

116TH CONGRESS
2D SESSION

H. R. 6088

To amend the Federal Election Campaign Act of 1971 to prohibit the distribution of materially deceptive audio or visual media prior to an election for Federal office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2020

Mr. LYNCH (for himself, Mr. DESAULNIER, Mr. WELCH, and Mr. COOPER) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to prohibit the distribution of materially deceptive audio or visual media prior to an election for Federal office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deepfakes in Federal
5 Elections Prohibition Act”.

1 **SEC. 2. PROHIBITION ON DISTRIBUTION OF MATERIALLY**
 2 **DECEPTIVE AUDIO OR VISUAL MEDIA PRIOR**
 3 **TO ELECTION.**

4 (a) IN GENERAL.—Title III of the Federal Election
 5 Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is
 6 amended by adding at the end the following new section:

7 **“SEC. 325. PROHIBITION ON DISTRIBUTION OF MATERI-**
 8 **ALLY DECEPTIVE MEDIA PRIOR TO ELEC-**
 9 **TION.**

10 “(a) IN GENERAL.—Except as provided in sub-
 11 sections (b) and (c), a person, political committee, or other
 12 entity shall not, within 60 days of a election for Federal
 13 office at which a candidate for elective office will appear
 14 on the ballot, distribute, with actual malice, materially de-
 15 ceptive audio or visual media of the candidate with the
 16 intent to injure the candidate’s reputation or to deceive
 17 a voter into voting for or against the candidate.

18 “(b) EXCEPTION.—

19 “(1) REQUIRED LANGUAGE.—The prohibition
 20 in subsection (a) does not apply if the audio or vis-
 21 ual media includes—

22 “(A) a disclosure stating: “This
 23 _____ has been manipulated.”; and

24 “(B) filled in the blank in the disclosure
 25 under subparagraph (A), the term ‘image’,

1 ‘video’, or ‘audio’, as most accurately describes
2 the media.

3 “(2) VISUAL MEDIA.—For visual media, the
4 text of the disclosure shall appear in a size that is
5 easily readable by the average viewer and no smaller
6 than the largest font size of other text appearing in
7 the visual media. If the visual media does not in-
8 clude any other text, the disclosure shall appear in
9 a size that is easily readable by the average viewer.
10 For visual media that is video, the disclosure shall
11 appear for the duration of the video.

12 “(3) AUDIO-ONLY MEDIA.—If the media con-
13 sists of audio only, the disclosure shall be read in a
14 clearly spoken manner and in a pitch that can be
15 easily heard by the average listener, at the beginning
16 of the audio, at the end of the audio, and, if the
17 audio is greater than two minutes in length, inter-
18 spersed within the audio at intervals of not greater
19 than two minutes each.

20 “(c) INAPPLICABILITY TO CERTAIN ENTITIES.—This
21 section does not apply to the following:

22 “(1) A radio or television broadcasting station,
23 including a cable or satellite television operator, pro-
24 grammer, or producer, that broadcasts materially
25 deceptive audio or visual media prohibited by this

1 section as part of a bona fide newscast, news inter-
2 view, news documentary, or on-the-spot coverage of
3 bona fide news events, if the broadcast clearly ac-
4 knowledges through content or a disclosure, in a
5 manner that can be easily heard or read by the aver-
6 age listener or viewer, that there are questions about
7 the authenticity of the materially deceptive audio or
8 visual media.

9 “(2) A radio or television broadcasting station,
10 including a cable or satellite television operator, pro-
11 grammer, or producer, when it is paid to broadcast
12 materially deceptive audio or visual media.

13 “(3) An internet website, or a regularly pub-
14 lished newspaper, magazine, or other periodical of
15 general circulation, including an internet or elec-
16 tronic publication, that routinely carries news and
17 commentary of general interest, and that publishes
18 materially deceptive audio or visual media prohibited
19 by this section, if the publication clearly states that
20 the materially deceptive audio or visual media does
21 not accurately represent the speech or conduct of the
22 candidate.

23 “(4) Materially deceptive audio or visual media
24 that constitutes satire or parody.

25 “(d) CIVIL ACTION.—

1 “(1) INJUNCTIVE OR OTHER EQUITABLE RE-
2 LIEF.—A candidate for elective office whose voice or
3 likeness appears in a materially deceptive audio or
4 visual media distributed in violation of this section
5 may seek injunctive or other equitable relief prohib-
6 iting the distribution of audio or visual media in vio-
7 lation of this section. An action under this para-
8 graph shall be entitled to precedence in accordance
9 with the Federal Rules of Civil Procedure.

10 “(2) DAMAGES.—A candidate for elective office
11 whose voice or likeness appears in a materially de-
12 ceptive audio or visual media distributed in violation
13 of this section may bring an action for general or
14 special damages against the person, committee, or
15 other entity that distributed the materially deceptive
16 audio or visual media. The court may also award a
17 prevailing party reasonable attorney’s fees and costs.
18 This paragraph shall not be construed to limit or
19 preclude a plaintiff from securing or recovering any
20 other available remedy.

21 “(3) BURDEN OF PROOF.—In any civil action
22 alleging a violation of this section, the plaintiff shall
23 bear the burden of establishing the violation through
24 clear and convincing evidence.

1 “(e) RULE OF CONSTRUCTION.—This section shall
2 not be construed to alter or negate any rights, obligations,
3 or immunities of an interactive service provider under sec-
4 tion 230 of title 47, United States Code.

5 “(f) MATERIALLY DECEPTIVE AUDIO OR VISUAL
6 MEDIA DEFINED.—In this section, the term ‘materially
7 deceptive audio or visual media’ means an image or an
8 audio or video recording of a candidate’s appearance,
9 speech, or conduct that has been intentionally manipulated
10 in a manner such that both of the following conditions
11 are met:

12 “(1) The image or audio or video recording
13 would falsely appear to a reasonable person to be
14 authentic.

15 “(2) The image or audio or video recording
16 would cause a reasonable person to have a fun-
17 damentally different understanding or impression of
18 the expressive content of the image or audio or video
19 recording than that person would have if the person
20 were hearing or seeing the unaltered, original
21 version of the image or audio or video recording.”.

22 (b) CRIMINAL PENALTIES.—Section 309(d)(1) of the
23 Federal Election Campaign Act of 1971 (52 U.S.C.
24 30109(d)(1)) is amended by adding at the end the fol-
25 lowing new subparagraph:

1 “(G) Any person who knowingly and will-
2 fully commits a violation of section 325 shall be
3 fined not more than \$100,000, imprisoned not
4 more than 5 years, or both.”.

5 (c) EFFECT ON DEFAMATION ACTION.—For pur-
6 poses of an action for defamation, a violation of section
7 325 of the Federal Election Campaign Act of 1971, as
8 added by subsection (a), shall constitute defamation per
9 se.

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