

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1203

Introduced by Cavanaugh, J., 9.

Read first time January 16, 2024

Committee: Government, Military and Veterans Affairs

1 A BILL FOR AN ACT relating to the Nebraska Political Accountability and
2 Disclosure Act; to amend section 49-1403, Reissue Revised Statutes
3 of Nebraska, and section 49-1401, Revised Statutes Cumulative
4 Supplement, 2022; to define terms; to regulate the use of qualified
5 political advertisements and distribution of materially deceptive
6 media relating to artificial intelligence; to provide exceptions; to
7 provide for injunctive relief; to harmonize provisions; and to
8 repeal the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 49-1401, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 49-1401 Sections 49-1401 to 49-14,142 and sections 3 to 8 of this
4 act shall be known and may be cited as the Nebraska Political
5 Accountability and Disclosure Act.

6 Sec. 2. Section 49-1403, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 49-1403 For purposes of the Nebraska Political Accountability and
9 Disclosure Act, unless the context otherwise requires, the definitions
10 found in sections 49-1404 to 49-1444 and sections 3 to 6 of this act
11 shall be used.

12 Sec. 3. Artificial intelligence means a machine-based system that
13 can, for a given set of human-defined objectives, make predictions,
14 recommendations, or decisions influencing real or virtual environments
15 and that uses machine-based and human-based inputs to do all of the
16 following:

17 (1) Perceive real and virtual environments;

18 (2) Abstract such perceptions into models through analysis in an
19 automated manner; and

20 (3) Use model inference to formulate options for information or
21 action.

22 Sec. 4. Depicted individual means an individual who is falsely
23 represented in a materially deceptive media.

24 Sec. 5. Materially deceptive media means any image, audio, or video
25 that meets both of the following requirements:

26 (1) Falsely depicts an individual engaging in speech or conduct with
27 knowledge that the depiction is false or with reckless disregard as to
28 whether the depiction is false or not; and

29 (2) Was produced by artificial intelligence.

30 Sec. 6. Qualified political advertisement means any paid
31 advertisement, including, but not limited to, search engine marketing,

1 display advertisements, video advertisements, native advertisements,
2 issue advertisements, messaging service advertisements, mobile
3 application advertisements, and sponsorships, that relates to a candidate
4 for state or local office in this state, an election for state or local
5 office in this state, or a ballot question in this state and that
6 contains any image, audio, or video that is generated in whole or
7 substantially with the use of artificial intelligence.

8 Sec. 7. (1) If a person creates, originally publishes, or
9 originally distributes a qualified political advertisement, the qualified
10 political advertisement shall include, in a clear and conspicuous manner,
11 a statement that meets all of the following requirements, as applicable:

12 (a) State that the qualified political advertisement was generated
13 in whole or substantially by artificial intelligence;

14 (b) If the qualified political advertisement is a graphic
15 communication, appear in letters at least as large as the majority of the
16 text in the graphic communication and be in the same language as the
17 language used in the graphic communication;

18 (c) If the qualified political advertisement is an audio
19 communication, be spoken in a clearly audible and intelligible manner at
20 the beginning or end of the communication, last at least three seconds,
21 and be in the same language as the language used in the audio
22 communication; and

23 (d) If the qualified political advertisement is a video
24 communication that also includes audio, do all of the following:

25 (i) Appear for at least four seconds in letters at least as large as
26 the majority of any text communication or, if there is no other text
27 communication, in a size that is easily readable by the average viewer;

28 (ii) Be spoken in a clearly audible and intelligible manner at the
29 beginning or end of the communication and last at least three seconds;
30 and

31 (iii) Be in the same language as the language used in the video

1 communication.

2 (2) Each qualified political advertisement that is distributed or
3 aired to the public that violates this section constitutes a separate
4 violation of subsection (1) of this section.

5 (3) This section does not apply to any of the following:

6 (a) A radio or television broadcasting station, including a cable or
7 satellite television operator, programmer, or producer, that broadcasts a
8 qualified political advertisement or a communication generated in whole
9 or substantially by artificial intelligence as part of a bona fide
10 newscast, news interview, news documentary, or on-the-spot coverage of
11 bona fide news events if the broadcast clearly acknowledges through
12 content or a disclosure, in a manner that can be easily heard or read by
13 the average listener or viewer, that the qualified political
14 advertisement or communication generated in whole or substantially by
15 artificial intelligence does not accurately represent the speech or
16 conduct of the depicted individual;

17 (b) A radio or television broadcasting station, including a cable or
18 satellite television operator, programmer, or producer, if the station is
19 paid to broadcast qualified political advertisements;

20 (c) A distribution platform, including, but not limited to, a
21 website or a regularly published newspaper, magazine, or other periodical
22 of general circulation, including an Internet or electronic publication,
23 that routinely carries news and commentary of general interest and that
24 publishes qualified political advertisements prohibited under this
25 section, if the distribution platform has a clearly stated written
26 policy, provided to any person that creates, seeks to publish, or
27 originally distributes a qualified political advertisement, that the
28 qualified political advertisement is required to include a statement
29 consistent with subsection (1) of this section;

30 (d) A qualified political advertisement that constitutes satire or
31 parody; or

1 (e) A business regulated by the Public Service Commission or the
2 Federal Communications Commission.

3 (5) A distribution platform, as described in subdivision (3)(c) of
4 this section, is not liable for the lack of disclosure regarding content
5 created in whole or substantially by artificial intelligence in a
6 qualified political advertisement or prerecorded telephone message if the
7 distribution platform can show that the distribution platform provided
8 notice of its prohibitions related to a lack of disclosure of content
9 created in whole or substantially by artificial intelligence in a
10 qualified political advertisement or prerecorded telephone message.

11 Sec. 8. (1) Except as otherwise provided in subsection (2) of this
12 section, a person shall not distribute, or enter into an agreement with
13 another person to distribute, materially deceptive media if all of the
14 following apply:

15 (a) The person knows the media falsely represents a depicted
16 individual;

17 (b) The distribution occurs within ninety days before an election;

18 (c) The person intends the distribution to harm the reputation or
19 electoral prospects of a candidate in an election, and the distribution
20 is reasonably likely to cause such result; and

21 (d) The person intends the distribution to change the voting
22 behavior of electors in an election by deceiving the electors into
23 incorrectly believing that the depicted individual in fact engaged in the
24 speech or conduct depicted, and the distribution is reasonably likely to
25 cause such result.

26 (2) The prohibition in subsection (1) of this section does not apply
27 if all of the following conditions are met:

28 (a) The media includes a disclaimer informing the viewer that the
29 media has been manipulated by technical means and depicts speech or
30 conduct that did not occur. The following disclaimer is sufficient, but
31 not necessary, to satisfy the requirement under this subdivision:

1 This (image, audio, or video) has been manipulated by
2 technical means and depicts speech or conduct that did not occur.;

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

5 (i) Appears throughout the entirety of the video;

6 (ii) Is clearly visible to and readable by an observer;

7 (iii) Is in letters at least as large as the majority of any text
8 communication or, if there is no other text communication, in a size that
9 is easily readable by the average viewer; and

10 (iv) Is in the same language as the language used in the video
11 media;

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

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

18 (i) Is clearly visible to and readable by the average viewer;

19 (ii) If the media contains other text, is in letters at least as
20 large as the majority of the other text; and

21 (iii) Is in the same language as the language used in the image
22 media; and

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

27 (3) Except as provided in subsection (5) of this section, the
28 Attorney General, a depicted individual, a candidate for office who has
29 been injured or is likely to be injured by the distribution of materially
30 deceptive media, or any organization that represents the interests of
31 voters likely to be deceived by the distribution of materially deceptive

1 media may seek injunctive relief against a person that violates this
2 section by filing a civil action in any of the following courts:

3 (a) The district court in the county in which a party to the alleged
4 violation resides; or

5 (b) The district court in the county in which the materially
6 deceptive media at issue could deceive and influence electors in an
7 upcoming election.

8 (4) A plaintiff seeking injunctive relief under subsection (3) of
9 this section shall prove by clear and convincing evidence that the
10 defendant against whom the injunction is sought knew the media at issue
11 falsely represents the depicted individual. Upon filing the cause of
12 action, the court shall make a determination as to whether the action
13 filed is frivolous. If the court determines that the action filed is
14 frivolous, the court shall issue an order suspending the defendant's
15 obligation to answer and shall order the plaintiff to show cause why the
16 action filed should not be dismissed. If the plaintiff fails to respond
17 to the court or the plaintiff's response to the court confirms that the
18 action filed is frivolous, the court shall dismiss the action. If the
19 plaintiff's response to the court assures the court that the action filed
20 is not frivolous, the court shall direct the defendant to answer. If the
21 court finds that an action filed for injunctive relief is frivolous, in
22 addition to dismissing the action, the court may award costs and
23 attorney's fees to the defendant and may issue any appropriate sanctions
24 as permitted under court rules or the court's inherent authority against
25 the plaintiff and the plaintiff's attorney. If a plaintiff, other than
26 the Attorney General, is awarded injunctive relief under this section,
27 the court may award costs and attorney's fees to the plaintiff.

28 (5) A plaintiff may seek permanent injunctive relief but not
29 preliminary or temporary injunctive relief in an action filed pursuant to
30 subsection (3) of this section.

31 Sec. 9. Original section 49-1403, Reissue Revised Statutes of

1 Nebraska, and section 49-1401, Revised Statutes Cumulative Supplement,
2 2022, are repealed.