an individual engaging in
36 speech or conduct in which the depicted individual did not in
37 fact engage.

38 b. A reasonable viewer or listener would incorrectly
39 believe that the depicted individual engaged in the speech or
40 conduct depicted.

41 c. The media was produced by artificial intelligence.

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

46 (1) The person knows the media falsely represents a
47 depicted individual.

48 (2) The distribution occurs within 90 days before an
49 election.

50 (3) The person intends the distribution to harm the
51 reputation or electoral prospects of a candidate in the coming
52 election, and the distribution is reasonably likely to cause
53 that result.

54 (4) The person intends the distribution to change the
55 voting patterns of electors in the coming election by
56 deceiving the electors into incorrectly believing that the

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57 depicted individual in fact engaged in the speech or conduct
58 depicted, and the distribution is reasonably likely to cause
59 that result.

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

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

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

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

71 a. Appears throughout the entirety of the video.

72 b. Is clearly visible to and readable by the average
73 viewer.

74 c. Is in letters in a size that is easily readable by
75 the average viewer.

76 d. Is in the same language as the language used in the
77 video media.

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

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

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85 a. Is clearly visible to and readable by the average
86 viewer.

87 b. Is in the same language as the language used in the
88 image media.

89 (5) If the media was generated by editing an existing
90 image, audio, or video, the media includes a citation
91 directing the viewer or listener to the original source from
92 which the unedited version of the existing image, audio, or
93 video was obtained.

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

97 (d) (1) Distribution of material that is prohibited by
98 this section shall not be a violation of this section if the
99 distributing entity, or any employee or agent of a
100 distributing entity, does not have actual knowledge that the
101 material is prohibited and the distributing entity is: a. an
102 Internet website, interactive computer service, or radio or
103 television broadcasting station, including, but not limited
104 to, a cable or satellite television operator; b. a regularly
105 published newspaper, magazine, or other periodical, including,
106 but not limited to, an Internet or electronic publication,
107 programmer, or producer; or c. a website or streaming service,
108 including, but not limited to, an information service as
109 defined in 47 U.S.C. § 153.

110 (2) This act shall not be construed to alter any
111 rights, obligations, or immunities created by 47 U.S.C.
112 Chapter 5 or under the regulations of the Federal

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113 Communications Commission pertaining to the broadcast of
114 political programming or campaign advertising, or under any
115 other federal law.

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

118 (1) The Attorney General.

119 (2) A depicted individual.

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

123 (4) Any entity that represents the interests of voters
124 likely to be deceived by the distribution of materially
125 deceptive media.

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

137 (2) If the plaintiff's response to the court assures
138 the court that the complaint is not frivolous, the court shall
139 direct the defendant to answer the complaint.

140 (c) A plaintiff seeking permanent injunctive relief

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141 under subsection (a) must prove by clear and convincing
142 evidence that the defendant against whom the injunction is
143 sought knew the media at issue falsely represented the
144 depicted individual.

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

148 Section 4. Although this bill would have as its purpose
149 or effect the requirement of a new or increased expenditure of
150 local funds, the bill is excluded from further requirements
151 and application under Section 111.05 of the Constitution of
152 Alabama of 2022, because the bill defines a new crime or
153 amends the definition of an existing crime.

154 Section 5. This act shall become effective on October
155 1, 2024.