

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 664

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE FREEDOM FROM AI-RIGGED (FAIR) ELECTIONS ACT; AMENDING CHAP-
2 TER 66, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-6628A,
3 IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR
4 RELIEF PROHIBITING THE PUBLICATION OF SYNTHETIC MEDIA IN ELECTION-
5 EERING COMMUNICATIONS, TO ESTABLISH PROVISIONS REGARDING AN ACTION
6 PROHIBITING THE PUBLICATION OF SYNTHETIC MEDIA IN ELECTIONEERING COM-
7 MUNICATIONS, AND TO PROVIDE EXCEPTIONS; PROVIDING SEVERABILITY; AND
8 DECLARING AN EMERGENCY.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Chapter 66, Title 67, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 67-6628A, Idaho Code, and to read as follows:

14 67-6628A. ELECTIONEERING COMMUNICATIONS -- USE OF SYNTHETIC ME-
15 DIA. (1) This section shall be known and may be cited as the "Freedom From
16 AI-Rigged (FAIR) Elections Act."

17 (2) For purposes of this section:

18 (a) "Information content provider" means any person or entity that is
19 responsible, in whole or in part, for the creation or development of in-
20 formation provided through the internet or any other interactive com-
21 puter service.

22 (b) "Interactive computer service" means any information service, sys-
23 tem, or access software provider that provides or enables computer ac-
24 cess by multiple users to a computer server, including specifically a
25 service or system that provides access to the internet and such systems
26 operated or services offered by libraries or educational institutions.

27 (c) "Synthetic media" means an audio recording or a video recording of
28 an individual's speech or conduct that has been created through the use
29 of generative adversarial network techniques or other digital technol-
30 ogy in a manner to create a realistic but false audio or video that:

31 (i) To a reasonable individual is of a real event, action, or
32 speech that did not actually occur in reality; and

33 (ii) Provides a fundamentally different understanding or impres-
34 sion of the event, action, or speech than a reasonable person would
35 have from the unaltered, original version of the audio recording
36 or video recording.

37 (3) A candidate whose action or speech is deceptively represented
38 through the use of synthetic media in an electioneering communication may
39 seek injunctive or other equitable relief prohibiting the publication of
40 such synthetic media.

41 (4) A candidate whose action or speech is deceptively represented
42 through the use of synthetic media in an electioneering communication may

1 bring an action for general damages, special damages, or both against the
2 information content provider. The court may also award a prevailing party
3 reasonable attorney's fees and costs. The provisions of this subsection
4 do not limit or preclude a plaintiff from securing or recovering any other
5 available remedy.

6 (5) It shall be an affirmative defense for any action brought pursuant
7 to this section that the electioneering communication containing synthetic
8 media includes a disclosure stating, "This (video/audio) has been manipu-
9 lated" in the following manner:

10 (a) If the media is a video, the text of the disclosure must be promi-
11 nently displayed and appear in a size easily readable by the average
12 viewer, and the disclosure must appear for the duration of the video; or

13 (b) If the media consists of audio only, the disclosure must be read in
14 a clearly spoken manner and in a pitch that can be easily heard by the
15 average listener at the beginning of the audio, at the end of the au-
16 dio, and, if the audio is greater than two (2) minutes in length, in-
17 terspersed within the audio at intervals of no more than two (2) minutes
18 each.

19 (6) In any action commenced pursuant to this section, the plaintiff
20 bears the burden of establishing the use of synthetic media by clear and
21 convincing evidence.

22 (7) Courts are encouraged to determine matters pursuant to this section
23 expediently.

24 (8) For an action brought pursuant to this section, the information
25 content provider of the electioneering communication may be held liable and
26 not the medium disseminating the electioneering communication, except as
27 provided in subsection (9) of this section.

28 (9) Except when a licensee, programmer, or operator of a federally li-
29 censed broadcasting station transmits an electioneering communication that
30 is subject to 47 U.S.C. 315, a medium may be held liable in a cause of action
31 brought pursuant to this section if:

32 (a) The medium removes any disclosure described in subsection (5) of
33 this section from the electioneering communication it disseminates; or

34 (b) Subject to affirmative defenses described in this section, the
35 medium changes the content of an electioneering communication such that
36 it qualifies as synthetic media.

37 (10) No provider or user of an interactive computer service shall be
38 treated as the publisher or speaker of any information provided by another
39 information content provider. However, an interactive computer service may
40 be held liable in accordance with subsection (9) of this section.

41 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared
42 to be severable, and if any provision of this act or the application of such
43 provision to any person or circumstance is declared invalid for any reason,
44 such declaration shall not affect the validity of the remaining portions of
45 this act.

46 SECTION 3. An emergency existing therefor, which emergency is hereby
47 declared to exist, this act shall be in full force and effect on and after its
48 passage and approval.