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June 27, 2025

The Hon. Daniel McKee  
Governor  
State House  
Providence, RI 02903

VIA MAIL AND EMAIL

**RE: REQUEST TO VETO 25-H 5872A and 25-S 816A, ACTS RELATING TO  
ELECTIONS -- DECEPTIVE AND FRAUDULENT SYNTHETIC MEDIA IN  
ELECTION COMMUNICATIONS**

Dear Governor McKee:

The ACLU of Rhode Island respectfully requests that you veto 25-H 5872A and 25-S 816A, legislation which would allow political candidates to seek injunctive relief and damages against various political entities for using artificially generated images or recordings (“synthetic media”) of the candidate that the entity “should know is deceptive.”

We understand the intent behind this legislation, but by its very terms, “synthetic media” involves core First Amendment activity – speech – and the bill’s focus on “media in election communications” seeks to regulate speech in the sphere that the First Amendment most fundamentally applies to – the political process. In fact, the only court to substantively rule so far on the merits of a similar law found it unconstitutional.<sup>1</sup>

In order to ensure that debate on public issues is, in the words of the U.S. Supreme Court, “uninhibited, robust, and wide-open,” the First Amendment provides special protection to even allegedly false statements about public officials and public figures. Like other forms of speech, AI-generated campaign communications are entitled to these protections, for as the Supreme Court has also noted, “whatever the challenges of applying the Constitution to ever-advancing technology, the basic principles of freedom of speech and the press, like the First Amendment’s command, do not vary when a new and different medium for communication appears.” *Brown v. Entertainment Merchants Association*, 564 U.S. 786, 790 (2011).

While we recognize that free speech standards in the political arena are not limitless, this legislation, as worded, suggests that any image or recording that meets the definition of “synthetic media” is deceptive or fraudulent and can therefore be regulated. But the First Amendment does not permit such a facile determination. To allow the government to regulate or ban political speech

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<sup>1</sup> *Kohls v. Bonta*, 2024 WL 4374134 (E.D. Cal. 2024).

that some might view as misleading undermines the breathing space that robust political speech requires, whether generated with the help of artificial intelligence or not.

In order to appreciate the breadth of the type of “deceptive” political speech that this legislation would regulate, consider a political advertisement that strings together comments by a politician made at different times that somebody might claim provides a “deceptive” view of the candidate or their views. This is an activity that has taken place for years – lawfully – without the use of artificial intelligence. But under this bill, any such advertisement, if created using AI, could now be enjoined if the politician successfully argued that it created a “fundamentally different impression” of the candidate. The person responsible for making the recording could also be subject to substantial financial penalties for failing to label their commentary as having been generated by AI.

Public officials could easily use this law to deter or frustrate the exercise of protected free speech by individuals. While the speech is allowable if disclosures about the use of AI are featured in the recording, the details of those disclosure requirements could significantly and inappropriately impact the political message. In addition, injunctions are particularly disfavored in the First Amendment arena because of their clear censorial impact. While the bill creates an exception for “satire or parody,” the use of AI to make images or recordings that are clearly protected speech could easily fit within the legislation’s reach. Consider a visual recording that consists of a speech given by an elected official where a person, using AI, has the official speaking in an artificial background that depicts a version of Hell. There may be no satire or parody intended, but it would otherwise appear to meet the definition of “synthetic media” subject to this legislation’s penalties.

Before rushing to regulate this technology in the political sphere, much greater consideration of the ramifications of doing so is needed in order to avoid infringing upon fundamental First Amendment principles. We therefore urge your veto of this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Brown", with a stylized, flowing script.

Steven Brown  
Executive Director

cc: Claire Richards