

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5152

Chapter 360, Laws of 2023

68th Legislature
2023 Regular Session

ELECTIONEERING COMMUNICATIONS—USE OF SYNTHETIC MEDIA

EFFECTIVE DATE: July 23, 2023

Passed by the Senate April 14, 2023
Yeas 32 Nays 14

DENNY HECK

President of the Senate

Passed by the House April 6, 2023
Yeas 67 Nays 30

Laurie Jinkins

**Speaker of the House of
Representatives**

Approved May 9, 2023 10:59 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5152** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 10, 2023

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5152

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By Senate State Government & Elections (originally sponsored by Senators Valdez, Hunt, Kuderer, Lias, Nguyen, and C. Wilson; by request of Secretary of State)

READ FIRST TIME 02/01/23.

1 AN ACT Relating to defining synthetic media in campaigns for
2 elective office, and providing relief for candidates and campaigns;
3 and adding a new chapter to Title 42 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions used in chapter 42.17A RCW
6 apply throughout this chapter unless the context clearly requires
7 otherwise.

8 NEW SECTION. **Sec. 2.** (1) For purposes of this section
9 "synthetic media" means an image, an audio recording, or a video
10 recording of an individual's appearance, speech, or conduct that has
11 been intentionally manipulated with the use of generative adversarial
12 network techniques or other digital technology in a manner to create
13 a realistic but false image, audio, or video that produces:

14 (a) A depiction that to a reasonable individual is of a real
15 individual in appearance, action, or speech that did not actually
16 occur in reality; and

17 (b) A fundamentally different understanding or impression of the
18 appearance, action, or speech than a reasonable person would have
19 from the unaltered, original version of the image, audio recording,
20 or video recording.

1 (2) A candidate whose appearance, action, or speech is altered
2 through the use of a synthetic media in an electioneering
3 communication may seek injunctive or other equitable relief
4 prohibiting the publication of such synthetic media.

5 (3) A candidate whose appearance, action, or speech is altered
6 through the use of a synthetic media in an electioneering
7 communication may bring an action for general or special damages
8 against the sponsor. The court may also award a prevailing party
9 reasonable attorneys' fees and costs. This subsection does not limit
10 or preclude a plaintiff from securing or recovering any other
11 available remedy.

12 (4) It is an affirmative defense for any action brought under
13 this section that the electioneering communication containing a
14 synthetic media includes a disclosure stating, "This (image/video/
15 audio) has been manipulated," in the following manner:

16 (a) For visual media, the text of the disclosure must appear in
17 size easily readable by the average viewer and no smaller than the
18 largest font size of other text appearing in the visual media. If the
19 visual media does not include any other text, the disclosure must
20 appear in a size that is easily readable by the average viewer. For
21 visual media that is a video, the disclosure must appear for the
22 duration of the video; or

23 (b) If the media consists of audio only, the disclosure must be
24 read in a clearly spoken manner and in a pitch that can be easily
25 heard by the average listener, at the beginning of the audio, at the
26 end of the audio, and, if the audio is greater than two minutes in
27 length, interspersed within the audio at intervals of not more than
28 two minutes each.

29 (5) In any action commenced under this section, the plaintiff
30 bears the burden of establishing the use of synthetic media by clear
31 and convincing evidence.

32 (6) Courts are encouraged to determine matters under this section
33 expediently.

34 NEW SECTION. **Sec. 3.** (1) For an action brought under section 2
35 of this act, the sponsor of the electioneering communication may be
36 held liable, and not the medium disseminating the electioneering
37 communication except as provided in subsection (2) of this section.

38 (2) Except when a licensee, programmer, or operator of a
39 federally licensed broadcasting station transmits an electioneering

1 communication that is subject to 47 U.S.C. Sec. 315, a medium may be
2 held liable in a cause of action brought under section 2 of this act
3 if:

4 (a) The medium removes any disclosure described in section 2(4)
5 of this act from the electioneering communication it disseminates; or

6 (b) Subject to affirmative defenses described in section 2 of
7 this act, the medium changes the content of an electioneering
8 communication such that it qualifies as synthetic media, as defined
9 in section 2 of this act.

10 (3)(a) No provider or user of an interactive computer service
11 shall be treated as the publisher or speaker of any information
12 provided by another information content provider. However, an
13 interactive computer service may be held liable in accordance with
14 subsection (2) of this section.

15 (b) "Interactive computer service" means any information service,
16 system, or access software provider that provides or enables computer
17 access by multiple users to a computer server, including specifically
18 a service or system that provides access to the internet and such
19 systems operated or services offered by libraries or educational
20 institutions.

21 (c) "Information content provider" means any person or entity
22 that is responsible, in whole or in part, for the creation or
23 development of information provided through the internet or any other
24 interactive computer service.

25 NEW SECTION. **Sec. 4.** The public disclosure commission must
26 adopt rules in furtherance of the purpose of this chapter. Nothing in
27 this chapter constitutes a violation under chapter 42.17A RCW, or
28 otherwise authorizes the public disclosure commission to take action
29 under RCW 42.17A.755.

30 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act
31 constitute a new chapter in Title 42 RCW.

32 NEW SECTION. **Sec. 6.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

Passed by the Senate April 14, 2023.
Passed by the House April 6, 2023.

Approved by the Governor May 9, 2023.
Filed in Office of Secretary of State May 10, 2023.

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