AMENDMENT TO RULES COMMITTEE PRINT
116–35
OFFERED BY MR. LYNCH OF MASSACHUSETTS

Page 54, insert after line 14 the following:

Subtitle C—Prohibiting Use of Deepfakes in Election Campaigns

SEC. 321. PROHIBITION ON DISTRIBUTION OF MATERIALLY DECEPTIVE AUDIO OR VISUAL MEDIA PRIOR TO ELECTION.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.), as amended by section 203, is further amended by adding at the end the following new section:

“SEC. 325. PROHIBITION ON DISTRIBUTION OF MATERIALLY DECEPTIVE MEDIA PRIOR TO ELECTION.

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), a person, political committee, or other entity shall not, within 60 days of an election for Federal office at which a candidate for elective office will appear on the ballot, distribute, with actual malice, materially deceptive audio or visual media of the candidate with the
intent to injure the candidate’s reputation or to deceive a voter into voting for or against the candidate.

“(b) **EXCEPTION.**—

“(1) **REQUIRED LANGUAGE.**—The prohibition in subsection (a) does not apply if the audio or visual media includes—

“(A) a disclosure stating: “This _________ has been manipulated.”; and

“(B) filled in the blank in the disclosure under subparagraph (A), the term ‘image’, ‘video’, or ‘audio’, as most accurately describes the media.

“(2) **VISUAL MEDIA.**—For visual media, the text of the disclosure shall appear in a size that is easily readable by the average viewer and no smaller than the largest font size of other text appearing in the visual media. If the visual media does not include any other text, the disclosure shall appear in a size that is easily readable by the average viewer. For visual media that is video, the disclosure shall appear for the duration of the video.

“(3) **AUDIO-ONLY MEDIA.**—If the media consists of audio only, the disclosure shall be read in a clearly spoken manner and in a pitch that can be easily heard by the average listener, at the beginning
of the audio, at the end of the audio, and, if the audio is greater than two minutes in length, interspersed within the audio at intervals of not greater than two minutes each.

“(c) INAPPLICABILITY TO CERTAIN ENTITIES.—This section does not apply to the following:

“(1) A radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, that broadcasts materially deceptive audio or visual media 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, in a manner that can be easily heard or read by the average listener or viewer, that there are questions about the authenticity of the materially deceptive audio or visual media.

“(2) A radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, when it is paid to broadcast materially deceptive audio or visual media.

“(3) An internet website, or a regularly published newspaper, magazine, or other periodical of general circulation, including an internet or elec-
tronic publication, that routinely carries news and commentary of general interest, and that publishes materially deceptive audio or visual media prohibited by this section, if the publication clearly states that the materially deceptive audio or visual media does not accurately represent the speech or conduct of the candidate.

“(4) Materially deceptive audio or visual media that constitutes satire or parody.

“(d) CIVIL ACTION.—

“(1) INJUNCTIVE OR OTHER EQUITABLE RELIEF.—A candidate for elective office whose voice or likeness appears in a materially deceptive audio or visual media distributed in violation of this section may seek injunctive or other equitable relief prohibiting the distribution of audio or visual media in violation of this section. An action under this paragraph shall be entitled to precedence in accordance with the Federal Rules of Civil Procedure.

“(2) DAMAGES.—A candidate for elective office whose voice or likeness appears in a materially deceptive audio or visual media distributed in violation of this section may bring an action for general or special damages against the person, committee, or other entity that distributed the materially deceptive
audio or visual media. The court may also award a prevailing party reasonable attorney’s fees and costs. This paragraph shall not be construed to limit or preclude a plaintiff from securing or recovering any other available remedy.

“(3) BURDEN OF PROOF.—In any civil action alleging a violation of this section, the plaintiff shall bear the burden of establishing the violation through clear and convincing evidence.

“(e) RULE OF CONSTRUCTION.—This section shall not be construed to alter or negate any rights, obligations, or immunities of an interactive service provider under section 230 of title 47, United States Code.

“(f) MATERIALLY DECEPTIVE AUDIO OR VISUAL MEDIA DEFINED.—In this section, the term ‘materially deceptive audio or visual media’ means an image or an audio or video recording of a candidate’s appearance, speech, or conduct that has been intentionally manipulated in a manner such that both of the following conditions are met:

“(1) The image or audio or video recording would falsely appear to a reasonable person to be authentic.

“(2) The image or audio or video recording would cause a reasonable person to have a fun-
damentally different understanding or impression of
the expressive content of the image or audio or video
recording than that person would have if the person
were hearing or seeing the unaltered, original
version of the image or audio or video recording.”.

(b) CRIMINAL PENALTIES.—Section 309(d)(1) of the
Federal Election Campaign Act of 1971 (52 U.S.C.
30109(d)(1)), as amended by section 103, is further
amended by adding at the end the following new subpara-
graph:

“(G) Any person who knowingly and will-
fully commits a violation of section 325 shall be
fined not more than $100,000, imprisoned not
more than 5 years, or both.”.

(c) EFFECT ON DEFAMATION ACTION.—For pur-
poses of an action for defamation, a violation of section
325 of the Federal Election Campaign Act of 1971, as
added by subsection (a), shall constitute defamation per
se.