



2024 South Dakota Legislature

Senate Bill 107

Introduced by: **Senator Johnson**

1 **An Act to prohibit the dissemination of materially deceptive media without**
2 **disclosure and to provide a penalty therefor.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That a NEW SECTION be added to title 22:**

5 For the purposes of this chapter, the term "materially deceptive media" means any
6 image, video recording, or audio recording of a person's appearance, speech, or conduct
7 that has been intentionally manipulated so that it appears to a reasonable person to be
8 authentic, and would cause a reasonable person to have a fundamentally different
9 understanding or impression of the expressive content of the image, video recording, or
10 audio recording than the person would have if the person heard or saw the unaltered,
11 original version.

12 **Section 2. That a NEW SECTION be added to title 22:**

13 No person may knowingly disseminate materially deceptive media unless the media
14 includes a disclosure stating: "This (image/video/audio) has been manipulated."

15 For an image or video recording, the text of the disclosure must appear in a size
16 that is easily readable by the average viewer and no smaller than the largest font size of
17 other text appearing in the image or video recording. If the image or video recording does
18 not include any other text, the disclosure must appear in a size that is easily readable by
19 the average viewer. For a video recording, the disclosure must appear for the duration of
20 the video.

21 For an audio recording, the disclosure must be read in a clearly spoken manner
22 and in a pitch that is easily heard by the average listener at the beginning and end of the
23 audio recording.

24 A violation of this section is a Class 1 misdemeanor.

1 **Section 3. That a NEW SECTION be added to title 22:**

2 Any person who knowingly distributes materially deceptive media with the intent
3 to defame, exploit, harass, intimidate, or sabotage the person depicted in the materially
4 deceptive media is guilty of a Class 1 misdemeanor.

5 Disclosure of materially deceptive media pursuant to section 2 of this Act is not a
6 defense to prosecution under this section.

7 **Section 4. That a NEW SECTION be added to title 22:**

8 Any person whose appearance, speech, or conduct appears in an image, video
9 recording, or audio recording disseminated in violation of section 2 or 3 of this Act may
10 seek injunctive or other equitable relief prohibiting the dissemination of the image, video
11 recording, or audio recording.

12 **Section 5. That a NEW SECTION be added to title 22:**

13 A person who disseminates materially deceptive media in violation of section 2 or
14 3 of this Act is liable to any person depicted in the materially deceptive media for damages,
15 reasonable costs and attorney fees, and any other relief the court deems proper.

16 Nothing in this section limits any other cause of action from being brought against
17 a person who disseminates materially deceptive media in violation of section 2 or 3 of this
18 Act.

19 **Section 6. That a NEW SECTION be added to title 22:**

20 This Act does not apply to:

21 (1) A radio or television broadcasting station, including a cable or satellite television
22 operator, programmer, or producer, that broadcasts materially deceptive media as
23 part of a bona fide newscast, news interview, news documentary, or on-the-spot
24 coverage of a bona fide news event, if the broadcast clearly acknowledges through
25 content or disclosure, in a manner that can be easily heard or read by the average
26 listener or viewer, that there are questions about the authenticity of the materially
27 deceptive media;

28 (2) A radio or television broadcasting station, including a cable or satellite television
29 operator, programmer, or producer, when it is paid to broadcast materially
30 deceptive audio or visual media and has made a good faith effort to establish the
31 media is not materially deceptive media;

- 1 (3) An internet website, or a regularly published newspaper, magazine, or other
2 periodical of general circulation, including an internet or electronic publication, that
3 routinely carries news and commentary of general interest, and that publishes
4 materially deceptive media, if the publication clearly acknowledges through content
5 or disclosure, in a manner that can be easily heard or read by the average listener
6 or viewer, that there are questions about the authenticity of the materially
7 deceptive media;
- 8 (4) An internet service provider, domain provider, cloud service provider, or other
9 provider that hosts, receives, transmits, stores, or provides access to or connection
10 to a website, network, system, or other content on the internet that features
11 materially deceptive media, to the extent that the provider acts in a merely
12 technical, automatic, or intermediate nature.