
THIRD READING

Bill No: AB 502
Author: Pellerin (D) and Berman (D)
Amended: 6/16/25 in Senate
Vote: 21

SENATE ELECTIONS & C.A. COMMITTEE: 4-0, 7/1/25
AYES: Cervantes, Allen, Limón, Umberg
NO VOTE RECORDED: Choi

SENATE JUDICIARY COMMITTEE: 11-2, 7/15/25
AYES: Umberg, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern, Wahab,
Weber Pierson, Wiener
NOES: Niello, Valladares

SUBJECT: Elections: deceptive media in advertisements

SOURCE: California Initiative for Technology and Democracy

DIGEST: This bill makes modifications to provisions of law that prohibit anyone, with malice, from knowingly distributing a campaign advertisement or other election communication containing materially deceptive content unless certain conditions are met.

ANALYSIS:

Existing law:

- 1) Prohibits anyone, until January 1, 2027, from distributing within 60 days of an election materially deceptive audio or visual media of a candidate with the intent to injure the candidate's reputation or to deceive a voter into voting for or against the candidate.
- 2) Prohibits anyone, beginning January 1, 2027, from producing, distributing, publishing, or broadcasting campaign material that contains a superimposed

image of a candidate unless the campaign material includes a disclaimer that the picture is not an accurate representation of fact.

- 3) Prohibits anyone, with malice, from knowingly distributing a campaign advertisement or other election communication containing materially deceptive content unless certain conditions are met. (These provisions are subject to a preliminary injunction and are being litigated).
- 4) Requires any political advertisement that is published or distributed by a political committee, to include a disclaimer if content in the ad was generated or substantially altered using artificial intelligence (AI).

This bill:

- 1) Makes the following modifications to provisions prohibiting anyone, with malice, from knowingly distributing a campaign advertisement or other election communication containing materially deceptive content unless certain conditions are met:
 - 2) Specifies these prohibitions apply 120 days before any election in California in which the candidate is running, instead of 120 days before any election in California.
 - 3) Makes the labeling provisions of this bill consistent with other existing election-related labelling provisions.
 - 4) Clarifies the exemption for satire to provide that the prohibition of the law does not apply to an advertisement or other election communication containing materially deceptive content if either of the following criteria is satisfied:
 - a) A reasonable person would understand that the content was satire or parody.
 - b) The materially deceptive content includes a disclosure stating the contest has been manipulated for purposes of satire or parody and the disclosure complies with specified disclosure requirements.
- 5) Limits who can seek relief to only those depicted in the fraudulent material.
- 6) Makes conforming changes to existing legislative findings and declarations.

Background

Manipulated Media in Campaign Communications. The use of false and deceptive information in campaigns to influence election outcomes is not a new

phenomenon. Laws aimed at curbing such practices and preserving the integrity of elections have a long history in California. The inaugural 1850 session of the California State Legislature created penalties for election misconduct, including for “deceiving [an elector] and causing him to vote for a different person for any office than such elector desired or intended to vote for.”

California law today includes various provisions criminalizing deceptive tactics that undermine election integrity or interfere with voters’ ability to participate in elections. This includes laws that prohibit distribution of false and misleading information about qualifications to vote or about the days, dates, times, and places where voting may occur; the misleading use of government seals in campaign literature; and coercing or deceiving a person into voting in a way that was inconsistent with the person’s intent.

Artificial Intelligence and Elections. On June 4, 2024, the Senate Committee on Elections and Constitutional Amendments and the Assembly Committee on Elections held a joint information hearing focusing on AI and elections.

The purpose of the hearing was to inform and assist the Legislature in making informed decisions on legislation related to AI-generated and altered content. It became evident that the ease with which people can create and spread mis- and disinformation creates a world where many people may have trouble determining what is fact and what is fiction.

State Action. AB 3075 (Berman, Chapter 241, Statutes of 2018) established the Office of Elections Cybersecurity (OEC) in the Secretary of State’s (SOS) office. The OEC has two primary missions. First, it is responsible for coordinating efforts between the SOS and local election officials to reduce the likelihood and severity of cyber incidents that could interfere with the security or integrity of elections in California. Second, the OEC is tasked with monitoring and counteracting false or misleading information regarding the electoral process that is published online or on other platforms that may suppress voter participation, cause confusion, or disrupt the ability to ensure a secure election. According to the OEC’s website, the office serves California with the sole purpose of keeping every Californian’s vote safe from online interference, especially the spread of mis- and disinformation.

AB 730 (Berman, Chapter 493, Statutes of 2019) addressed concerns that deepfake technology could be used to spread misinformation in political campaigns. “Deepfake technology” is software capable of producing a realistic looking video of someone saying or doing something they did not actually say or do.

AB 730 prohibits anyone from distributing deceptive audio or visual media with actual malice and the intent to injure a candidate's reputation or to deceive a voter, unless the media includes a disclaimer that it has been manipulated. AB 730 does not apply exclusively to deepfakes; it also applies to any intentional manipulation of audio or visual images where a reasonable person would be misled into believing it was authentic. AB 730 focused on materially deceptive representations of candidates, and not on deceptive media of other aspects of the electoral process. AB 730 included a January 1, 2023, sunset date, but AB 972 (Berman, Chapter 745, Statutes of 2022) extended the sunset date to January 1, 2027.

AB 2839 (Pellerin, Chapter 262, Statutes of 2024) prohibited the distribution of digitally altered, materially deceptive campaign advertisements and other election communications close to an election. Following the chaptering of the bill, several entities challenged the law alleging First Amendment violations. A federal district court in Sacramento granted the plaintiffs' motion for a preliminary injunction and the parties are awaiting summary judgment.

Comments

Author's Statement. AI-fueled disinformation can skew specific election results by deceiving voters or impacting voter turnout, call results into question, and more generally undermine faith in our elections, their security, and democratic systems. This bill seeks to strengthen AB 2839 in several small but important ways to better withstand constitutional challenge. These changes will make it easier for a court to uphold key provisions of last year's AB 2839 and better protect election integrity in California.

First Amendment Considerations. The First Amendment to the United States Constitution provides in relevant part "Congress shall make no law...abridging the freedom of speech..." Similarly, Section 2 of Article I of the California Constitution provides in relevant part, "Every person may freely speak, write, and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press."

A question could be raised about whether this bill is consistent with the right to freedom of speech that both the U.S. and California constitution's guarantee. The U.S. Supreme Court has ruled that the First Amendment even protects false statements (*United States v. Alvarez* (2012), 567 U.S. 709). When a law burdens core political speech, the restrictions on speech generally must be "narrowly tailored to serve an overriding state interest," *McIntyre v. Ohio Elections Commission* (1995, 514 US 334).

This bill builds upon AB 2839 that targeted deceptive content that could undermine trust in elections, prevent voters from voting, and distort the electoral process. The U.S. Supreme Court generally has found that the protection of the integrity of elections is an overriding (or compelling) government interest (*Id.* at 349; *Burson v. Freeman* (1992) 504 U.S. 191, 199). A challenge of this bill on First Amendment grounds would likely center on whether this bill's provisions are more narrowly tailored as compared to AB 2839.

Related/Prior Legislation

AB 2839 (Pellerin, Chapter 262, Statutes of 2024) prohibited the distribution of digitally altered, materially deceptive campaign advertisements and other election communications close to an election.

AB 2355 (Wendy Carrillo, Chapter 260, Statutes of 2024) required a campaign committee that creates, originally publishes, or originally distributes a political advertisement utilizing AI to include a disclosure stating that the audio, image, or video was generated or substantially altered using AI.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 7/29/25)

California Initiative for Technology and Democracy (Source)
TechEquity Action

OPPOSITION: (Verified 7/29/25)

Electronic Frontier Foundation
First Amendment Coalition

Prepared by: Scott Matsumoto / E. & C.A. / (916) 651-4106
8/14/25 16:22:50

**** **END** ****