ASSEMBLY, No. 5510

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 25, 2023

Sponsored by:
Assemblyman  LOUIS D. GREENWALD
District 6 (Burlington and Camden)
Assemblywoman  LISA SWAIN
District 38 (Bergen and Passaic)
Assemblyman  PAUL D. MORIARTY
District 4 (Camden and Gloucester)

SYNOPSIS
Prohibits and imposes criminal penalty on distribution of certain intentionally deceptive audio or visual media within 90 days of election.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning certain intentionally deceptive audio or visual media and elections and supplementing Title 19 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. As used in P.L. , c. (C. ) (pending before the Legislature as this bill):
   “Candidate” means a person seeking election or reelection to a public office of the State or of a county, municipality, school district, or any other public office thereof.
   “Deceptive audio or visual media” means any video recording, motion picture film, sound recording, electronic image, or photograph, or any technological representation of speech or conduct substantially derivative thereof that appears to authentically depict any speech or conduct of a person who did not in fact engage in the speech or conduct and the production of which was substantially dependent upon technical means, rather than the ability of another person to physically or verbally impersonate the person.

2. a. A person commits a disorderly person offense if, within 90 days of an election in which a candidate will appear on the ballot, the person knowingly or recklessly distributes deceptive audio or visual media with the intent to deceive a voter with false information about the candidate or the election.
   b. (1) The provisions of subsection a. of this section shall not apply if the deceptive audio or visual media includes a disclosure stating: “This advertisement contains manipulated images or sound.”
   (2) (a) For visual media, the text of the disclosure shall appear in a size, color, and typeface that is easily readable by a reasonable observer. If the visual media is video, the disclosure shall appear for the entire duration of the video.
   (b) If the media consists of audio only, the disclosure shall be read at the beginning of the audio, in a clearly spoken manner and in a pitch and at a speed that can be easily heard and understood by a reasonable listener.
   c. (1) A registered voter may seek injunctive or other equitable relief prohibiting the distribution of deceptive audio or visual media in violation of this section. An action under this subsection shall have priority over other civil matters.
   (2) A candidate whose voice or likeness appears in deceptive audio or visual media distributed in violation of this section may bring an action for general or special damages against the person that distributed the deceptive audio or visual media. The court may also award a prevailing plaintiff reasonable attorney’s fees and
costs. This subsection shall not be construed to limit or preclude a plaintiff from securing or recovering any other available remedy.

d. (1) This section shall not be construed to alter or negate any rights, obligations, or immunities of an interactive computer service provider pursuant to 47 U.S.C. s.230.

(2) This section shall not apply to any broadcasting station, including a cable or satellite television company, programmer, or producer, an Internet website, or a regularly published newspaper, magazine, or other periodical of general circulation, including an Internet or electronic publication, that routinely carries news and commentary of general interest, and that broadcasts or publishes any deceptive audio or visual media prohibited by this section for the purpose of disseminating newsworthy facts; provided that the broadcast or publication shall clearly contain a disclosure which is either shown or read aloud that identifies the deceptive audio or visual media and states that the deceptive audio or visual media does not accurately represent the speech or conduct of a candidate.

3. This act shall take effect immediately.

STATEMENT

This bill prohibits a person from knowingly or recklessly distributing deceptive audio or visual media, also commonly known as “deepfakes,” within 90 days of an election in which a candidate will appear on the ballot, with the intent to deceive a voter with false information about the candidate or the election.

A violation under this bill is a disorderly person offense. A disorderly person offense is punishable by up to six months imprisonment, a fine of up to $1,000, or both. The provisions of this bill are not to apply if the deepfake includes a disclosure which is either shown or read aloud stating: “This advertisement contains manipulated images or sound.”

A registered voter may seek injunctive or other equitable relief prohibiting the distribution of a deepfake in violation of this bill. An action under the bill is to have priority over other civil matters. A candidate whose voice or likeness appears in a deepfake distributed in violation of the bill may bring an action for general or special damages against the person that distributed media. The court may also award a prevailing plaintiff reasonable attorney’s fees and costs. The bill is not to be construed to limit or preclude a plaintiff from securing or recovering any other available remedy.

The provisions of the bill are not to apply to certain entities enumerated in the bill that routinely carry news and commentary of general interest, and that broadcasts or publishes a deepfake prohibited by the bill for the purpose of disseminating newsworthy facts; provided that the broadcast or publication clearly contains a
disclosure which is either shown or read aloud that identifies the deceptive audio or visual media and states that the media does not accurately represent the speech or conduct of a candidate.