

SENATE No. 2831

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

SENATE, June 21, 2024.

The committee on Advanced Information Technology, the Internet and Cybersecurity, to whom was referred the petitions (accompanied by bill, Senate, No. 2730) (subject to Joint Rule 12) of Barry R. Finegold and Frank A. Moran for legislation relative to deceptive and fraudulent deepfakes in election communications, report the accompanying bill (Senate, No. 2831).

For the committee,
Michael O. Moore

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An Act relative to disinformation in elections.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 56 of the General Laws is hereby amended by inserting after section 42 the
2 following section:-

3 Section 42A. Disinformation in Elections.

4 (a) As used in this section, the following words shall have the following meanings unless
5 the context clearly requires otherwise:

6 “Candidate” shall have the same meanings as defined in section 1 of chapter 55 of the
7 General Laws.

8 “Materially deceptive audio or visual media”, an image or an audio or video recording
9 concerning the safety or regular operations of an election or of a candidate’s appearance, speech,
10 or conduct that has been fabricated or intentionally manipulated in a manner such that both of the
11 following conditions are met:

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

14 (2) The image or audio or video recording would cause a reasonable person to have a
15 fundamentally different understanding or impression of the expressive content of the image or
16 audio or video recording than that person would have if the person were hearing or seeing an
17 unaltered, original image or audio or video recording.

18 “Person”, an individual, corporation, political committee, association, operation, firm,
19 partnership, trust or other form of business or personal association.

20 “Political party” shall have the meaning as defined in section 1 of chapter 50 of the
21 General Laws.

22 (b) Except as provided in subsection (c), a person, candidate, campaign committee,
23 political action committee, political issues committee, political party, or other entity shall not,
24 within 90 days of an election at which a candidate for elective office will appear on the ballot,
25 distribute with actual malice:

26 (1) materially deceptive audio or visual media depicting the candidate with the intent to
27 injure the candidate’s reputation or deceive a voter into voting for or against the candidate; or

28 (2) materially deceptive audio or visual media concerning the safety or regular operations
29 of an election intended disrupt the integrity of the electoral process.

30 (c) (1) The prohibition in subsection (a) does not apply if the audio or visual media
31 includes a disclosure stating: “This _____ has been manipulated.”

32 (2) The blank in the disclosure required by paragraph (1) shall be filled with whichever of
33 the following terms most accurately describes the media:

34 (i) Image;

35 (ii) Video; or

36 (iii) Audio.

37 (3) (i) For visual media, the text of the disclosure shall appear in a size that is easily
38 readable by the average viewer and no smaller than the largest font size of other text appearing in
39 the visual media. If the visual media does not include any other text, the disclosure shall appear
40 in a size that is easily readable by the average viewer. For visual media that is video, the
41 disclosure shall appear for the duration of the video.

42 (ii) If the media consists of audio only, the disclosure shall be read in a clearly spoken
43 manner and in a pitch that can be easily heard by the average listener, at the beginning of the
44 audio, at the end of the audio, and, if the audio is greater than two minutes in length, interspersed
45 within the audio at intervals of not greater than two minutes each.

46 (d) (1) A candidate for elective office whose voice or likeness appears in a materially
47 deceptive audio or visual media distributed in violation of this section or the attorney general
48 may seek injunctive or other equitable relief prohibiting the distribution of audio or visual media
49 in violation of this section.

50 (2) A candidate for elective office whose voice or likeness appears in a materially
51 deceptive audio or visual media distributed in violation of this section may bring an action for
52 general or special damages against a person, candidate, campaign committee, political action

53 committee, political issues committee, political party, or other entity that distributed the
54 materially deceptive audio or visual media. The court may also award a prevailing party
55 reasonable attorney's fees and costs. This subsection shall not be construed to limit or preclude a
56 plaintiff from securing or recovering any other available remedy.

57 (3) In any civil action alleging a violation of this section, the plaintiff shall bear the
58 burden of establishing the violation through clear and convincing evidence.

59 (e) (1) This section shall not be construed to alter or negate any rights, obligations, or
60 immunities of an interactive service provider under Section 230 of Title 47 of the United States
61 Code.

62 (2) This section does not apply to a radio or television broadcasting station, including a
63 cable or satellite television operator, programmer, producer, or mobile application or streaming
64 service that broadcasts materially deceptive audio or visual media prohibited by this section as
65 part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of
66 bona fide news events, if the broadcast clearly acknowledges through content or a disclosure, in
67 a manner that can be easily heard or read by the average listener or viewer, that there are
68 questions about the authenticity of the materially deceptive audio or visual media.

69 (3) This section does not apply to a radio or television broadcasting station, including a
70 cable or satellite television operator, programmer, producer, or mobile application or streaming
71 service when it is paid to broadcast materially deceptive audio or visual media.

72 (4) This section does not apply to an internet website, or a regularly published newspaper,
73 magazine, or other periodical of general circulation, including an internet or electronic
74 publication, that routinely carries news and commentary of general interest, and that publishes

75 materially deceptive audio or visual media prohibited by this section, if the publication clearly
76 states that the materially deceptive audio or visual media does not accurately represent the
77 speech or conduct of the candidate.

78 (5) This section does not apply to materially deceptive audio or visual media that
79 constitutes satire or parody.