



# MOTION PICTURE ASSOCIATION

## **HB 184 - Criminal Law - Identity Fraud - Artificial Intelligence and Deepfake Representations**

### **Memorandum of Opposition Unless Amended January 30, 2026**

The Motion Picture Association, Inc. (“MPA”) respectfully opposes, unless amended, **HB 184 - Criminal Law - Identity Fraud - Artificial Intelligence and Deepfake Representations** (the “Bill”) and offers proposed changes to the Bill as described herein.<sup>1</sup>

The Bill is nearly identical to HB 1425 from last year. However, it is missing a critical set of amendments that were extensively negotiated. If the Bill is amended to include those same amendments, particularly the exemption language and the revision striking “mislead,” the Motion Picture Association expects to remain neutral on the bill.

However, if the Bill advances without those amendments, we must respectfully oppose. The MPA’s members use computer-generated imagery for a wide array of purposes. They recreate historical events. They modify images, video, and audio to enhance news reports, aid viewers and listeners in understanding content, create interesting visual effects, and age and “de- age” actors. Moreover, some of MPA’s members create satire, parody, and comedy, and use altered images and audio for this purpose. It is well-established that these expressions are protected by the First Amendment. *See, e.g., New York Times v. Sullivan*, 376 U.S. 254 (1964); *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46 (1988).

While the MPA appreciates that there are harmful uses of “deepfake” technologies, which may be appropriately constrained through criminal statutes, efforts to regulate the use of such technologies must be carefully crafted to avoid chilling protected and valuable creative speech and legitimate news coverage. The current draft of the Bill, however, does not offer such protection. Instead, the Bill opens the door for private individuals—including public figures who may be the subject of a digitally-altered rendering—to bring claims against media companies to stop them from publishing content that the individual claims will be “misleading.” This would force a studio or broadcaster to engage in costly legal battles to protect their First Amendment rights. By

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<sup>1</sup> The MPA is a not-for-profit trade association founded in 1922 to address issues of concern to the motion picture industry. Since that time, MPA has advanced the business and art of storytelling, protecting the creative and artistic freedoms of storytellers, and bringing entertainment and inspiration to audiences worldwide. The MPA’s member companies are: Netflix Studios, LLC; Paramount Pictures Corporation; Prime Amazon MGM Studios; Sony Pictures Entertainment Inc.; Universal City Studios LLC; Walt Disney Studios Motion Pictures; and Warner Bros. Entertainment, Inc. In addition, several of the MPA’s members have as corporate affiliates major news organizations (including ABC, NBC, and CBS News, and CNN) and dozens of owned-and-operated local television stations with broadcast news operations.

permitting such lawsuits to be brought even *before* the media is released, the Bill paves the way for courts to exercise a prior restraint on speech, which is particularly disfavored under the First Amendment. This also imposes substantial practical costs, by potentially disrupting carefully crafted release schedules, marketing plans, and promotional efforts.

To limit the impact of this Bill to uses of deepfake technology that are akin to identity fraud, and without impairing legitimate First Amendment-protected creative expression, the MPA proposes the following addition to the definitions in the Bill.

**(4) “FALSELY DEPICT” MEANS THE USE OR DISTRIBUTION OF A DEEPAKE REPRESENTATION WITH KNOWLEDGE OF THE FALSITY THE REPRESENTATION OR WITH THE INTENT OF MISREPRESENTING THE AUTHENTICITY OR PROVENANCE OF THE REPRESENTATION.**

Additionally, the MPA proposes the following revision to Section (f) of the Bill, which will remove the ambiguous term “mislead,” which has the potential to encompass a wide range of protected speech, including parody and satire.

**(2-Line24) A PERSON MAY NOT KNOWINGLY, WILLFULLY, AND WITH FRAUDULENT INTENT USE ARTIFICIAL INTELLIGENCE OR A DEEPAKE REPRESENTATION TO:**

**(I) IMPERSONATE, FALSELY DEPICT, OR CLAIM TO REPRESENT ANOTHER PERSON WITH THE INTENT TO DEFRAUD, ~~MISLEAD,~~ OR CAUSE HARM TO THAT PERSON OR ANY OTHER PERSON;**

Additionally, with no express protections for parody, satire, news reporting, and other protected speech, the Bill may force MPA’s members and others to choose between foregoing such digitally-altered representations altogether and defending against costly but meritless lawsuits.

To prevent this chilling effect, the MPA proposes a carveout that expressly exempts the kinds of speech that is protected by the First Amendment. *See Schad v. Borough of Mt. Ephraim*, 452 U.S. 61, 65 (1981) (“Entertainment, as well as political and ideological speech, is protected; motion pictures, programs broadcast by radio and television, and live entertainment, such as musical and dramatic works fall within the First Amendment guarantee.”).

The MPA proposes the following addition to the Bill as section (F)(3):

**(2) IT IS NOT A VIOLATION OF SUBSECTION (F)(2) OF THIS SECTION TO CREATE, USE, OR OTHERWISE DISTRIBUTE ANY AUDIO OR VISUAL CONTENT, REGARDLESS OF WHETHER IT IS COMPUTER-GENERATED, THAT RELATES TO A MATTER OF PUBLIC INTEREST, OR THAT IS PARODY, SATIRE, COMMENTARY OR CRITICISM, OR WHICH INVOLVES WORKS OF POLITICAL OR NEWSWORTHY VALUE.**

Such categorical exemptions—rather than protections specific to certain kinds of entities or industries—are in keeping with the principles of the First Amendment. And indeed, this language

would bring the Bill’s First Amendment protections in line with statutes that have passed regulating deepfakes across the country. *See, e.g.*, Arizona (Az. Stat. § 16-1024(B)),<sup>2</sup> Delaware (Del. Stat. Title 15 § 5145),<sup>3</sup> Idaho (Id. Stat. § 18-6606(5)),<sup>4</sup> New Hampshire (N.H. Rev. Stat. § 638:26-a(IV));<sup>5</sup> Louisiana (La. Rev. Stat. 14:73.13(C)(1)),<sup>6</sup> Mississippi (Miss. Stat. § 97-13-47),<sup>7</sup> New York (N.Y. Civ. Rts. L. § 52-c(4));<sup>8</sup> and New Jersey (N.J. Stat. § 2C:21-17.8).<sup>9</sup>

The MPA welcomes the opportunity to answer questions and provide additional input on the Bill. Legislators and their staff seeking additional information may contact the MPA’s consultants in Annapolis, Nick Manis and John Favazza, at [nmanis@maniscanning.com](mailto:nmanis@maniscanning.com) and [jfavazza@maniscanning.com](mailto:jfavazza@maniscanning.com).

Sincerely,

*Renata Colbert*

Renata Colbert  
Director  
State Government Affairs

Cc: Delegate Cheryl Pasteur

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<sup>2</sup> “This section does not apply to . . . satire or parody.”

<sup>3</sup> “The prohibition . . . does not apply to . . . (1) A radio or television broadcasting station . . . that broadcasts a deceptive and fraudulent deepfake prohibited by this section as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events, if the broadcast clearly acknowledges through content or a disclosure . . . that there are questions about the authenticity of the materially-deceptive audio or visual media, or in cases where federal law requires broadcasters to air advertisements from legally-qualified candidates; . . . (3) An internet website . . . if the publication clearly states that the materially deceptive audio or visual media does not accurately represent the speech or conduct of the depicted individual; (4) Materially-deceptive audio or visual media that constitutes satire or parody.”

<sup>4</sup> “Subsection (1)(a) of this section shall not apply when: . . . (c) The explicit synthetic media relates to a matter of public interest . . .”

<sup>5</sup> “This section shall not apply to . . . Any radio or television broadcasting station or network . . . that publishes, distributes or broadcasts a deepfake . . . as part of a bona fide news report, newscast, news story, news documentary or similar undertaking in which the deepfake is a subject of the report and in which publication, distribution, or broadcast there is contained a clear acknowledgment that there are questions about the authenticity of the materials which are the subject of the report [or] A video, audio or any other media that constitutes satire or parody.”

<sup>6</sup> “‘Deepfake’ does not include any material that constitutes a work of political, public interest, or newsworthy value, including commentary, criticism, satire, or parody, or that includes content, context, or a clear disclosure visible throughout the duration of the recording that would cause a reasonable person to understand that the audio or visual media is not a record of a real event.”

<sup>7</sup> “This section does not apply to . . . A radio or television broadcasting station that broadcasts any digitization prohibited by subsection (2) of this section as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage or a bona fide news event [or] Content that constitutes satire or parody.”

<sup>8</sup> “A person is not liable under this section if (ii) the sexually explicit material is a matter of legitimate public concern, a work of political or newsworthy value or similar work, or commentary, criticism or disclosure that is otherwise protected by the constitution of this state or the United States; provided that sexually explicit material shall not be considered of newsworthy value solely because the depicted individual is a public figure.”

<sup>9</sup> “[This provision] shall not apply to content that a reasonable viewer or listener would understand to constitute criticism, comment, satire, parody, news reporting, teaching, scholarship, research, or any content that a reasonable viewer or listener would not believe to authentically depict speech or conduct.”