

STATE OF NEW YORK

9678

IN SENATE

May 17, 2024

Introduced by Sen. GONZALEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to materially deceptive media in political communications

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (b) of subdivision 5 of section 14-106 of the
2 election law, as added by section 1 of subpart B of part MM of chapter
3 58 of the laws of 2024, is amended and a new subdivision 7 is added to
4 read as follows:

5 (b) (i) A person, firm, association, corporation, campaign, committee,
6 or organization that distributes or publishes any political communi-
7 cation that was produced by or includes materially deceptive media and
8 [~~knows or should know~~] has actual knowledge, which may include credible
9 notification from a candidate, that it is materially deceptive shall be
10 required to disclose this use.

11 (ii) (1) For visual media the disclosure shall be printed or typed in
12 a legible font size easily readable by the average viewer that is no
13 smaller than other text appearing in the visual media and in the same
14 language used on the communication to read as follows: "This (image,
15 video, or audio) has been manipulated".

16 (2) For communication that is auditory, such as radio or automated
17 telephone calls, clearly speaking the statement at the beginning of the
18 audio, at the end of the audio, and, if the audio is greater than two
19 minutes in length, interspersed within the audio at intervals of not
20 greater than two minutes each and in the same language as the rest of
21 the audio used in the communication, and in a pitch that can be easily
22 heard by the average listener satisfies the requirements of clause one
23 of this subparagraph.

24 (iii) This paragraph shall not apply to the following:

25 (1) materially deceptive media that constitutes satire or parody;

26 (2) materially deceptive media created for the purposes of bona fide
27 news reporting [~~when the required disclosure is included~~] if the report-
28 ing clearly acknowledges through content or a disclosure, in a manner

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 that can be easily read or heard by the average listener or viewer, that
2 there are questions about the authenticity of the materially deceptive
3 media; or

4 (3) initial dissemination by a platform or service including, but not
5 limited to, a website, regularly published newspaper, or magazine, where
6 the content disseminated is materially deceptive media provided by
7 another information content provider when a good faith effort has been
8 made to establish that the depiction is not materially deceptive media.

9 (iv) A candidate whose voice or likeness appears in materially decep-
10 tive media in violation of this subdivision may seek reasonable court
11 costs and attorneys' fees and injunctive relief prohibiting the distrib-
12 ution, publication or broadcasting of any materially deceptive media in
13 violation of this subdivision against such individual or entity who
14 disseminated or published such media without the consent of the person
15 depicted and who knew or should have known that it was materially decep-
16 tive. An action under this paragraph shall be initiated by filing an
17 application for an order to show cause in the supreme court where the
18 materially deceptive media at issue could deceive and influence electors
19 in an upcoming election. Such action shall be entitled to an automatic
20 calendar preference and be subject to expedited pretrial and trial
21 proceedings.

22 (v) In any action alleging a violation of this subdivision in which a
23 plaintiff seeks preliminary relief with respect to an upcoming election,
24 the court shall grant relief if it determines that:

25 (A) plaintiffs are more likely than not to succeed on the merits; and
26 (B) it is possible to implement an appropriate remedy that would
27 resolve the alleged violation in the upcoming election.

28 (vi) In any action commenced under this subdivision, the plaintiff
29 bears the burden of establishing the use of materially deceptive media
30 by clear and convincing evidence.

31 7. Nothing in this section shall be construed to require broadcast
32 service providers to cancel, edit, or insert video or audio labels into
33 political communications where such action is inconsistent with federal
34 law.

35 § 2. This act shall take effect immediately.