

116TH CONGRESS  
2D SESSION

# H. R. 6088

To amend the Federal Election Campaign Act of 1971 to prohibit the distribution of materially deceptive audio or visual media prior to an election for Federal office, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2020

Mr. LYNCH (for himself, Mr. DESAULNIER, Mr. WELCH, and Mr. COOPER) introduced the following bill; which was referred to the Committee on House Administration

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## A BILL

To amend the Federal Election Campaign Act of 1971 to prohibit the distribution of materially deceptive audio or visual media prior to an election for Federal office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deepfakes in Federal  
5 Elections Prohibition Act”.

1 **SEC. 2. PROHIBITION ON DISTRIBUTION OF MATERIALLY**  
2 **DECEPTIVE AUDIO OR VISUAL MEDIA PRIOR**  
3 **TO ELECTION.**

4 (a) IN GENERAL.—Title III of the Federal Election  
5 Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is  
6 amended by adding at the end the following new section:

7 **“SEC. 325. PROHIBITION ON DISTRIBUTION OF MATERI-**  
8 **ALLY DECEPTIVE MEDIA PRIOR TO ELEC-**  
9 **TION.**

10 “(a) IN GENERAL.—Except as provided in sub-  
11 sections (b) and (c), a person, political committee, or other  
12 entity shall not, within 60 days of a election for Federal  
13 office at which a candidate for elective office will appear  
14 on the ballot, distribute, with actual malice, materially de-  
15 ceptive audio or visual media of the candidate with the  
16 intent to injure the candidate’s reputation or to deceive  
17 a voter into voting for or against the candidate.

18 “(b) EXCEPTION.—

19 “(1) REQUIRED LANGUAGE.—The prohibition  
20 in subsection (a) does not apply if the audio or vis-  
21 ual media includes—

22 “(A) a disclosure stating: “This  
23 \_\_\_\_\_ has been manipulated.”; and

24 “(B) filled in the blank in the disclosure  
25 under subparagraph (A), the term ‘image’,

1           ‘video’, or ‘audio’, as most accurately describes  
2           the media.

3           “(2) VISUAL MEDIA.—For visual media, the  
4           text of the disclosure shall appear in a size that is  
5           easily readable by the average viewer and no smaller  
6           than the largest font size of other text appearing in  
7           the visual media. If the visual media does not in-  
8           clude any other text, the disclosure shall appear in  
9           a size that is easily readable by the average viewer.  
10          For visual media that is video, the disclosure shall  
11          appear for the duration of the video.

12          “(3) AUDIO-ONLY MEDIA.—If the media con-  
13          sists of audio only, the disclosure shall be read in a  
14          clearly spoken manner and in a pitch that can be  
15          easily heard by the average listener, at the beginning  
16          of the audio, at the end of the audio, and, if the  
17          audio is greater than two minutes in length, inter-  
18          spersed within the audio at intervals of not greater  
19          than two minutes each.

20          “(c) INAPPLICABILITY TO CERTAIN ENTITIES.—This  
21          section does not apply to the following:

22                 “(1) A radio or television broadcasting station,  
23                 including a cable or satellite television operator, pro-  
24                 grammer, or producer, that broadcasts materially  
25                 deceptive audio or visual media prohibited by this

1 section as part of a bona fide newscast, news inter-  
2 view, news documentary, or on-the-spot coverage of  
3 bona fide news events, if the broadcast clearly ac-  
4 knowledges through content or a disclosure, in a  
5 manner that can be easily heard or read by the aver-  
6 age listener or viewer, that there are questions about  
7 the authenticity of the materially deceptive audio or  
8 visual media.

9 “(2) A radio or television broadcasting station,  
10 including a cable or satellite television operator, pro-  
11 grammer, or producer, when it is paid to broadcast  
12 materially deceptive audio or visual media.

13 “(3) An internet website, or a regularly pub-  
14 lished newspaper, magazine, or other periodical of  
15 general circulation, including an internet or elec-  
16 tronic publication, that routinely carries news and  
17 commentary of general interest, and that publishes  
18 materially deceptive audio or visual media prohibited  
19 by this section, if the publication clearly states that  
20 the materially deceptive audio or visual media does  
21 not accurately represent the speech or conduct of the  
22 candidate.

23 “(4) Materially deceptive audio or visual media  
24 that constitutes satire or parody.

25 “(d) CIVIL ACTION.—

1           “(1) INJUNCTIVE OR OTHER EQUITABLE RE-  
2           LIEF.—A candidate for elective office whose voice or  
3           likeness appears in a materially deceptive audio or  
4           visual media distributed in violation of this section  
5           may seek injunctive or other equitable relief prohib-  
6           iting the distribution of audio or visual media in vio-  
7           lation of this section. An action under this para-  
8           graph shall be entitled to precedence in accordance  
9           with the Federal Rules of Civil Procedure.

10           “(2) DAMAGES.—A candidate for elective office  
11           whose voice or likeness appears in a materially de-  
12           ceptive audio or visual media distributed in violation  
13           of this section may bring an action for general or  
14           special damages against the person, committee, or  
15           other entity that distributed the materially deceptive  
16           audio or visual media. The court may also award a  
17           prevailing party reasonable attorney’s fees and costs.  
18           This paragraph shall not be construed to limit or  
19           preclude a plaintiff from securing or recovering any  
20           other available remedy.

21           “(3) BURDEN OF PROOF.—In any civil action  
22           alleging a violation of this section, the plaintiff shall  
23           bear the burden of establishing the violation through  
24           clear and convincing evidence.

1       “(e) RULE OF CONSTRUCTION.—This section shall  
2 not be construed to alter or negate any rights, obligations,  
3 or immunities of an interactive service provider under sec-  
4 tion 230 of title 47, United States Code.

5       “(f) MATERIALLY DECEPTIVE AUDIO OR VISUAL  
6 MEDIA DEFINED.—In this section, the term ‘materially  
7 deceptive audio or visual media’ means an image or an  
8 audio or video recording of a candidate’s appearance,  
9 speech, or conduct that has been intentionally manipulated  
10 in a manner such that both of the following conditions  
11 are met:

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

15           “(2) The image or audio or video recording  
16 would cause a reasonable person to have a fun-  
17 damentally different understanding or impression of  
18 the expressive content of the image or audio or video  
19 recording than that person would have if the person  
20 were hearing or seeing the unaltered, original  
21 version of the image or audio or video recording.”.

22       (b) CRIMINAL PENALTIES.—Section 309(d)(1) of the  
23 Federal Election Campaign Act of 1971 (52 U.S.C.  
24 30109(d)(1)) is amended by adding at the end the fol-  
25 lowing new subparagraph:

1           “(G) Any person who knowingly and will-  
2           fully commits a violation of section 325 shall be  
3           fined not more than \$100,000, imprisoned not  
4           more than 5 years, or both.”.

5           (c) EFFECT ON DEFAMATION ACTION.—For pur-  
6           poses of an action for defamation, a violation of section  
7           325 of the Federal Election Campaign Act of 1971, as  
8           added by subsection (a), shall constitute defamation per  
9           se.

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