

**The Maine Heritage Policy Center  
Testimony to Oppose LD 1988  
“An Act To Prohibit the Distribution of Deceptive  
Images or Audio or Video Recordings with the Intent  
To Influence the Outcome of an Election”**

Senator Luchini, Representative Schneck and distinguished members of the Committee on Veterans and Legal Affairs, my name is Adam Crepeau. I serve as a policy analyst at The Maine Heritage Policy Center. Thank you for the opportunity to testify in opposition to LD 1988.

While using “materially deceptive audio and visual media” to influence an election is undoubtedly harmful to the public’s interest in fact-finding, The Maine Heritage Policy Center believes government is not well-equipped to handle this particular problem. For one, this legislation is largely subjective. For example, who determines whether images, audio or videos are considered satire or parody?

An additional concern is the requirement to include a disclosure statement on videos that are materially deceptive within 60 days of an election. What entity is fit to determine whether a reasonable person has a fundamentally different understanding or impression of expressive content in a manipulated audio or visual representation when compared to its original, unaltered version? This well-intentioned legislation poses far more questions than it answers and will create many more problems than it will solve.

Moreover, this bill opens the door for litigious campaigns against those who did not include the disclosure on their content. As a result of LD 1988, candidates at every level would attempt to recover general or special damages when they see questionable or objectionable content posted about them. We should not allow our elections to become more litigious.

Further, The Maine Heritage Policy Center believes this legislation could violate individuals’ First Amendment rights. Individuals, committees, firms, partnerships, corporations, associations and organizations can share content freely, regardless of whether it is accurate or not. It is ultimately up to consumers of that content and the platforms by which it is distributed to determine how it is delivered and interpreted.

For instance, social media sites such as Facebook, Twitter, Instagram and TikTok should be the entities that lead the fight to educate the public on the effects of false content and misinformation. Facebook works with third-party fact checkers to flag posts, further educate users and allow them to decide which sources to trust.<sup>1</sup> All media platforms could and should use this approach to inform their users of

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<sup>1</sup> <https://www.facebook.com/facebookmedia/blog/working-to-stop-misinformation-and-false-news>

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misinformation. In other words, the best way to fight misinformation is with more accurate information — not government-enforced bans on specific speech.

For those reasons, The Maine Heritage Policy Center urges the committee to vote, “Ought Not to Pass” on LD 1988. Thank you.