

SB0361/883223/1

BY: Ways and Means Committee

AMENDMENTS TO SENATE BILL 361
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “**Influence on a Voter’s Voting Decision By Use of Fraud**” and substitute “**Influencing a Voter By Dissemination of a Deepfake**”; strike beginning with “using” in line 4 down through “decision” in line 6 and substitute “. with fraudulent intent, influencing or attempting to influence a voter’s decision whether or not to cast a vote or whether to vote for or against a candidate or ballot issue by disseminating a deepfake; and generally relating to prohibiting influencing or attempting to influence a voter by dissemination of a deepfake”; in line 7, strike “repealing and reenacting, with amendments,” and substitute “adding to”; and in line 9, strike “16–201” and substitute “16–905”.

AMENDMENT NO. 2

On pages 1 through 3, strike in their entirety the lines beginning with line 15 on page 1 through line 7 on page 3, inclusive, and substitute:

“16–905.

(A) IN THIS SECTION, “DEEPPFAKE” MEANS AN IMAGE, AN AUDIO RECORDING, OR A VIDEO RECORDING THAT HAS BEEN INTENTIONALLY CREATED OR MANIPULATED WITH THE USE OF GENERATIVE ARTIFICIAL INTELLIGENCE OR OTHER DIGITAL TECHNOLOGY TO CREATE A REALISTIC BUT FALSE DEPICTION OF A PERSON WHICH AN ORDINARY PERSON WOULD CONCLUDE IS AN ACTUAL VISUAL OR AUDIO REPRESENTATION OF THE PERSON DEPICTED.

(B) THIS SECTION DOES NOT APPLY TO A DEEPPFAKE THAT IS:

(1) DISSEMINATED BY THE NEWS MEDIA; OR

(2) SATIRE OR PARODY.

(C) A PERSON MAY NOT, WITH FRAUDULENT INTENT, INFLUENCE OR ATTEMPT TO INFLUENCE A VOTER'S DECISION WHETHER OR NOT TO CAST A VOTE OR WHETHER TO VOTE FOR OR AGAINST A CANDIDATE OR BALLOT ISSUE BY DISSEMINATING A DEEPPFAKE.

(D) A PERSON ACTS WITH FRAUDULENT INTENT UNDER SUBSECTION (C) OF THIS SECTION ONLY IF THE PERSON DISSEMINATES A DEEPPFAKE:

(1) THAT MISREPRESENTS A FACT THAT IS MATERIAL TO A VOTER'S DECISION WHETHER OR NOT TO CAST A VOTE OR WHETHER TO VOTE FOR OR AGAINST A CANDIDATE OR BALLOT ISSUE;

(2) WITH KNOWLEDGE THAT THE DEEPPFAKE IS A DEEPPFAKE, OR WITH RECKLESS DISREGARD FOR WHETHER THE DEEPPFAKE IS A DEEPPFAKE; AND

(3) WITH THE INTENT TO DECEIVE A VOTER AND INDUCE A VOTER TO CAST A VOTE OR NOT CAST A VOTE OR TO VOTE FOR OR AGAINST A CANDIDATE OR BALLOT ISSUE AT LEAST IN PART ON THE BASIS OF THE DECEPTION.

(E) THE FOLLOWING PERSONS MAY NOT BE FOUND TO HAVE VIOLATED THIS SECTION BECAUSE THE PERSON'S SERVICES OR FACILITIES ARE USED BY ANOTHER PERSON TO DISSEMINATE A DEEPPFAKE IN VIOLATION OF THIS SECTION:

(1) AN INTERACTIVE COMPUTER SERVICE, AS DEFINED IN 47 U.S.C. § 230;

(2) AN INTERNET SERVICE PROVIDER;

(3) A CLOUD SERVICE PROVIDER;

(4) A TELECOMMUNICATIONS NETWORK;

(5) A RADIO OR TELEVISION BROADCASTING STATION OR NETWORK;

(6) A CABLE, SATELLITE RADIO, SATELLITE TELEVISION, OR STREAMING SERVICE OPERATOR, PROGRAMMER, OR PRODUCER; OR

(7) A NEWSPAPER, MAGAZINE, WEBSITE, OR OTHER PERIODICAL PUBLICATION.

(F) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$5,000 OR IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR BOTH.”.