

AMENDMENT TO RULES COMMITTEE PRINT

116-35

OFFERED BY MR. LYNCH OF MASSACHUSETTS

Page 54, insert after line 14 the following:

1 **Subtitle C—Prohibiting Use of**
2 **Deepfakes in Election Campaigns**

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

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

10 **“SEC. 325. PROHIBITION ON DISTRIBUTION OF MATERI-**
11 **ALLY DECEPTIVE MEDIA PRIOR TO ELEC-**
12 **TION.**

13 “(a) IN GENERAL.—Except as provided in sub-
14 sections (b) and (c), a person, political committee, or other
15 entity shall not, within 60 days of a election for Federal
16 office at which a candidate for elective office will appear
17 on the ballot, distribute, with actual malice, materially de-
18 ceptive audio or visual media of the candidate with the

1 intent to injure the candidate’s reputation or to deceive
2 a voter into voting for or against the candidate.

3 “(b) EXCEPTION.—

4 “(1) REQUIRED LANGUAGE.—The prohibition
5 in subsection (a) does not apply if the audio or vis-
6 ual media includes—

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

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

13 “(2) VISUAL MEDIA.—For visual media, the
14 text of the disclosure shall appear in a size that is
15 easily readable by the average viewer and no smaller
16 than the largest font size of other text appearing in
17 the visual media. If the visual media does not in-
18 clude any other text, the disclosure shall appear in
19 a size that is easily readable by the average viewer.
20 For visual media that is video, the disclosure shall
21 appear for the duration of the video.

22 “(3) AUDIO-ONLY MEDIA.—If the media con-
23 sists of audio only, the disclosure shall be read in a
24 clearly spoken manner and in a pitch that can be
25 easily heard by the average listener, at the beginning

1 of the audio, at the end of the audio, and, if the
2 audio is greater than two minutes in length, inter-
3 spered within the audio at intervals of not greater
4 than two minutes each.

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

7 “(1) A radio or television broadcasting station,
8 including a cable or satellite television operator, pro-
9 grammer, or producer, that broadcasts materially
10 deceptive audio or visual media prohibited by this
11 section as part of a bona fide newscast, news inter-
12 view, news documentary, or on-the-spot coverage of
13 bona fide news events, if the broadcast clearly ac-
14 knowledges through content or a disclosure, in a
15 manner that can be easily heard or read by the aver-
16 age listener or viewer, that there are questions about
17 the authenticity of the materially deceptive audio or
18 visual media.

19 “(2) A radio or television broadcasting station,
20 including a cable or satellite television operator, pro-
21 grammer, or producer, when it is paid to broadcast
22 materially deceptive audio or visual media.

23 “(3) An internet website, or a regularly pub-
24 lished newspaper, magazine, or other periodical of
25 general circulation, including an internet or elec-

1 tronic publication, that routinely carries news and
2 commentary of general interest, and that publishes
3 materially deceptive audio or visual media prohibited
4 by this section, if the publication clearly states that
5 the materially deceptive audio or visual media does
6 not accurately represent the speech or conduct of the
7 candidate.

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

10 “(d) CIVIL ACTION.—

11 “(1) INJUNCTIVE OR OTHER EQUITABLE RE-
12 LIEF.—A candidate for elective office whose voice or
13 likeness appears in a materially deceptive audio or
14 visual media distributed in violation of this section
15 may seek injunctive or other equitable relief prohib-
16 iting the distribution of audio or visual media in vio-
17 lation of this section. An action under this para-
18 graph shall be entitled to precedence in accordance
19 with the Federal Rules of Civil Procedure.

20 “(2) DAMAGES.—A candidate for elective office
21 whose voice or likeness appears in a materially de-
22 ceptive audio or visual media distributed in violation
23 of this section may bring an action for general or
24 special damages against the person, committee, or
25 other entity that distributed the materially deceptive

1 audio or visual media. The court may also award a
2 prevailing party reasonable attorney’s fees and costs.
3 This paragraph shall not be construed to limit or
4 preclude a plaintiff from securing or recovering any
5 other available remedy.

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

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

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

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

24 “(2) The image or audio or video recording
25 would cause a reasonable person to have a fun-

1 damentally different understanding or impression of
2 the expressive content of the image or audio or video
3 recording than that person would have if the person
4 were hearing or seeing the unaltered, original
5 version of the image or audio or video recording.”.

6 (b) CRIMINAL PENALTIES.—Section 309(d)(1) of the
7 Federal Election Campaign Act of 1971 (52 U.S.C.
8 30109(d)(1)), as amended by section 103, is further
9 amended by adding at the end the following new subpara-
10 graph:

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

15 (c) EFFECT ON DEFAMATION ACTION.—For pur-
16 poses of an action for defamation, a violation of section
17 325 of the Federal Election Campaign Act of 1971, as
18 added by subsection (a), shall constitute defamation per
19 se.

