118TH CONGRESS
1ST SESSION
S. 2770

To prohibit the distribution of materially deceptive AI-generated audio or visual media relating to candidates for Federal office, and for other purposes.

IN THE SENATE OF THE UNITED STATES
SEPTEMBER 12, 2023
Ms. KLOBUCHAR (for herself, Mr. HAWLEY, Mr. COONS, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL
To prohibit the distribution of materially deceptive AI-generated audio or visual media relating to candidates for Federal office, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protect Elections from Deceptive AI Act”.

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SEC. 2. PROHIBITION ON DISTRIBUTION OF MATERIALLY DECEPTIVE AI-GENERATED AUDIO OR VISUAL MEDIA PRIOR TO ELECTION.

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

“SEC. 325. PROHIBITION ON DISTRIBUTION OF MATERIALLY DECEPTIVE AI-GENERATED AUDIO OR VISUAL MEDIA.

“(a) DEFINITIONS.—In this section:

“(1) COVERED INDIVIDUAL.—The term ‘covered individual’ means a candidate for Federal office.

“(2) DECEPTIVE AI-GENERATED AUDIO OR VISUAL MEDIA.—The term ‘deceptive AI-generated audio or visual media’ means an image, audio, or video that—

“(A) is the product of artificial intelligence or machine learning, including deep learning techniques, that—

“(i) merges, combines, replaces, or superimposes content onto an image, audio, or video, creating an image, audio, or video that appears authentic; or

“(ii) generates an inauthentic image, audio, or video that appears authentic; and
“(B) a reasonable person, having considered the qualities of the image, audio, or video and the nature of the distribution channel in which the image, audio, or video appears—

“(i) would have a fundamentally different understanding or impression of the appearance, speech, or expressive conduct exhibited in the image, audio, or video than that person would have if that person were hearing or seeing the unaltered, original version of the image, audio, or video; or

“(ii) would believe that the image, audio, or video accurately exhibits any appearance, speech, or expressive conduct of a person who did not actually exhibit such appearance, speech, or expressive conduct.

“(3) FEDERAL ELECTION ACTIVITY.—The term ‘Federal election activity’ has the meaning given the term in section 301(20)(A)(iii).

“(b) PROHIBITION.—Except as provided in subsection (c), a person, political committee, or other entity may not knowingly distribute materially deceptive AI-generated audio or visual media of a covered individual, or
in carrying out a Federal election activity, with the intent to—

“(1) influence an election; or

“(2) solicit funds.

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

“(1) A radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, or a streaming service that broadcasts materially deceptive AI-generated audio or visual media prohibited by this section as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events, if the broadcast clearly acknowledges through content or a disclosure, in a manner that can be easily heard or read by the average listener or viewer, that there are questions about the authenticity of the materially deceptive AI-generated audio or visual media.

“(2) A regularly published newspaper, magazine, or other periodical of general circulation, including an internet or electronic publication, that routinely carries news and commentary of general interest, and that publishes materially deceptive AI-generated audio or visual media prohibited under
this section, if the publication clearly states that the
materially deceptive AI-generated audio or visual
media does not accurately represent the speech or
conduct of the covered individual.

“(3) Materially deceptive AI-generated audio or
visual media that constitutes satire or parody.

“(d) CIVIL ACTION.—

“(1) INJUNCTIVE OR OTHER EQUITABLE RE-
LIEF.—

“(A) IN GENERAL.—A covered individual
whose voice or likeness appears in, or who is
the subject of, a materially deceptive AI-gen-
erated audio or visual media, including content
distributed as part of a Federal election activ-
ity, distributed in violation of this section may
seek injunctive or other equitable relief prohib-
iting the distribution of materially deceptive AI-
generated audio or visual media in violation of
this section.

“(B) PRECEDENCE.—An action under this
paragraph shall be entitled to precedence in ac-
cordance with the Federal Rules of Civil Proce-
dure.

“(2) DAMAGES.—
“(A) IN GENERAL.—A covered individual whose voice or likeness appears in, or who is the subject of, a materially deceptive AI-generated audio or visual media, including content distributed as part of a Federal election activity, distributed in violation of this section may bring an action for general or special damages against the person, committee, or other entity that distributed the materially deceptive AI-generated audio or visual media.

“(B) ATTORNEY’S FEES AND COSTS.—In addition to any damages awarded under subparagraph (A), the court may also award a prevailing party reasonable attorney’s fees and costs.

“(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to limit or preclude a plaintiff from securing or recovering any other available remedy.

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

(b) EFFECT ON DEFAMATION ACTION.—For purposes of an action for defamation, a violation of section
325 of the Federal Election Campaign Act of 1971, as added by subsection (a), shall constitute defamation per se.

(c) SEVERABILITY.—If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act, or an amendment made by this Act, or the application of such provision to other persons or circumstances, shall not be affected.