

Alert | Political Law & Compliance



April 2024

NY Law Amended to Restrict AI Deceptive Practices in Elections

In mid-April 2024, New York adopted legislation relating to the use of artificial intelligence (AI) in political communications. Recent technological advancements and broadening access to AI have been impacting New York elections, with voters sometimes struggling to decipher between original and AI-generated material. For example, earlier in 2024, an audio clip disseminated throughout New York City appeared to reflect the voice of a political party chairman espousing profanities and disdain for an incumbent member of Congress. Seemingly presenting the chairman’s voice, the viral clip turned out to be AI-generated, highlighting the way this technology may be used deceptively to impact politics and elections.

Sophisticated AI-generated deepfakes¹ have infiltrated election campaigns and are being used to spread false information. The newly adopted Election Law aims to combat misuse of this technology in the campaign context. When she first released the legislative proposal, Gov. Hochul **announced**, “This legislation will help to set important guardrails around the use of this cutting-edge technology and give law enforcement the tools it needs to go after bad actors.”

As part of the Fiscal Year 2025 state budget, New York amended the provisions of the Election Law pertaining to “political communications,” strengthening protections related to unlawful or unauthorized dissemination of false materials. Specifically, the amended Election Law 14-106 immediately requires that

¹ Used to refer to images, videos, audio, or other media that has been digitally altered.

any “person, firm association, corporation, campaign, committee, or organization that distributes or publishes any political communication” that knows or should know the communication has been altered with AI technology, but still appears to a reasonable person to be authentic, disclose on that communication that it “has been manipulated.” No distribution of altered political communications is permissible without such disclaimer.

Although neither the preexisting statute nor the recently adopted legislation expressly defines “political communication,” it is generally understood to include advertisements (print, digital, or audio), pamphlets, circulars, flyers, brochures, letterhead, and other printed matter used by campaigns and/or committees. Campaign materials that incorporate “materially deceptive media,” whether being published or republished, must now include a disclaimer that is printed and easily readable on the communication, or in the case of audio communication, clearly spoken at both the beginning and the end of the communication. If the audio is longer than two minutes, the disclaimer must be made every two minutes.

The New York State Board of Elections has not yet had an opportunity to propose regulations or offer guidance, but it appears that the law exempts from the restriction media that is:

- Considered satire or parody;
- Created for bona fide news reporting purposes but contains the required disclosure; or
- Distributed by a platform or service that was not the creator of the content, and that platform or service made a good faith effort to establish that the communication was not materially deceptive.

If a candidate’s “voice or likeness” is used in a deepfake political communication without the appropriate disclaimer, the affected candidate may seek injunctive relief to prohibit the distribution and publication of the media, along with court costs and attorneys’ fees. That remedy may be sought through the filing of an application for an order to show cause in a state supreme court. The court is to hear such applications on an expedited basis.

As AI technology continues to improve, it has become increasingly difficult to determine whether media is real or digitally altered. This has resulted in the spread of misinformation and interference with elections. New York’s recent legislation may indicate a trend of AI regulation across the country.

Authors

This GT Alert was prepared by:

- [Joshua L. Oppenheimer](#) | +1 518.689.1459 | oppenheimerj@gtlaw.com
- [Cathryn O. Crummey](#) | +1 518.606.5001 | Cat.Crummey@gtlaw.com

Albany. Amsterdam. Atlanta. Austin. Berlin. [~] Boston. Charlotte. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Houston. Kingdom of Saudi Arabia. [•] Las Vegas. London. ^{*} Long Island. Los Angeles. Mexico City. ⁺ Miami. Milan. ^{*} Minneapolis. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Portland. Sacramento. Salt Lake City. San Diego. San Francisco. Seoul. [∞] Shanghai. Silicon Valley. Singapore. [°] Tallahassee. Tampa. Tel Aviv. [^] Tokyo. [•] United Arab Emirates. [<] Warsaw. ⁻ Washington, D.C.. West Palm Beach. Westchester County.

This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer’s legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and

*Greenberg Traurig, P.A. ~Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. *Operates as a separate UK registered legal entity. «Greenberg Traurig operates in the Kingdom of Saudi Arabia through Greenberg Traurig Khalid Al-Thebity Law Firm, a professional limited liability company, licensed to practice law by the Ministry of Justice. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. »Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ~Greenberg Traurig's Singapore office is operated by Greenberg Traurig Singapore LLP which is licensed as a foreign law practice in Singapore. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ¢Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimubengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ‹Greenberg Traurig's United Arab Emirates office is operated by Greenberg Traurig Limited. ~Greenberg Traurig's Warsaw office is operated by GREENBERG TRAUIG Nowakowska-Zimoch Wysokiński sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in GREENBERG TRAUIG Nowakowska-Zimoch Wysokiński sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2024 Greenberg Traurig, LLP. All rights reserved.*