

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2079 Session of 2024

INTRODUCED BY KHAN, MERCURI, GREEN, MERSKI, PIELLI, PROBST, HILL-EVANS, KINSEY, FREEMAN, SANCHEZ, BRENNAN, JAMES, GALLAGHER, MALAGARI, BURGOS, HADDOCK, SHUSTERMAN, CEPEDA-FREYTIZ, CIRESI, BOROWSKI, OTTEN, PARKER, TWARDZIK, BOYD, GUENST, GIRAL, POWELL, KINKEAD, KENYATTA, HOHENSTEIN, DONAHUE, WAXMAN, KIM, DELLOSO, CERRATO, SCOTT AND GERGELY, MARCH 5, 2024

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 5, 2024

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
 2 "An act concerning elections, including general, municipal,
 3 special and primary elections, the nomination of candidates,
 4 primary and election expenses and election contests; creating
 5 and defining membership of county boards of elections;
 6 imposing duties upon the Secretary of the Commonwealth,
 7 courts, county boards of elections, county commissioners;
 8 imposing penalties for violation of the act, and codifying,
 9 revising and consolidating the laws relating thereto; and
 10 repealing certain acts and parts of acts relating to
 11 elections," in penalties, providing for the offense of
 12 fraudulent misrepresentation of a candidate; and imposing a
 13 penalty.

14 The General Assembly of the Commonwealth of Pennsylvania
 15 hereby enacts as follows:

16 Section 1. The act of June 3, 1937 (P.L.1333, No.320), known
 17 as the Pennsylvania Election Code, is amended by adding a
 18 section to read:

19 Section 1827.1. Fraudulent Misrepresentation of a
 20 Candidate.--(a) A person or independent expenditure political
 21 action committee is guilty of fraudulent misrepresentation of a

1 candidate if, within ninety days before an election and with
2 reckless disregard for the possibility of influencing the
3 outcome of an election, the person or independent expenditure
4 political action committee disseminates or causes to be
5 disseminated a campaign advertisement that contains an
6 artificially generated impersonation of a current or former
7 candidate for public office with the intent to misrepresent the
8 words, actions or beliefs of the current or former candidate.

9 (b) Upon conviction of a person that commits an offense
10 under subsection (a), the court shall:

11 (1) order the person to withdraw the campaign advertisement
12 subject to subsection (a); and

13 (2) for each such campaign advertisement containing a unique
14 artificially generated impersonation, order the person to pay
15 for each day the fraudulent misrepresentation is disseminated a
16 fine not exceeding:

17 (i) Fifteen thousand (\$15,000) dollars when the individual
18 impersonated is a current or former candidate for a municipal
19 office.

20 (ii) Fifty thousand (\$50,000) dollars when the individual
21 impersonated is a current or former candidate for State office.

22 (iii) Two hundred fifty thousand (\$250,000) dollars when the
23 individual impersonated is a current or former candidate for
24 President of the United States, presidential elector or for the
25 office of United States Senator or Representative in Congress.

26 (c) Upon conviction of an independent expenditure political
27 action committee that commits an offense under subsection (a),
28 the court shall:

29 (1) order the independent expenditure political action
30 committee to withdraw the campaign advertisement subject to

1 subsection (a); and

2 (2) for each campaign advertisement containing a unique
3 artificially generated impersonation, order the independent
4 expenditure political action committee to pay for each day the
5 fraudulent misrepresentation is disseminated, a fine double the
6 amount applied for persons in subsection (b).

7 (d) It is a defense to a prosecution under subsection (a)
8 that the person or independent expenditure political action
9 committee disseminated the campaign advertisement with the
10 consent of the individual impersonated, provided that the person
11 or independent expenditure political action committee that
12 disseminated the campaign advertisement can establish that the
13 individual impersonated has given their express, written
14 consent.

15 (e) A person or independent expenditure political action
16 committee may be convicted under this section if the victim or
17 the offender is located within this Commonwealth.

18 (f) Nothing in this section shall be construed to apply to:

19 (1) A law enforcement officer engaged in the performance of
20 the law enforcement officer's official duties.

21 (2) The following:

22 (i) A radio or television broadcasting station, including a
23 cable or satellite television operator, programmer or producer,
24 that disseminates a campaign advertisement under this section as
25 part of a bona fide newscast, news interview, news documentary
26 or on-the-spot coverage of bona fide news events, if the radio
27 or television broadcasting station clearly acknowledges through
28 content or a disclosure statement, in a manner that can be
29 easily heard or read by the average listener or viewer, that
30 there are questions about the authenticity of the campaign

1 advertisement.

2 (ii) A publicly accessible Internet website, or a regularly
3 published newspaper, magazine or other periodical of general
4 circulation, including an Internet or electronic publication,
5 which routinely carries news and commentary of general interest
6 and that disseminates a campaign advertisement under this
7 section as part of coverage of bona fide news events, if the
8 publicly accessible Internet website, regularly published
9 newspaper, magazine or other periodical of general circulation
10 clearly acknowledges through content or a disclosure statement,
11 in a manner that can be easily heard or read by the average
12 listener or viewer, that there are questions about the
13 authenticity of the campaign advertisement.

14 (iii) A radio or television broadcasting station, including
15 a cable or satellite television operator, programmer or
16 producer, when it is paid to disseminate a campaign
17 advertisement authorized under subsection (d).

18 (g) As used in this section:

19 "Artificial intelligence" means any of the following:

20 (1) An artificial system that performs tasks under varying
21 and unpredictable circumstances without significant human
22 oversight or that can learn from experience and improve
23 performance when exposed to data sets.

24 (2) An artificial system developed in computer software,
25 physical hardware or other context that solves tasks requiring
26 human-like perception, cognition, planning, learning,
27 communication or physical action.

28 (3) An artificial system designed to think or act like a
29 human, including cognitive architectures and neural networks.

30 (4) A set of techniques, including machine learning, that is

1 designed to approximate a cognitive task.

2 (5) An artificial system designed to act rationally,
3 including an intelligent software agent or embodied robot that
4 achieves goals using perception, planning, reasoning, learning,
5 communicating, decision making and acting.

6 "Artificially generated impersonation" means any form of
7 media, including text, image, video or sound:

8 (1) the production of which was wholly dependent upon the
9 use of artificial intelligence; and

10 (2) that appears to establish, resemble or represent an
11 individual in a way that did not occur in reality.

12 "Disseminate" means to produce, publish, distribute,
13 broadcast, publicize, display, transmit or otherwise publicly
14 share.

15 "Independent expenditure political action committee" means a
16 political action committee that only receives contributions to
17 make independent expenditures.

18 "Person" means any of the following:

19 (1) A firm, partnership, corporation, limited liability
20 company, association, organization or similar entity.

21 (2) A political committee, including a political action
22 committee, or political party or a member of a political
23 committee or political party.

24 (3) An individual employed by an entity under paragraph (1)
25 or (2).

26 Section 2. The provisions of this act are severable. If any
27 provision of this act or its application to any individual or
28 circumstance is held invalid, the invalidity shall not affect
29 other provisions or applications of this act which can be given
30 effect without the invalid provision or application.

1 Section 3. This act shall take effect in 60 days.