

RÉSUMÉ DIGEST

HB 154

2024 Regular Session

Mandie Landry

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 would have stated 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 would have prohibited 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 would have exempted 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 would have further exempted a media entity or provider of services who has no input in or control over the content of the image, audio, or video.

Proposed law would have defined "known candidate" as a publicly announced or qualified candidate and would have expanded 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 would have defined "information services", "interactive computer service", and "telecommunications" for its purposes and would have utilized the present law definition of "media entity" for its purposes.

Proposed law would have provided that an affected candidate or voter was entitled to an injunction to restrain future violations of proposed law and would have provided that if a permanent injunction was granted, reasonable attorney fees would be allowed the petitioner by the court, which would be taxed as costs to be paid by the defendant.

Present law provides that whoever violates present law shall be fined not more than \$2,000 or imprisoned, with or without hard labor, for not more than two years, or both.

Proposed law would have provided that whoever violated present or proposed law would 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.

(Proposed to amend R.S. 18:1463(A), (D)(1), (F), and (G); proposed to add R.S. 18:1463(H))

VETO MESSAGE:

"Please be advised that I have vetoed House Bill 154 of the 2024 Regular Session.

This bill would ban the distribution and transmission of political material that "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."

While I applaud the efforts to prevent false political attacks, I believe this bill creates serious First Amendment concerns as it relates to emerging technologies. The law is far from settled on this issue, and I believe more information is needed before such regulations are enshrined into law.

Instead, I believe HCR 66 of the 2024 Regular Legislative Session is the appropriate vehicle to study this issue, as it provides that, "the legislature needs a great deal more information before it can begin to fashion policies that exploit the potential tools that artificial intelligence provides for governance while limiting its abuse by those who would do harm to our state and its citizens." I agree with HCR 66, and I note the author of HB 154 voted in favor of it.

Additionally, on the federal level in the United States Congress, Speaker Mike Johnson and Democratic Leader Hakeem Jeffries announced the establishment of a bipartisan Task Force on Artificial Intelligence (AI) to explore how Congress can ensure America continues to lead the world in AI innovation while considering guardrails that may be appropriate to safeguard the nation against current and emerging threats.

<https://www.speaker.gov/house-launches-bipartisantask-force-on-artificial-intelligence/>

This is a further example of how much more study is done before enacting legislation on this subject.

For these reasons, House Bill 154 will not become law."