



To: House Government, Labor, and Elections Committee

From: Tim Nelson and Pearson Cost, Counsel to the Maryland-DC-Delaware Broadcasters Association

Date: Submitted – February 2, 2026; Hearing – February 4, 2026

Re: House Bill 145

The Maryland-DC-Delaware Broadcasters Association (“MDCD” or the “Association”) appreciates the opportunity to submit this written testimony regarding House Bill 145, “Election Law - Election Misinformation, Election Disinformation, and Deepfakes.”¹ On behalf of the Association and its Members, which include approximately 20 television stations and 110 radio stations, MDCD thanks Delegate Feldmark for sponsoring and the Committee for holding a hearing on House Bill 145, which legislation addresses the very important issue of the use of generative artificial intelligence (AI) and similar technology in the context of elections.

MDCD’s members—local television and radio stations—are the most trusted source of news and information here in Maryland and across the country; that role for local broadcasters is all the more important in light of the rampant increase in the use of generative AI in spreading misinformation and disinformation. As is the case in newsrooms across America, the Association’s television and radio stations are working diligently to protect against generative AI distorting the news reporting and informational content that they source, produce, and freely deliver to the public.

With that aim in mind, the Association is supportive of the goals House Bill 145 (and its companion bill in the Senate, SB 141) appears intended to achieve. MDCD previously advocated last Session for certain changes to the predecessor to House Bill 145 – House Bill 525 – with the hopes of strengthening the legislation by clarifying its scope, and MDCD was pleased to see many of those changes implemented in the initial version of House Bill 145. The Association is grateful for Delegate Feldmark and the Committee’s commitment to supporting broadcasters here in Maryland.

MDCD has further suggestions regarding the breadth/potential scope of House Bill 145 as introduced—and we hope to have the opportunity to work with the Committee on this legislation.

MDCD’s proposed amendments to House Bill 145 are attached below as Exhibit A.

¹ The Maryland-DC-Delaware Broadcasters Association is a voluntary, non-profit trade association that advocates for the interests of its member radio and television stations and, more generally, the interests of broadcasting in Maryland, Delaware, and Washington, D.C.

1. Section 16-905: Dissemination of Deepfakes

MDCD is appreciative of the inclusion of broadcaster-related exceptions in Section 16-905 (some of which the Association advocated for last Session). MDCD is concerned, however, that the exception for when a broadcaster has “been paid to broadcast the deepfake” is undermined by also requiring such broadcaster to have made a “good faith effort to establish that the deepfake is not a deceptive and fraudulent deepfake.”

Although MDCD’s members are already undertaking efforts to discover the use of generative AI, the proposed “good faith effort” standard is ambiguous and focused on undefined actions. Radio or television broadcasting stations in receipt of paid advertising should not be held responsible for ascertaining, on threat of violation of law, whether an image, audio, or video used in third-party content is a product of generative artificial intelligence—especially given the intentionally deceptive nature of such deepfakes. Additionally, MDCD’s members’ good-faith efforts to protect against deceptive and fraudulent information are tested each day by the public, as confidence breeds viewership and listenership; such good-faith effort does not also need to be examined in court with vague, imprecise guidelines.

The Association therefore encourages consideration of amendatory language such that House Bill 145 would not apply to broadcasters that are paid to broadcast a deceptive and fraudulent deepfake that would otherwise violate the Section. In other words, MDCD advocates for the removal of the “good-faith” obligation to Section 16-905(b)(2)(iii), as shown in Exhibit A attached hereto.

2. Section 2-110: State Board and Administrator of Elections

Section 2-110 in House Bill 145 charges the State Board of Elections and State Administrator of Elections with correcting election misinformation and disinformation. MDCD is supportive of additional state responsibility in the fight against deceptive content, but the Association is also concerned that the proposed breadth will impede broadcasters in pursuing the same aim. Specifically, as written, it would appear that the State Administrator could issue subpoenas to broadcasters that air advertisements containing misinformation or disinformation, and the State Board could file a civil action against broadcasters for airing such advertisements.

As MDCD has previously written to the Committee, a broadcaster in receipt of paid advertising containing misinformation or disinformation should not be subject to State action—in this case, burdensome subpoenas and civil actions for airing such content—nor should broadcasters be forced to shoulder the burden of investigating each paid advertisement or program for content that appears to be realistic but is in fact misinformation or disinformation.

Similarly, MDCD notes that there is a discrepancy between Section 2-110 and federal law. Under 47 U.S.C. § 315(a), broadcasters are prohibited from censoring (including editing by way of addition or removal) the content of an advertisement that is paid for by a legally qualified candidate for public office and/or such candidate’s authorized campaign committee (unless such content is legally obscene). MDCD respectfully submits that the language of Section 2-110 must account for this provision of federal law because a broadcaster should not be held liable for its compliance with federal law.

Accordingly, MDCD respectfully requests that the broadcaster-related exceptions found in House Bill 145’s Section 16-905(b) be included in Section 2-110, save for the “good faith effort” requirement, which is discussed above. As shown in Exhibit A, this proposal can be achieved through a simple reference to Section 16-905(b).

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To reiterate, MDCD supports efforts to harness the power of generative artificial intelligence and to reduce the spread of misinformation and disinformation, particularly in the context of free and fair elections, and the Association is appreciative that the Committee continues to address these issues. It is important that such efforts, however, do not inadvertently sweep up broadcasters and other news media entities that are already working tirelessly to provide trusted local journalism and information—and to root out deceptive uses of AI. We look forward to working with the Committee on this important legislation.

Exhibit A

MDCD's Proposed Amendment to House Bill 145

PROPOSED AMENDMENT TO HOUSE BILL 145

On page 3, after line 6, insert the following:

“(4) THE EXEMPTIONS IN SECTION 16-905(B) OF THIS TITLE SHALL APPLY TO SECTIONS 2-110(C)(2) AND (3).”

On page 4, in line 3, strike “:”; in line 4, strike “1.” and “; AND”; strike beginning with “2.” in line 5 down through “DEEPFAKE” in line 6.