

STATE OF NEW YORK

10260

IN ASSEMBLY

May 15, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Bores) --
read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to prohibiting the knowing
use of materially deceptive media in political communications without
disclosing such use

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

1 Section 1. Subdivisions 5 and 6 of section 14-106 of the election law,
2 as added by section 1 of subpart B of part MM of chapter 58 of the laws
3 of 2024, are amended to read as follows:

4 5. (a) For purposes of this subdivision:

5 (i) "Materially deceptive media" means any image, video, audio, text,
6 or any technological representation of speech or conduct fully or
7 partially created or modified that:

8 (1) exhibits a high level of authenticity or convincing appearance
9 that is visually or audibly indistinguishable from reality to a reason-
10 able person;

11 (2) depicts a scenario that did not actually occur or that has been
12 altered in a significant way from how they actually occurred; and

13 (3) is created by or with software, machine learning, artificial
14 intelligence, or any other computer-generated or technological means,
15 including adapting, modifying, manipulating, or altering a realistic
16 depiction.

17 (ii) "Information content provider" means any person or entity that is
18 responsible, in whole or in part, for the creation or development of
19 information provided through the Internet or any other interactive
20 computer service.

21 (b) (i) [~~A person, firm, association, corporation, campaign, commit-~~
22 ~~tee, or organization that distributes or publishes~~] An information
23 content provider that creates any political communication that was
24 produced by or includes materially deceptive media and [~~knows or should~~
25 ~~know~~] has actual knowledge that [~~it~~] such communication is materially
26 deceptive shall be required to disclose [~~this~~] such use.

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

LBD15540-01-4

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

(2) For communication that is auditory, such as radio or automated telephone calls, such disclosure shall require clearly speaking the statement at the beginning ~~[of the audio, at]~~ or the end of the audio~~;~~ ~~and, if the audio is greater than two minutes in length, interspersed within the audio at intervals of not greater than two minutes each and in the same language as the rest of the audio used in the communication, and in a pitch that can be easily heard by the average listener satisfies the requirements of clause one of this subparagraph];~~ provided, however, that nothing in this section shall apply to radio and television stations, broadcast networks, newspapers, magazines, cable television systems, satellite systems, or streaming services unless such entity created the materially deceptive media and had actual knowledge that the material used was materially deceptive.

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

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

(2) materially deceptive media created for the purposes of bona fide news reporting ~~[when the required disclosure is included];~~ ~~[or]~~

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

(4) material that is broadcast on radio and television stations or transmitted on websites or social media owned or controlled by broadcasters licensed by the Federal Communications Commission; or

(5) a radio or television broadcasting station, including a cable or satellite television operator, streaming service, programmer, or producer, when such entity is paid to broadcast materially deceptive audio or visual media.

(iv) A candidate whose voice or likeness appears in materially deceptive media in violation of this subdivision may seek reasonable court costs and attorneys' fees and injunctive relief ~~[prohibiting the distribution, publication or broadcasting of any materially deceptive media in violation of this subdivision]~~ against ~~[such]~~ the individual or entity who ~~[disseminated or published]~~ created such media without the consent of the person depicted and who knew or should have known that it was materially deceptive. An action under this paragraph shall be initiated by filing an application for an order to show cause in the supreme court where the materially deceptive media at issue could deceive and influence electors in an upcoming election. Such action shall be entitled to an automatic calendar preference and be subject to expedited pretrial and trial proceedings.

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

(A) plaintiffs are more likely than not to succeed on the merits; and

(B) it is possible to implement an appropriate remedy that would resolve the alleged violation in the upcoming election.

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

6. (a) Nothing in this section shall be construed to limit, or to enlarge, the protections that 47 U.S.C. § 230 confers on an interactive computer service for content provided by another information content provider, as such terms are defined in 47 U.S.C. § 230.

(b) Nothing in this section shall be construed to require radio and television stations to cancel, edit, insert video labels or audio labels into political communications where such action is inconsistent with federal law.

§ 2. This act shall take effect immediately and shall apply to any litigation or actions commenced on or after April 20, 2024.