

2024 Regular Session

HOUSE BILL NO. 154

BY REPRESENTATIVES MANDIE LANDRY, BOYD, DOMANGUE, LYONS, AND
NEWELL

ELECTIONS/CANDIDATES: Provides for prohibited political materials and applicable
criminal penalties

1 AN ACT

2 To amend and reenact R.S. 18:1463(A), (D)(1), (F), and (G) and to enact R.S. 18:1463(H),
3 relative to prohibited political material; to prohibit the distribution or transmission
4 of materials containing any created or manipulated image, audio, or video of a
5 candidate or related persons with the intent to deceive voters or injure a candidate's
6 reputation; to provide relative to the definition of digital media relative to prohibited
7 political materials; to provide for injunctions for violations; to provide relative to
8 criminal penalties for violations of political material prohibitions; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 18:1463(A), (D)(1), (F), and (G) are hereby amended and reenacted
12 and R.S. 18:1463(H) is hereby enacted to read as follows:

13 §1463. Political material; ethics; prohibitions

14 A. The Legislature of Louisiana finds that the state has a compelling interest
15 in taking every necessary step to assure that all elections are held in a fair and ethical
16 manner ~~and~~ The legislature finds that an election cannot be held in a fair and ethical
17 manner when any candidate or other person is allowed to print or distribute any
18 material which falsely alleges that a candidate is supported by or affiliated with
19 another candidate, group of candidates, or other person, or a political faction, or to
20 publish statements that make scurrilous, false, or irresponsible adverse comments

1 about a candidate or a proposition. The legislature further finds that the state has a
 2 compelling interest to protect the electoral process and that the people have an
 3 interest in knowing the identity of each candidate whose number appears on a sample
 4 ballot in order to be fully informed and to exercise their right to vote for a candidate
 5 of their choice. The legislature further finds that it is essential to the protection of
 6 the electoral process that the people be able to know who is responsible for
 7 publications in order to more properly evaluate the statements contained in them and
 8 to informatively exercise their right to vote. The legislature further finds that it is
 9 essential to the protection of the electoral process to prohibit misrepresentation that
 10 a person, committee, or organization speaks, writes, or acts on behalf of a candidate,
 11 political committee, or political party, or an agent or employee thereof. The
 12 legislature further finds that it is essential to the protection of the electoral process
 13 that the public not be deceived or misled by a manipulated or false image, audio,
 14 or video of a candidate.

* * *

15
 16 D.(1) An affected candidate or voter shall be entitled to an injunction to
 17 restrain future violations of Subsections B, C, and E F of this Section.

* * *

18
 19 F.(1) No person shall cause to be distributed or transmitted any oral, visual,
 20 digital, or written material containing any image, audio, or video of a known
 21 candidate or of a person who is known to be affiliated with the candidate which he
 22 knows or should be reasonably expected to know has been created or intentionally
 23 manipulated to create a realistic but false image, audio, or video with the intent to
 24 deceive a voter or injure the reputation of a known candidate in an election.

25 (2) For purposes of this Subsection, the term "known candidate" shall mean
 26 a person who has qualified for an elected public office or who has publicly
 27 announced that he is seeking an elected public office, whichever occurs first.

28 (3) The provisions of Paragraph (1) of this Subsection shall not include any
 29 material that constitutes a work of political commentary, criticism, satire, or parody

1 and that includes context and a disclosure sufficient to cause a reasonable person to
2 understand that the material is not a factual or actual representation of a known
3 candidate.

4 G. For the purposes of this Section, the term "digital material" means any
5 material or communication that, for a fee or other payment, is placed or promoted
6 on a public facing website, web application, or digital application, including a social
7 network, advertising network, or search engine.

8 G.H. Whoever violates any provision of this Section shall be fined not more
9 than ~~two~~ ten thousand dollars for each instance of violation or be imprisoned, with
10 or without hard labor, for not more than two years, or both.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 154 Engrossed

2024 Regular Session

Mandie Landry

Abstract: Prohibits a person from distributing or transmitting material containing any image, audio, or video of a known candidate or an affiliated person which he knows or should be reasonably expected to know has been created or intentionally manipulated to create a realistic but false image, audio, or video with the intent to deceive a voter or injure the reputation of a known candidate in an election. Increases the criminal penalties for violations of political material prohibitions to \$10,000 per instance.

Present law prohibits a person from causing to be printed or assisting in the distribution, a facsimile of an official ballot or any unofficial sample ballot (1) with the number of a candidate unless the name of the candidate to whom the ballot number was assigned is correctly listed on the ballot; or (2) containing a photograph, or likeness of any person which falsely alleges, with an intent to misrepresent, that any person or candidate, or group of candidates in an election is endorsed by or supported by another candidate, group of candidates or other person.

Present law provides regulations of materials and advertisements distributed or transmitted in political campaigns. Prohibits a person from causing distribution or transmittal of material containing any statement which he knows or should be reasonably expected to know makes a false statement about a candidate for election or about a proposition to be submitted to the voters. Present law further prohibits a person from causing distribution or transmittal of material for or on behalf of a candidate, constituting a paid political announcement or advertisement, that is paid for by a third party without providing the name of the third party on the face of the advertisement, but provides that a media company that has no input in or control over the content of a political announcement or advertisement is not subject to present law.

Present law provides that an affected candidate or voter is entitled to an injunction too restrain future violations of present law and further provides that if a permanent injunction

is granted, reasonable attorney fees shall be allowed the petitioner by the court, which shall be taxed as costs to be paid by the defendant.

Proposed law states that the legislature finds that it is essential to the protection of the electoral process that the public not be deceived or misled by a manipulated or false image, audio, or video of a candidate and therefore additionally prohibits a person from distributing or transmitting any oral, visual, digital, or written material containing any image, audio, or video of a known candidate or of a person who is known to be affiliated with the candidate which he knows or should be reasonably expected to know has been created or intentionally manipulated to create a realistic but false image, audio, or video with the intent to deceive a voter or injure the reputation of a known candidate in an election. Proposed law exempts material that constitutes a work of political commentary, criticism, satire, or parody and that includes context and a disclosure sufficient to cause a reasonable person to understand that the material is not a factual or actual representation of a candidate. Proposed law defines "known candidate" as a publicly announced or qualified candidate and expands the present law definition of "digital material" to include any material or communication that, for a fee or other payment, is placed or promoted on a public facing website, web application, or digital application, including a social network, advertising network, or search engine. Proposed law provides that an affected candidate or voter is entitled to an injunction to restrain future violations of proposed law and provides that if a permanent injunction is granted, reasonable attorney fees shall be allowed the petitioner by the court, which shall be taxed as costs to be paid by the defendant.

Present law provides that whoever violates present law shall be fined not more than \$2000 or imprisoned, with or without hard labor, for not more than two years, or both.

Proposed law provides that whoever violates present or proposed law shall be fined not more than \$10,000 for each instance of violation, or be imprisoned, with or without hard labor, for not more than two years, or both.

(Amends R.S. 18:1463(A), (D)(1), (F), and (G); Adds R.S. 18:1463(H))