HB172 INTRODUCED

1  HB172
2  AMVBSQQ-1
3  By Representatives Chestnut, Almond, Tillman, Gray, Robbins,
4  Daniels, Shaw, Pringle
5  RFD: Judiciary
6  First Read: 15-Feb-24
SYNOPSIS:

This bill would provide that the distribution of materially deceptive media intended to influence an upcoming election is a crime.

This bill would authorize certain parties to seek permanent injunctive relief against a person who distributes materially deceptive media with the intent to influence an upcoming election.

This bill would also provide definitions.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions...
because it comes within one of the specified exceptions contained in the amendment.

A BILL

TO BE ENTITLED

AN ACT

Relating to elections; to provide that the distribution of materially deceptive media in an attempt to influence an upcoming election is a crime; to authorize certain parties to seek permanent injunctive relief against anyone who distributes materially deceptive media in an attempt to influence an upcoming election; to provide definitions; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of this bill, the following terms have the following meanings:

(1) ARTIFICIAL INTELLIGENCE. Any artificial system that performs tasks under varying and unpredictable circumstances without significant human oversight or that can learn from experience and improve performance when exposed to data sets.

(2) DEPICTED INDIVIDUAL. An individual who is falsely represented in a materially deceptive media.

(3) ELECTION. A federal, state, legislative, judicial, countywide, local, general, primary, runoff, or special
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(4) MATERIALLY DECEPTIVE MEDIA. Any image, audio, or video that meets all of the following requirements:

a. The media falsely depicts an individual engaging in speech or conduct in which the depicted individual did not in fact engage.

b. A reasonable viewer or listener would incorrectly believe that the depicted individual engaged in the speech or conduct depicted.

c. The media was produced by artificial intelligence.

Section 2. (a) Except as provided in subsection (b), a person shall not distribute, or enter into an agreement with another person to distribute, materially deceptive media if all of the following apply:

(1) The person knows the media falsely represents a depicted individual.

(2) The distribution occurs within 90 days before an election.

(3) The person intends the distribution to harm the reputation or electoral prospects of a candidate in the coming election, and the distribution is reasonably likely to cause that result.

(4) The person intends the distribution to change the voting patterns of electors in the coming election by deceiving the electors into incorrectly believing that the depicted individual in fact engaged in the speech or conduct depicted, and the distribution is reasonably likely to cause that result.
(b) The prohibition in subsection (a) does not apply if all of the following conditions are met:

(1) The media includes a disclaimer informing the viewer both that the media has been manipulated by technical means and depicts speech or conduct that did not occur. The following disclaimer is sufficient, but not necessary, to satisfy the requirements of this subdivision:

"This media has been manipulated by technical means and depicts speech or conduct that did not occur."

(2) If the media is a video, the disclaimer meets all of the following requirements:

a. Appears throughout the entirety of the video.

b. Is clearly visible to and readable by the average viewer.

c. Is in letters in a size that is easily readable by the average viewer.

d. Is in the same language as the language used in the video media.

(3) If the media consists only of audio and contains no image or video, the disclaimer is read at the beginning and end of the media in a clearly spoken manner, in a pitch that can be easily heard by the average listener, and in the same language as the audio media.

(4) If the media is an image, the disclaimer meets all of the following requirements:

a. Is clearly visible to and readable by the average viewer.

b. Is in the same language as the language used in the
image media.

(5) If the media was generated by editing an existing image, audio, or video, the media includes a citation directing the viewer or listener to the original source from which the unedited version of the existing image, audio, or video was obtained.

(c) A violation of this section is a Class A misdemeanor, except that a second or subsequent conviction within five years is a Class D felony.

Section 3. (a) All of the following may seek permanent injunctive relief against a person that violates this section:

(1) The Attorney General.

(2) A depicted individual.

(3) A candidate for office who has been injured or is likely to be injured by the distribution of materially deceptive media.

(4) Any entity that represents the interests of voters likely to be deceived by the distribution of materially deceptive media.

(b)(1) If a court determines that a complaint for permanent injunctive relief filed pursuant to subsection (a) is frivolous, the court shall issue an order suspending the defendant's obligation to respond to the complaint and shall order the plaintiff to show cause why the complaint should not be dismissed. If the plaintiff fails to respond to the court or the plaintiff's response to the court confirms that the complaint is frivolous, the court shall dismiss the complaint and may award costs and attorney fees to the defendant and may
issue any appropriate sanctions against the plaintiff and the
plaintiff's attorney.

(2) If the plaintiff's response to the court assures
the court that the complaint is not frivolous, the court shall
direct the defendant to answer the complaint.

(c) A plaintiff seeking permanent injunctive relief
under subsection (a) must prove by clear and convincing
evidence that the defendant against whom the injunction is
sought knew the media at issue falsely represented the
depicted individual.

(d) If a plaintiff, other than the Attorney General, is
awarded permanent injunctive relief under this section, the
court may award costs and attorney fees to the plaintiff.

Section 4. Although this bill would have as its purpose
or effect the requirement of a new or increased expenditure of
local funds, the bill is excluded from further requirements
and application under Section 111.05 of the Constitution of
Alabama of 2022, because the bill defines a new crime or
amends the definition of an existing crime.

Section 5. This act shall become effective on October
1, 2024.