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Testimony of Representative Amy D. Kuhn introducing

LD 1690, An Act Regarding Artificial Intelligence in Campaign Advertising

Before the Joint Standing Committee on Veterans and Legal Affairs

Senator Hickman, Representative Supica and distinguished members of the Veterans and Legal Affairs Committee, my name is Amy Kuhn, and I proudly represent most of Falmouth in House District 111. It is a pleasure to be with you today to introduce **LD 1690, An Act Regarding Artificial Intelligence in Campaign Advertising**.

As this committee is no doubt aware, AI-generated, or “deepfake,” media is increasingly common and increasingly convincing in today’s political discourse. By “deepfake” in this context, I am referring to fabricated content depicting a candidate, for example, saying or doing something that they never did or said that is deployed for political benefit. Such content can create a materially false impression and potentially alter an election outcome by deceiving voters.

For example, in 2024, a New Hampshire political consultant sent robocalls to thousands of New Hampshire voters using an AI-generated voice that mimicked President Biden’s speech in tone and content. The robocall falsely advised Democratic voters that they should not vote in New Hampshire’s primary because it could preclude them from voting in the general election that November.¹

In the settlement of that case, Federal Communications Commission chair Jessica Rosenworcel stated, “Every one of us deserves to know that the voice on the line is exactly who they claim to be. If AI is being used, that should be made clear to any consumer, citizen and voter who encounters it.”²

Another example is a deepfake video that was circulated by a political action committee in North Carolina’s 6th congressional district.³ This video depicts a candidate slandering himself, saying

¹ Company that sent fake Biden robocalls in New Hampshire agrees to \$1m fine: <https://www.theguardian.com/technology/article/2024/aug/22/fake-biden-robocalls-fine-lingo-telecom>; A political consultant faces charges and fines for Biden deepfake robocalls: <https://www.npr.org/2024/05/23/nx-s1-4977582/fcc-ai-deepfake-robocall-biden-new-hampshire-political-operative>

² FCC press release: <https://docs.fcc.gov/public/attachments/DOC-404951A1.pdf>

³ North Carolina 6th District candidate Mark Walker calls video shared by PAC a ‘deepfake’:

that he is unqualified and that he actually endorses his opponent. As high-quality deepfakes become easier to create and circulate, these occurrences are likely to increase and become more convincing.⁴

That is where this bill comes in. For a few years now, states across the country have sought to address misleading, deepfake political content.⁵ Initially, some states adopted total bans on AI-generated content in political advertising. Others impose criminal penalties. These approaches, however, have come under scrutiny as potential infringements on protected political speech.

Since then, numerous states have adopted a different approach, laws such as this one, where AI-generated speech is not prohibited, but it must be disclosed. This approach adopts the viewpoint that the remedy for disagreeable speech is more speech. Adding more information to the marketplace of ideas allows voters to consider the content with eyes wide open.

I wanted to highlight some important features of the bill. On page one:

- Line 4 clarifies that violation of the law results in civil penalties; it is not a crime.
- Line 20 and thereafter, note the use of the term “materially” manipulated or altered to describe the subject media, meaning that the change is significant or important. I added this term to clarify that the provision would not be implicated in the case of a minor alteration, for example, a candidate removing a blemish or stray hair on Photoshop or Facetune.
- Line 28 clarifies that the subject media depicts a candidate or party with “the intent to injure” the candidate or party or deceive a voter. This means that accidentally sharing a post that an individual did not know was altered would not be punishable here.
- Lines 40 through 18 on the next page contain certain exemptions for news organizations, requiring them to publish content with required disclosures but making them exempt from penalties. I would note that I have received requests for changes from advocates seeking to clarify accountability for publishing fraudulent content. I intend to work on these requests before the work session.

On page two:

- Line 19 specifically excludes satire and parody.
- Lines 21-22 indicate that in addition to monetary penalties, the commission may go to a court and seek injunctive relief or other equitable remedies to prohibit the dissemination of synthetic media that is in violation of the law.

<https://myfox8.com/news/politics/your-local-election-hq/north-carolina-6th-district-candidate-mark-walker-calls-video-shared-by-pac-a-deepfake/>

⁴ Tool to create a photo deepfake: <https://deepfake.civai.org>. For audio deepfake:

https://drive.google.com/file/d/1r4a104e_AnnTETPiQYVzjx9l_veTDfhZ/view?stream=top

⁵ NCSL Report of the Artificial Intelligence, Cybersecurity and Privacy Task Force: The Use of Artificial Intelligence in Elections, The Federal and State Legislative Landscape (Sept. 2024):

<https://documents.ncsl.org/wwwncsl/Technology/Elections-State-Fed-Landscape-v02.pdf>

To date, 24 states have enacted laws addressing deepfake content in campaigns and elections, and many more states have introduced legislation during this session.⁶ Without regulation, deepfakes are likely to further exacerbate voter confusion and a loss of confidence in elections. Many of these bills have passed with strong or even unanimous bipartisan support because they have the potential to impact all of us, and the institutions – like free and fair elections – that we all rely on. It is critical that the public maintains trust in our elections or else we risk losing their participation.

Thank you for the opportunity to present this bill. I am happy to take any questions and will return for the work session to follow up on any issues that arise today.

⁶ NCSL “AI in Elections and Campaigns” tracker of adopted legislation https://www.ncsl.org/elections-and-campaigns/artificial-intelligence-ai-in-elections-and-campaigns?utm_source=act-on+software&utm_term=ai%20in%20elections%20and%20campaigns&utm_campaign=a%20deep%20dive%20into%20ai&utm_medium=act-on%20software-_-email-_-a%20deep%20dive%20into%20ai-_-ai%20in%20elections%20and%20campaigns&utm_medium=email&utm_content=email; Public Citizen “Deepfakes in Election Communications” tracker (includes pending bills): <https://www.citizen.org/article/tracker-legislation-on-deepfakes-in-elections/>