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## DIGEST

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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 too 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))