

2024 Regular Session

SENATE BILL NO. 97

BY SENATOR DUPLESSIS

POLITICAL CAMPAIGNS. Regulates the use of deep fakes and artificial intelligence technology in political advertising. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 18:1463(A), (C)(1), (E)(5)(b), and (F) and to enact R.S.
3 18:1463(C)(2)(d), (H), (I), and (J), relative to use of technology in political material;
4 to provide for legislative intent; to provide for disclosure requirements of certain
5 technology; to provide that any electioneering communication state whether certain
6 technology was used to emulate the likeness or voice of a candidate, agent,
7 employee, or other person before the audio or visual image is presented; to provide
8 for definitions; to provide for liability; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 18:1463(A), (C)(1), (E)(5)(b), and (F) are hereby amended and
11 reenacted and R.S. 18:1463(C)(2)(d), (H), (I), and (J) are hereby enacted to read as follows:

12 §1463. Political material; ethics; prohibitions

13 A. The Legislature of Louisiana finds that the state has a compelling interest
14 in taking every necessary step to assure that all elections are held in a fair and ethical
15 manner and finds that an election cannot be held in a fair and ethical manner when
16 any candidate or other person is allowed to print or distribute any material which
17 falsely alleges that a candidate is supported by or affiliated with another candidate,

1 group of candidates, or other person, or a political faction, or to publish statements
2 that make scurrilous, false, or irresponsible adverse comments about a candidate or
3 a proposition. The legislature further finds that the state has a compelling interest to
4 protect the electoral process, and that the people have an interest in knowing the
5 identity of each candidate whose number appears on a sample ballot in order to be
6 fully informed and to exercise their right to vote for a candidate of their choice. The
7 legislature further finds that it is essential to the protection of the electoral process
8 that the people be able to know who is responsible for publications in order to more
9 properly evaluate the statements contained in them and to informatively exercise
10 their right to vote. The legislature further finds that it is essential to the protection of
11 the electoral process to prohibit misrepresentation that a person, committee, or
12 organization speaks, writes, or acts on behalf of a candidate, political committee, or
13 political party, or an agent or employee thereof. **The legislature further finds that**
14 **it is essential to the protection of the electoral process to prohibit the**
15 **undisclosed use of deep fake technology, artificial intelligence, or similar tools**
16 **utilized to create, alter, or otherwise manipulate media in a manner that would**
17 **falsely appear to a reasonable observer to be an authentic record of a natural**
18 **person's speech, conduct, or likeness to emulate a candidate, an agent or**
19 **employee thereof, or other persons with the intent to mislead voters.**

20 * * *

21 C.(1) No person shall cause to be distributed, or transmitted, any oral, visual,
22 digital, or written material containing any statement **or depiction** which he knows
23 or should be reasonably expected to know makes a false statement about **or**
24 **representation of** a candidate for election in a primary or general election or about
25 a proposition to be submitted to the voters.

26 (2) Whenever any person, political committee, entity or organization makes
27 a disbursement for the purpose of the financing of any electioneering
28 communication, such communication shall comply with the following items under
29 the following circumstances:

* * *

(d) If the communication utilizes deep fake technology, artificial intelligence, or similar tools to create, alter, or otherwise manipulate media in a manner that would falsely appear to a reasonable observer to be an authentic record of a natural person's speech, conduct, or likeness to emulate a candidate, an agent or employee of a candidate, or other person, it shall state that the communication contains these elements so that it is clear and understandable before the audio or visual image is presented.

* * *

E. * * *

(5) * * *

(b) For purposes of this Subsection, a media entity includes a radio broadcast station, television broadcast station, cable or satellite television company, or other video service provider, streaming video provider, newspaper company, periodical company, billboard company, advertisement agency, or media platform responsible for the production or publication of any advertisement, voice, data, or other communications, information services, or internet access provider, or bona fide news or public interest website operator, or a provider of an interactive computer service, as defined in 47 U.S.C. 230(f), or a provider of telecommunications or information service, as defined in 47 U.S.C. 153, or an interactive computer service, internet service provider, internet website, or e-commerce service.

F. For the purposes of this Section, the term "~~digital material~~" means any ~~material or communication that, for a fee, is placed or promoted on a public facing website, web application, or digital application, including a social network, advertising network, or search engine.~~ following terms shall have the following meanings:

(1) "Digital material" means any material or communication that, for a fee, is placed or promoted on a public facing website, web application, or digital application, including a social network, advertising network, or search

1 engine.

2 (2) "Deep fake technology" means the use of manipulated images or
3 audio or visual depictions that appear to be genuine.

4 * * *

5 H. This Section shall not restrict the ability of a person to preserve the
6 integrity or security of systems or to detect, prevent, respond to, or protect
7 against security incidents, identity theft, fraud, harassment, malicious or
8 deceptive activities, or any illegal activity, or to investigate, report, or prosecute
9 those responsible for any of these actions.

10 I. No provider of an interactive computer service, as defined in 47 U.S.C.
11 230(f), or a provider of a telecommunications or an information service, as
12 defined in 47 U.S.C. 153, or its affiliates or subsidiaries, shall be held to have
13 violated the provisions of this Section, or be subject to any civil action, solely for
14 providing access or connection to or from a website or other information or
15 content on the internet, or a facility, system, or network not under that
16 provider's control, including transmission, downloading, intermediate storage,
17 access software, or other related capabilities that are incidental to providing
18 such access or connection, to the extent it is not responsible for the creation of
19 the material or communication that constitutes a violation under this Section.

20 J. Nothing in this Section shall be construed to impose liability on a radio
21 broadcast station, television broadcast station, cable or satellite television
22 company, or other video service provider, streaming video provider, newspaper
23 company, periodical company, billboard company, advertisement agency, or
24 media platform responsible for the production or publication of any
25 advertisement, voice, data, or other communications, information services, or
26 internet access provider, or bona fide news or public interest website operator,
27 or any affiliates or subsidiaries thereof, to the extent it is not responsible for the
28 creation of the material or communication that constitutes a violation under this
29 Section.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 effective on the day following such approval.

The original instrument was prepared by Matt DeVille. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

DIGEST

SB 97 Reengrossed

2024 Regular Session

Duplessis

Present law provides that the state has a compelling interest in taking every necessary step to assure that all elections are held in a fair and ethical manner and finds that an election cannot be held in a fair and ethical manner when any candidate or other person is allowed to print or distribute any material which falsely alleges that a candidate is supported by or affiliated with another candidate, group of candidates, or other person, or a political faction, or to publish statements that make scurrilous, false, or irresponsible adverse comments about a candidate or a proposition.

Present law further provides that the state has a compelling interest to protect the electoral process, and that the people have an interest in knowing the identity of each candidate whose number appears on a sample ballot in order to be fully informed and to exercise their right to vote for a candidate of their choice.

Present law further provides that it is essential to the protection of the electoral process that the people be able to know who is responsible for publications in order to more properly evaluate the statements contained in them and to informatively exercise their right to vote.

Present law further provides that it is essential to the protection of the electoral process to prohibit misrepresentation that a person, committee, or organization speaks, writes, or acts on behalf of a candidate, political committee, or political party, or an agent or employee thereof.

Proposed law retains present law and further provides that it is essential to the protection of the electoral process to prohibit the undisclosed use of deep fake technology, artificial intelligence, or similar tools utilized to create, alter, or otherwise manipulated media in a manner that would falsely appear to a reasonable observer to be an authentic record of a natural person's speech, conduct, or likeness to emulate a candidate, an agent or employee thereof, or other persons with the intent to mislead voters.

Present law provides that no person shall cause to be distributed, or transmitted, any oral, visual, digital, or written material containing any statement which he knows or should be reasonably expected to know makes a false statement about a candidate for election in a primary or general election or about a proposition to be submitted to the voters.

Proposed law retains present law and further provides no person shall communicate any depiction or representation of a candidate he knows or should be reasonably expected to know is false.

Present law provides for disclosure requirements of electioneering communications relative to sources of payment and candidate authorization.

Proposed law retains present law and further requires disclosure of the use of deep fake technology, artificial intelligence, or similar tools to create, alter, or otherwise manipulate media in a manner that would falsely appear to a reasonable observer to be an authentic record of a natural person's speech, conduct, or likeness to emulate a candidate, an agent or employee thereof, or other persons with the intent to mislead voters.

Present law defines "media entity" as a radio broadcast station, television broadcast station, cable or satellite television company, or other video service provider, streaming video provider, newspaper company, periodical company, billboard company, advertisement agency, or media platform responsible for the production or publication of any advertisement, voice, data, or other communications, information services, or internet access provider, or bona fide news or public interest website operator.

Proposed law retains present law and further defines "media entity" to include a provider of an interactive computer service, as defined in 47 U.S.C. 230(f), a provider of telecommunications or information service, as defined in 47 U.S.C. 153, an interactive computer service, internet service provider, internet website, or e-commerce service.

Present law defines the term "digital material" as any material or communication that, for a fee, is placed or promoted on a public facing website, web application, or digital application, including a social network, advertising network, or search engine.

Proposed law retains present law and defines "deep fake technology" as the use of manipulated images or audio or visual depictions that appear to be genuine.

Proposed law provides that proposed law shall not restrict the ability of a person to preserve the integrity or security of systems or to detect, prevent, respond to, or protect against security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity, or to investigate, report, or prosecute those responsible for any of these actions.

Proposed law provides that no provider of an interactive computer service, as defined in 47 U.S.C. 230(f), or a provider of a telecommunications or an information service, as defined in 47 U.S.C. 153, or its affiliates or subsidiaries, is to be held to have violated proposed law, or be subject to any civil action, solely for providing access or connection to or from a website or other information or content on the internet, or a facility, system, or network not under that provider's control, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing such access or connection, to the extent it is not responsible for the creation of the material or communication that constitutes a violation of proposed law.

Proposed law is not to be construed to impose liability on a radio broadcast station, television broadcast station, cable or satellite television company, or other video service provider, streaming video provider, newspaper company, periodical company, billboard company, advertisement agency, or media platform responsible for the production or publication of any advertisement, voice, data, or other communications, information services, or internet access provider, or bona fide news or public interest website operator, or any affiliates or subsidiaries, to the extent it is not responsible for the creation of the material or communication that constitutes a violation of proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 18:1463(A), (C)(1), (E)(5)(b), and (F); adds R.S. 18:1463(C)(2)(d), (H), (I), and (J))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Make technical changes.
2. Provide for legislative intent relative to prohibition of undisclosed use of deep fake technology in political materials.
3. Provide for disclosure requirements relative to use of deep fake technology, artificial intelligence or similar tools in political communications.
4. Define the term "media entity".
5. Provide for the ability of a person to detect and combat deceptive practices.

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Adds provisions limiting liability for certain entities are not responsible for violations of law.