

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 426

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE FREEDOM FROM AI-RIGGED (FAIR) ELECTIONS ACT; AMENDING CHAP-
2 TER 66, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6628A,
3 IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR
4 RELIEF PROHIBITING THE PUBLICATION OF SYNTHETIC MEDIA IN ELECTION-
5 EERING COMMUNICATIONS, TO ESTABLISH PROVISIONS REGARDING AN ACTION
6 PROHIBITING THE PUBLICATION OF SYNTHETIC MEDIA IN ELECTIONEERING COM-
7 MUNICATIONS, AND TO PROVIDE EXCEPTIONS; PROVIDING SEVERABILITY; AND
8 DECLARING AN EMERGENCY.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Chapter 66, Title 67, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 67-6628A, Idaho Code, and to read as follows:

14 67-6628A. ELECTIONEERING COMMUNICATIONS -- USE OF SYNTHETIC ME-
15 DIA. (1) This section shall be known and may be cited as the "Freedom From
16 AI-Rigged (FAIR) Elections Act."

17 (2) For purposes of this section:

18 (a) "Information content provider" means any person or entity that is
19 responsible, in whole or in part, for the creation or development of in-
20 formation provided through the internet or any other interactive com-
21 puter service.

22 (b) "Interactive computer service" means any information service, sys-
23 tem, or access software provider that provides or enables computer ac-
24 cess by multiple users to a computer server, including specifically a
25 service or system that provides access to the internet and such systems
26 operated or services offered by libraries or educational institutions.

27 (c) "Synthetic media" means an image, an audio recording, or a video
28 recording of an individual's appearance, speech, or conduct that has
29 been intentionally manipulated with the use of generative adversarial
30 network techniques or other digital technology in a manner to create a
31 realistic but false image, audio, or video that produces:

32 (i) A depiction that to a reasonable individual is of a real indi-
33 vidual in appearance, action, or speech that did not actually oc-
34 cur in reality; and

35 (ii) A fundamentally different understanding or impression of the
36 appearance, action, or speech than a reasonable person would have
37 from the unaltered, original version of the image, audio record-
38 ing, or video recording.

39 (3) A candidate whose appearance, action, or speech is altered through
40 the use of synthetic media in an electioneering communication may seek in-
41 junctive or other equitable relief prohibiting the publication of such syn-
42 thetic media.

1 (4) A candidate whose appearance, action, or speech is altered through
2 the use of synthetic media in an electioneering communication may bring an
3 action for general damages, special damages, or both against the sponsor.
4 The court may also award a prevailing party reasonable attorney's fees and
5 costs. The provisions of this subsection do not limit or preclude a plain-
6 tiff from securing or recovering any other available remedy.

7 (5) It shall be an affirmative defense for any action brought pursuant
8 to this section that the electioneering communication containing a syn-
9 thetic media includes a disclosure stating, "This (image/video/audio) has
10 been manipulated" in the following manner:

11 (a) For visual media, the text of the disclosure must be prominently
12 displayed and appear in a size easily readable by the average viewer.
13 For visual media that is a video, the disclosure must appear for the du-
14 ration of the video; or

15 (b) If the media consists of audio only, the disclosure must be read in
16 a clearly spoken manner and in a pitch that can be easily heard by the
17 average listener at the beginning of the audio, at the end of the au-
18 dio, and, if the audio is greater than two (2) minutes in length, inter-
19 spersed within the audio at intervals of not more than two (2) minutes
20 each.

21 (6) In any action commenced pursuant to this section, the plaintiff
22 bears the burden of establishing the use of synthetic media by clear and
23 convincing evidence.

24 (7) Courts are encouraged to determine matters pursuant to this section
25 expediently.

26 (8) For an action brought pursuant to this section, the sponsor of the
27 electioneering communication may be held liable and not the medium dissem-
28 inating the electioneering communication, except as provided in subsection
29 (9) of this section.

30 (9) Except when a licensee, programmer, or operator of a federally li-
31 censed broadcasting station transmits an electioneering communication that
32 is subject to 47 U.S.C. 315, a medium may be held liable in a cause of action
33 brought pursuant to this section if:

34 (a) The medium removes any disclosure described in subsection (5) of
35 this section from the electioneering communication it disseminates; or

36 (b) Subject to affirmative defenses described in this section, the
37 medium changes the content of an electioneering communication such that
38 it qualifies as synthetic media.

39 (10) No provider or user of an interactive computer service shall be
40 treated as the publisher or speaker of any information provided by another
41 information content provider. However, an interactive computer service may
42 be held liable in accordance with subsection (9) of this section.

43 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared
44 to be severable, and if any provision of this act or the application of such
45 provision to any person or circumstance is declared invalid for any reason,
46 such declaration shall not affect the validity of the remaining portions of
47 this act.

1 SECTION 3. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.