

# FINAL BILL REPORT

## ESSB 5152

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Synopsis as Enacted

**Brief Description:** Defining synthetic media in campaigns for elective office, and providing relief for candidates and campaigns.

**Sponsors:** Senate Committee on State Government & Elections (originally sponsored by Senators Valdez, Hunt, Kuderer, Liias, Nguyen and Wilson, C.; by request of Secretary of State).

**Senate Committee on State Government & Elections**  
**House Committee on State Government & Tribal Relations**

**Background:** Political Advertising. All political advertising must identify the sponsor of the advertisement. Political advertisements undertaken as independent expenditures or which are distributed within 60 days of an election must also disclose the five persons or entities making the largest aggregate contributions to the advertisement's sponsor of at least \$1,000, and the top three individual contributors to any of the top five donors which are political or incidental committees.

A person cannot sponsor, with actual malice, a defamatory statement in political advertising that:

- contains a false statement of material fact about a candidate for public office;
- falsely represents that a candidate is an incumbent for the office sought; or
- falsely indicates that a candidate has the support or endorsement of an organization.

Synthetic Media. Advances in machine learning led to the development of technology where a person in an existing image or video is replaced with another person's likeness, and techniques to generate new synthetic audio of a person's speech based on past recordings of the person. Media created through machine learning to falsely depict a person's speech or conduct are known as synthetic media or deepfakes.

**Summary:** Use of Synthetic Media. Synthetic media is defined as an image or audio or video recording of a person's appearance, speech, or conduct, that has been manipulated to

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create a realistic or false image, audio, or video that:

- would appear to a reasonable person of a real individual, but did not occur in reality; and
- would cause a reasonable person to have a fundamentally different understanding of the content of the media than of the unaltered media.

An electioneering communication which contains synthetic media may not be distributed without a disclosure. The disclosure must state that the media has been manipulated and:

- for visual media, be printed in at least the largest font size of other text in the media or a size easily readable for the average viewer;
- for video media, appear for the duration of the video; and
- for audio media, be read in a clearly spoken manner and a pitch easily heard by the average listener at the beginning and end of the audio, and at least every two minutes during the audio, if applicable.

Private Cause of Action. A candidate whose voice or likeness appears in synthetic media distributed without the required disclosure within 60 days of an election may seek to enjoin distribution of the media and bring an action for general or special damages against the party distributing the media. Prevailing parties may be awarded attorneys' fees and costs. The plaintiff must establish a violation of the disclosure requirement by clear and convincing evidence. Courts are encouraged to expediently resolve cases brought under the act. Any medium disseminating the media is not liable for damages unless it removes a disclosure or alters the content of the advertisement such that it becomes synthetic media by definition. A licensee, programmer, or operator of a federally licensed broadcasting station subject to federal law prohibiting censorship of electioneering communications by a legally qualified candidate is exempt from liability under the act.

Other Provisions. The bill contains a severability clause. The Public Disclosure Commission must adopt rules to implement the act.

**Votes on Final Passage:**

Senate	35	13	
House	67	30	(House amended)
Senate	32	14	(Senate concurred)

**Effective:** July 23, 2023