

117.322 Action against use of synthetic media in electioneering communication -- Remedies -- Penalties -- Defense -- Exceptions.

- (1) (a) Any candidate for any elected office whose appearance, action, or speech is altered through the use of synthetic media in an electioneering communication may seek injunctive or other equitable relief against the sponsor of the electioneering communication requiring that the communication includes a disclosure that is clear and conspicuous and included in, or alongside and associated with, the content in a manner that is likely to be noticed by the user.
- (b) The court may award a prevailing party reasonable attorney's fees and costs. This paragraph does not limit or preclude a plaintiff from securing or recovering any other available remedy.
- (2) In any action brought under subsection (1) of this section:
 - (a) The plaintiff shall:
 1. File in Circuit Court of the county in which he or she resides; and
 2. Bear the burden of establishing the use of synthetic media by clear and convincing evidence; and
 - (b) The following shall not be liable except as provided in subsection (3) of this section:
 1. The medium disseminating the electioneering communication; and
 2. An advertising sales representative of such medium.
- (3) Failure to comply with an order of the court to include the required disclosure herein shall be subject to the penalties set forth in KRS 121.990(3) for violation of KRS 121.190(1).
- (4) It is an affirmative defense for any action brought under subsection (1) of this section that the electioneering communication containing synthetic media includes a disclosure that is clear and conspicuous and included in, or alongside and associated with, the content in a manner that is likely to be noticed by the user.
- (5) Except when a licensee, programmer, or operator of a federally licensed broadcasting station transmits an electioneering communication that is subject to 47 U.S.C. sec. 315, a medium or its advertising sales representative may be held liable in a cause of action brought under subsection (1) of this section if:
 - (a) The person intentionally removes any disclosure described in subsection (4) of this section from the electioneering communication it disseminates and does not remove the electioneering communication or replace the disclosure when notified; or
 - (b) Subject to affirmative defenses described in subsection (4) of this section, the person changes the content of an electioneering communication in a manner that results in it qualifying as synthetic media.
- (6) (a) A provider or user of an interactive computer service shall not be treated as the publisher or speaker of any information provided by another information content provider.
- (b) An interactive computer service may be held liable in accordance with

subsection (3) of this section.

(c) An interactive computer service shall be exempt as provided by the Communications Decency Act of 1996, as amended, 47 U.S.C. sec. 230.

(7) Courts are encouraged to determine matters under this section expediently.

Effective: March 24, 2025

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