

SENATE BILL 978

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~~EMERGENCY BILL~~

4lr1791
CF 4lr3222

By: **Senator Hester**

Introduced and read first time: February 2, 2024

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 2024

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Synthetic Media – Disclosure and Regulation**

3 FOR the purpose of requiring certain persons that publish, distribute, or disseminate, or
4 cause to be published, distributed, or disseminated synthetic media, to publish on
5 their website ~~or submit to the State Board of Elections for publication~~ certain original
6 media content; requiring certain persons that publish, distribute, or disseminate or
7 cause to be published, distributed, or disseminated synthetic media to include a
8 certain disclosure in a certain manner; ~~authorizing the State Board to adopt~~
9 ~~regulations that establish certain procedures to label or remove certain synthetic~~
10 ~~media and to seek to enjoin the publication, distribution, or dissemination of certain~~
11 ~~synthetic media;~~ and generally relating to synthetic media and the State Board of
12 Elections.

13 BY adding to

14 Article – Election Law

15 Section 13–401.2

16 Annotated Code of Maryland

17 (2022 Replacement Volume and 2023 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Election Law

20 Section 13–602(a)(9) ~~and (b)~~

21 Annotated Code of Maryland

22 (2022 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,
 2 Article – Election Law
 3 Section 13–602(b)
 4 Annotated Code of Maryland
 5 (2022 Replacement Volume and 2023 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 7 That the Laws of Maryland read as follows:

8 **Article – Election Law**

9 **13–401.2.**

10 (A) ~~(1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~
 11 ~~INDICATED.~~

12 ~~(2) (I) “NEWS MEDIA ENTITY” MEANS AN ENTITY ENGAGED~~
 13 ~~PRIMARILY IN THE BUSINESS OF NEWSGATHERING, REPORTING, OR PUBLISHING~~
 14 ~~ARTICLES OR COMMENTARY ABOUT NEWS, CURRENT EVENTS, CULTURE, OR OTHER~~
 15 ~~MATTERS OF PUBLIC INTEREST.~~

16 ~~(H) “NEWS MEDIA ENTITY” INCLUDES AN ENTITY THAT~~
 17 ~~REPORTS OR PUBLISHES PRINT, AUDIO, OR VIDEO MEDIA, ONLINE OR OTHERWISE.~~

18 ~~(3) “SYNTHETIC MEDIA, “SYNTHETIC MEDIA” MEANS AN IMAGE, AN~~
 19 ~~AUDIO RECORDING, OR A VIDEO RECORDING THAT HAS BEEN INTENTIONALLY~~
 20 ~~CREATED OR MANIPULATED WITH THE USE OF GENERATIVE ARTIFICIAL~~
 21 ~~INTELLIGENCE OR OTHER DIGITAL TECHNOLOGY TO CREATE A REALISTIC BUT~~
 22 ~~FALSE IMAGE, AUDIO RECORDING, OR VIDEO RECORDING THAT ATTEMPTS TO~~
 23 ~~INFLUENCE THE CASTING OF A VOTE OR A DECISION TO VOTE BY:~~

24 ~~(H) (1) PURPORTS PURPORTING TO DEPICT A REAL~~
 25 ~~INDIVIDUAL, THE INDIVIDUAL’S SPEECH, OR THE INDIVIDUAL’S CONDUCT, CLEARLY~~
 26 ~~IDENTIFIED CANDIDATE OR THE SPEECH OR CONDUCT OF THE CANDIDATE; OR~~

27 ~~(H) (2) PRODUCES PRODUCING A FUNDAMENTALLY~~
 28 ~~DIFFERENT UNDERSTANDING OR IMPRESSION OF AN INDIVIDUAL’S APPEARANCE,~~
 29 ~~SPEECH, OR CONDUCT THAN A REASONABLE INDIVIDUAL WOULD HAVE FROM THE~~
 30 ~~UNALTERED, ORIGINAL VERSION OF THE IMAGE, AUDIO RECORDING, OR VIDEO~~
 31 ~~RECORDING; OR~~

32 ~~(H) IS OTHERWISE INTENDED TO HARM THE REPUTATION OF~~
 33 ~~THE PERSON THAT IS THE SUBJECT OF THE MEDIA.~~

1 **(B) (1) THIS SECTION APPLIES ONLY TO A CANDIDATE OR AN AGENT OF A**
2 **CANDIDATE, A CAMPAIGN FINANCE ENTITY OR AN AGENT OF A CAMPAIGN FINANCE**
3 **ENTITY, OR A PERSON REQUIRED TO REGISTER UNDER § 13-306, § 13-307, OR §**
4 **13-309.2 OF THIS TITLE OR AN AGENT OF A PERSON REQUIRED TO REGISTER UNDER**
5 **§ 13-306, § 13-307, OR § 13-309.2 OF THIS TITLE.**

6 ~~**(B) (2) THIS SECTION DOES NOT APPLY TO:**~~

7 **(I) A NEWS STORY, A COMMENTARY, OR AN EDITORIAL**
8 **DISSEMINATED BY A BROADCASTING STATION, INCLUDING A CABLE TELEVISION**
9 **OPERATOR, PROGRAMMER, OR PRODUCER, OR SATELLITE TELEVISION OR RADIO**
10 **PROVIDER, WEBSITE, NEWSPAPER, MAGAZINE, OR OTHER PERIODICAL**
11 **PUBLICATION, INCLUDING ANY INTERNET OR ELECTRONIC PUBLICATION, THAT IS**
12 **NOT CONTROLLED BY A CANDIDATE OR POLITICAL PARTY; OR**

13 ~~**(1) A NEWS MEDIA ENTITY:**~~

14 ~~**(I) 1. THAT BROADCASTS SYNTHETIC MEDIA THAT WOULD**~~
15 ~~**OTHERWISE VIOLATE THIS SECTION AS PART OF A BONA FIDE NEWSCAST, A NEWS**~~
16 ~~**INTERVIEW, A NEWS DOCUMENTARY, OR ON THE SPOT COVERAGE; AND**~~

17 ~~**2. IF THE NEWS MEDIA ENTITY CLEARLY STATES IN THE**~~
18 ~~**BROADCAST, IN A MANNER THAT IS REASONABLY CALCULATED TO BE UNDERSTOOD**~~
19 ~~**BY AN AVERAGE VIEWER OF THE BROADCAST, THAT THE SYNTHETIC MEDIA BEING**~~
20 ~~**BROADCASTED MAY OR MAY NOT BE AUTHENTIC; OR**~~

21 ~~**(II) 1. THAT IS PAID TO BROADCAST SYNTHETIC MEDIA THAT**~~
22 ~~**WOULD OTHERWISE VIOLATE THIS SECTION; AND**~~

23 ~~**2. THAT HAS MADE A GOOD FAITH EFFORT TO**~~
24 ~~**ESTABLISH THAT THE MEDIA IS NOT SYNTHETIC MEDIA;**~~

25 ~~**(2) A WEBSITE, REGULARLY PUBLISHED NEWSPAPER, MAGAZINE, OR**~~
26 ~~**PERIODICAL OF GENERAL CIRCULATION THAT:**~~

27 ~~**(I) ROUTINELY PUBLISHES NEWS OR COMMENTARY OF**~~
28 ~~**GENERAL INTEREST; AND**~~

29 ~~**(II) CLEARLY STATES, IN A MANNER REASONABLY CALCULATED**~~
30 ~~**TO BE UNDERSTOOD BY THE AVERAGE READER OF THE WEBSITE, NEWSPAPER,**~~
31 ~~**MAGAZINE, OR PERIODICAL OF GENERAL CIRCULATION, THAT A PIECE OF**~~
32 ~~**SYNTHETIC MEDIA PUBLISHED DOES NOT ACCURATELY REPRESENT THE SPEECH OR**~~
33 ~~**CONDUCT OF THE SUBJECT OF THE SYNTHETIC MEDIA; OR**~~

1 ~~(3)~~ (II) SYNTHETIC MEDIA THAT IS SATIRE OR PARODY.

2 (C) ~~(1)~~ A PERSON THAT PUBLISHES, DISTRIBUTES, OR DISSEMINATES
3 SYNTHETIC MEDIA, OR CAUSES SYNTHETIC MEDIA TO BE PUBLISHED, DISTRIBUTED,
4 OR DISSEMINATED ~~WITHIN 90 DAYS BEFORE AN ELECTION~~ SHALL:

5 ~~(1)~~ (1) ~~1. EXCEPT AS PROVIDED IN PARAGRAPH (2) OF~~
6 ~~THIS SUBSECTION,~~ PUBLISH THE ORIGINAL CONTENT THAT WAS MANIPULATED TO
7 GENERATE THE SYNTHETIC MEDIA ON THE WEBSITE OF THE PERSON; ~~OR~~

8 ~~2. SUBMIT THE ORIGINAL MATERIAL TO THE STATE~~
9 ~~BOARD FOR PUBLICATION ON THE STATE BOARD'S WEBSITE;~~ AND

10 ~~(1)~~ (2) ~~IN~~ IN ADDITION TO THE REQUIREMENTS OF §§ 13-401
11 AND 13-403 OF THIS SUBTITLE, MAKE THE DISCLOSURE REQUIRED UNDER
12 SUBSECTION (D) OF THIS SECTION.

13 ~~(2) IF THE PERSON IS A CANDIDATE OR AN AGENT OF A CANDIDATE, A~~
14 ~~CAMPAIGN FINANCE ENTITY, OR A PERSON REQUIRED TO REGISTER UNDER §~~
15 ~~13-306, § 13-307, OR § 13-309.2 OF THIS TITLE AND THE ORIGINAL MATERIAL WAS~~
16 ~~NOT SUBMITTED TO THE STATE BOARD UNDER PARAGRAPH (1)(1)2 OF THIS~~
17 ~~SUBSECTION, THE CANDIDATE, AGENT OF THE CANDIDATE, CAMPAIGN FINANCE~~
18 ~~ENTITY, OR PERSON REQUIRED TO REGISTER UNDER § 13-306, § 13-307, OR §~~
19 ~~13-309.2 OF THIS TITLE SHALL PUBLISH ON THE WEBSITE OF THE CANDIDATE,~~
20 ~~CAMPAIGN FINANCE ENTITY, OR PERSON THE ORIGINAL CONTENT THAT WAS~~
21 ~~MANIPULATED TO GENERATE THE SYNTHETIC MEDIA.~~

22 (D) (1) (i) FOR A STILL IMAGE, THE DISCLOSURE SHALL INCLUDE THE
23 STATEMENT "THIS IMAGE HAS BEEN ALTERED OR MODIFIED THROUGH THE USE OF
24 COMPUTER PROGRAMS TO DISPLAY AN EVENT OR IMAGE THAT DID NOT OCCUR IN
25 REALITY."

26 (ii) THE STATEMENT REQUIRED UNDER SUBPARAGRAPH (I) OF
27 THIS PARAGRAPH SHALL BE WRITTEN IN A TYPE SIZE THAT IS:

28 ~~1. EASILY READABLE BY THE AVERAGE VIEWER;~~ AND

29 ~~2. NOT SMALLER THAN THE LARGEST TYPE SIZE OF~~
30 ~~OTHER TEXT APPEARING ON THE STILL IMAGE.~~

31 (2) (i) FOR MEDIA THAT IS ONLY AN AUDIO RECORDING, THE
32 DISCLOSURE SHALL INCLUDE THE STATEMENT "THIS AUDIO HAS BEEN ALTERED OR
33 MODIFIED THROUGH THE USE OF COMPUTER PROGRAMS TO DISPLAY A SOUND THAT
34 DID NOT OCCUR IN REALITY."

1 (II) THE STATEMENT REQUIRED UNDER SUBPARAGRAPH (I) OF
2 THIS PARAGRAPH SHALL BE READ:

3 1. IN A CLEARLY SPOKEN MANNER AT A PITCH AND
4 SPEED THAT CAN EASILY BE HEARD BY THE AVERAGE LISTENER; AND

5 2. A. AT THE BEGINNING OF THE AUDIO RECORDING;

6 B. AT THE END OF THE AUDIO RECORDING; AND

7 C. FOR AUDIO RECORDINGS OF 2 MINUTES DURATION OR
8 LONGER, INTERSPERSED THROUGHOUT AT INTERVALS OF NOT MORE THAN 2
9 MINUTES.

10 (3) (I) FOR A VIDEO RECORDING, THE DISCLOSURE SHALL
11 INCLUDE THE STATEMENT "THIS VIDEO HAS BEEN ALTERED OR MODIFIED
12 THROUGH THE USE OF COMPUTER PROGRAMS TO DISPLAY AN EVENT, A SOUND, OR
13 AN IMAGE THAT DID NOT OCCUR IN REALITY."

14 (II) THE STATEMENT REQUIRED UNDER SUBPARAGRAPH (I) OF
15 THIS PARAGRAPH SHALL BE WRITTEN IN:

16 1. TEXT THAT REMAINS VISIBLE TO THE VIEWER FOR
17 THE DURATION OF THE VIDEO RECORDING; AND

18 2. A TYPE SIZE THAT IS EASILY READABLE TO THE
19 AVERAGE VIEWER AND PLACED IN A CONSPICUOUS LOCATION IN THE FRAME OF THE
20 VIDEO.

21 ~~(E) A PERSON THAT IS THE SUBJECT OF SYNTHETIC MEDIA PUBLISHED IN~~
22 ~~VIOLATION OF THIS SECTION MAY SEEK TO ENJOIN THE PUBLICATION,~~
23 ~~DISTRIBUTION, OR DISSEMINATION OF THE SYNTHETIC MEDIA BY A PERSON WHO~~
24 ~~VIOLATES THE REQUIREMENTS OF THIS SECTION.~~

25 ~~(F)~~ (E) THE STATE BOARD MAY:

26 ~~(1) ADOPT REGULATIONS THAT ESTABLISH PROCEDURES TO:~~

27 ~~(I) LABEL SYNTHETIC MEDIA RELATED TO ELECTIONS; AND~~

28 ~~(II) REMOVE SYNTHETIC MEDIA RELATED TO ELECTIONS THAT~~
29 ~~ARE PUBLISHED, DISTRIBUTED, OR DISSEMINATED, OR ARE CAUSED TO BE~~
30 ~~PUBLISHED, DISTRIBUTED, OR DISSEMINATED, BY A FOREIGN PERSON; AND~~

1 ~~(2)~~ SEEK TO ENJOIN THE PUBLICATION, DISTRIBUTION, OR
 2 DISSEMINATION OF SYNTHETIC MEDIA RELATED TO ELECTIONS BY A PERSON WHO
 3 VIOLATES THE REQUIREMENTS OF THIS SECTION.

4 13-602.

5 (a) (9) A person may not:

6 (i) publish or distribute, or cause to be published or distributed,
 7 campaign material that violates § 13-401 of this title; [or]

8 (ii) publish, distribute, or disseminate, or cause to be published,
 9 distributed, or disseminated, campaign material that violates § 13-401.1 of this title; OR

10 (III) PUBLISH, DISTRIBUTE, OR DISSEMINATE, OR CAUSE TO BE
 11 PUBLISHED, DISTRIBUTED, OR DISSEMINATED, CAMPAIGN MATERIAL IN VIOLATION
 12 OF § 13-401.2(C) OF THIS TITLE.

13 (b) ~~(1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
 14 ~~SUBSECTION, A~~ person who violates this section is guilty of a misdemeanor and on
 15 conviction is:

16 ~~[(1)] (I)~~ subject to a fine not exceeding \$1,000 or imprisonment not
 17 exceeding 1 year or both; and

18 ~~[(2)] (H)~~ ineligible to hold any public or party office for 4 years after the
 19 date of the offense.

20 ~~(2) A PERSON WHO VIOLATES SUBSECTION (A)(9)(III) OF THIS~~
 21 ~~SECTION IS SUBJECT TO A CIVIL PENALTY OF:~~

22 ~~(I) FOR A REPEAT VIOLATION WITHIN 5 YEARS OF A PRIOR~~
 23 ~~VIOLATION, \$10,000;~~

24 ~~(II) FOR A VIOLATION WITH THE INTENT TO CAUSE VIOLENCE~~
 25 ~~OR BODILY HARM, \$5,000; AND~~

26 ~~(III) FOR ANY OTHER VIOLATION, \$1,000.~~

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act ~~is an emergency~~
 28 ~~measure, is necessary for the immediate preservation of the public health or safety, has~~
 29 ~~been passed by a ye and nay vote supported by three fifths of all the members elected to~~
 30 ~~each of the two Houses of the General Assembly, and shall take effect from the date it is~~
 31 ~~enacted~~ shall take effect June 1, 2024.