
**SENATE COMMITTEE ON
ELECTIONS AND CONSTITUTIONAL AMENDMENTS**
Senator Scott Wiener, Chair
2025 - 2026 Regular

Bill No: AB 686 **Hearing Date:** 6/30/26
Author: Berman
Version: 6/9/26
Urgency: No **Fiscal:** No
Consultant: Scott Matsumoto

Subject: Elections: deceptive audio or visual media

DIGEST

This bill extends the sunset date, from January 1, 2027, to January 1, 2031, on the prohibition on distributing materially deceptive audio or visual media with actual malice with the intent to injure a candidate's reputation or to deceive a voter into voting for or against a candidate, unless the media includes a disclosure that it has been manipulated.

ANALYSIS

Existing federal law:

- 1) Provides, pursuant to Section 230 of the federal Communications Decency Act, that no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.
- 2) Provides, pursuant to the federal Communications Act of 1934, for the federal regulation of telephone, telegraph, television, and radio communications.

Existing state law:

- 1) Prohibits a person, committee, or other entity, until January 1, 2027, from distributing with actual malice, within 60 days of an election at which a candidate for elective office will appear on the ballot, 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. For the purposes of this prohibition:
 - a) Defines "materially deceptive audio or visual media" as an image or an audio or visual recording of a candidate's appearance, speech, or conduct that has been intentionally manipulated if both of the following about the media are true:
 - i) It would falsely appear to a reasonable person to be authentic.
 - ii) It would cause a reasonable person to have a fundamentally different understanding or impression of the expressive content of the image, audio, or

- video recording than the person would have if the person were hearing or seeing the unaltered, original version of the image, audio, or video recording.
- b) Provides this prohibition does not apply if the audio or visual media includes a disclosure stating “This (image/video/audio) has been manipulated,” and the disclosure complies with specified requirements.
 - c) Permits a candidate whose voice or likeness appears in a deceptive audio or visual media and was distributed in violation of existing law to seek the following relief:
 - i) Injunctive or other equitable relief prohibiting the distribution of the materially deceptive audio or visual media. This action is entitled to precedence in court.
 - ii) General or special damages against the person, committee, or other entity that distributed that audio or visual media. A court may award reasonable attorney’s fees and costs to a prevailing party in such an action. This provision is not to be construed to limit or preclude a plaintiff from securing or recovering any other available remedy.
 - d) Provides that in any civil action brought pursuant to these provisions, the plaintiff bears the burden of establishing the violation through clear and convincing evidence.
 - e) Provides that this prohibition must not be construed to alter or negate any rights, obligations, or immunities of an interactive service provider under Section 230 of the federal Communications Decency Act.
 - f) Provides that this prohibition does not apply to any of the following:
 - i) A radio or television broadcasting station in either of the following circumstances:
 - (1) When it broadcasts materially deceptive audio or visual media as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events, if the broadcast clearly acknowledges through content or disclosure that there are questions about the authenticity of the audio or visual media, as specified.
 - (2) When it is paid to broadcast materially deceptive audio or visual media.
 - ii) A 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 publishes materially deceptive audio or visual media prohibited by this prohibition, if the publication clearly states that the media does not accurately represent the speech or conduct of the candidate.
 - iii) Materially deceptive audio or visual media that constitute satire or parody.

- 2) Prohibits a person, firm, association, corporation, campaign committee, or organization, beginning January 1, 2027, with actual malice, from producing, distributing, publishing, or broadcasting campaign material, as defined, that contains either of the following types of pictures or photographs, unless the campaign material includes a disclosure that the picture is not an accurate representation of fact:
 - a) A picture or photograph of a person or persons into which the image of a candidate for public office is superimposed.
 - b) A picture or photograph of a candidate for public office into which the image of another person or persons is superimposed.

This bill extends the sunset date from January 1, 2027, to January 1, 2031, in 1) of existing law. This bill also makes corresponding changes to the operative date in 2) of existing law.

BACKGROUND

Deepfake technology refers to software capable of producing a realistic looking video of someone saying or doing something that they did not say or do. In response to concerns that deepfakes could be used to spread misinformation in campaigns, AB 730 (Berman), Chapter 493, Statutes of 2019 prohibited the distribution of materially deceptive audio or visual media with actual malice with the intent to injure a candidate's reputation or to deceive a voter into voting for or against a candidate, unless the materially deceptive audio or visual media includes a disclosure 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 that results in a version that a reasonable observer would believe to be authentic.

AB 730 updated California's "Truth in Political Advertising Act," a law enacted through the passage of AB 1233 (Leach), Chapter 718, Statutes of 1998. AB 1233 prohibited campaign material that contains a picture of a person into which a candidate's image is superimposed or contains a picture of a candidate into which another person's image is superimposed, except if a specified disclaimer was included. The Truth in Political Advertising Act was introduced in response to the use and manipulation of photoshopped pictures in campaign materials and was designed to target the manipulation of photographs in campaign materials.

AB 730 replaced the Truth in Political Advertising Act and now regulates not only altered photographs in campaign materials, but also audio and video media that has been altered in a materially deceptive manner. The changes made through the passage of AB 730 were scheduled to sunset on January 1, 2023. The sunset date was further extended to January 1, 2027, pursuant to AB 972 (Berman), Chapter 745, Statutes of 2022.

COMMENTS

- 1) Author's Statement. The world has changed a lot since I first authored my original legislation to regulate election deepfakes in 2019. Not only is it easier than ever to

create deepfakes due to the advancements of artificial intelligence, but we are seeing deepfakes used increasingly to blur the line between truth and fiction, misleading voters. That is why this law continues to be essential in protecting voters from being tricked and influenced by manipulated videos, audio recordings, or images. This bill extends the sunset date of the law from January 1, 2027, to January 1, 2031, thereby ensuring that California law continues to dissuade the creation and distribution of nefarious election-related deepfakes and other manipulated content.

- 2) Double Referral. If approved by this committee, this bill will be referred to the Committee on Judiciary for further consideration.

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 unless certain conditions are met. AB 502 (Pellerin) of 2026 proposes changes to AB 2839 pertaining to, among other provisions, the types of media, the timeframe for when the media is subject to the prohibition, and who can seek judicial relief.

AB 972 (Berman), Chapter 745, Statutes of 2022, extended the sunset and operative dates prescribed by AB 730 from January 1, 2023, to January 1, 2027.

AB 730 (Berman), Chapter 493, Statutes of 2019, prohibited the distribution of materially deceptive audio or visual media with actual malice with the intent to injure a candidate's reputation or to deceive a voter into voting for or against a candidate, unless the materially deceptive audio or visual media includes a disclosure that it has been manipulated.

AB 3075 (Berman), Chapter 241, Statutes of 2018, created the Office of Elections Cybersecurity and requires the office, among other provisions, to assess false or misleading information regarding the electoral process, mitigate the false or misleading information, and educate voters with valid information from election officials or the Secretary of State, as specified.

AB 1233 (Leach), Chapter 718, Statutes of 1998, prohibited campaign material that contains a picture of a person into which a candidate's image is superimposed, or contains a picture of a candidate into which another person's image is superimposed, except if a specified disclaimer was included.

PRIOR ACTION

Prior votes are not relevant.

POSITIONS

Sponsor: Author

Support: None received

Oppose: None received

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