AMENDMENT NO._______         Calendar No._______

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

S.2770

To prohibit the distribution of materially deceptive AI-generated audio or visual media relating to candidates for Federal office, and for other purposes.

Referred to the Committee on __________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Ms. KLOBUCHAR

Viz:

1 Strike all after the enacting clause and insert the following:

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Protect Elections from Deceptive AI Act”.

4 SEC. 2. PROHIBITION ON DISTRIBUTION OF MATERIALLY DECEPTIVE AI-GENERATED AUDIO OR VISUAL MEDIA PRIOR TO ELECTION.

5 (a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is amended by adding at the end the following new section:
SEC. 325. PROHIBITION ON DISTRIBUTION OF MATERI-
ALLY DECEPTIVE AI-GENERATED AUDIO OR
VISUAL MEDIA.

“(a) DEFINITIONS.—In this section:

“(1) COVERED INDIVIDUAL.—The term ‘cov-
ered individual’ means a candidate for Federal of-

“(2) DECEPTIVE AI-GENERATED AUDIO OR VIS-
UAL MEDIA.—The term ‘deceptive AI-generated
audio or visual media’ means an image, audio, or
video that—

“(A) is the product of artificial intelligence
technology that uses machine learning (includ-
ing deep learning models, natural learning proc-

“(i) merges, combines, replaces, or su-
perimposes content onto an image, audio,

or video, creating an image, audio, or video
that appears authentic; or

“(ii) generates an inauthentic image,

audio, or video that appears authentic; and

“(B) a reasonable person, having consid-
ered the qualities of the image, audio, or video
and the nature of the distribution channel in
which the image, audio, or video appears—

“(i) would have a fundamentally dif-
ferent understanding or impression of the
appearance, speech, or expressive conduct
exhibited in the image, audio, or video
than that person would have if that person
were hearing or seeing the unaltered, origi-
nal version of the image, audio, or video;
or

“(ii) would believe that the image,
audio, or video accurately exhibits any ap-
pearance, speech, or expressive conduct of
a person who did not actually exhibit such
appearance, speech, or expressive conduct.

“(3) FEDERAL ELECTION ACTIVITY.—The term
‘Federal election activity’ has the meaning given the
term in section 301(20)(A)(iii).

“(b) PROHIBITION.—Except as provided in sub-
section (c), a person, political committee, or other entity
may not knowingly distribute materially deceptive AI-gen-
erated audio or visual media in carrying out a Federal
election activity or of a covered individual for the purpose
of—

“(1) influencing an election; or
“(e) Inapplicability to Certain Entities.—This section shall not apply to the following:

“(1) A radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer, or a streaming service that broadcasts materially deceptive AI-generated audio or visual media prohibited by this section as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of bona fide news events, if the broadcast clearly acknowledges through content or a disclosure, in a manner that can be easily heard or read by the average listener or viewer, that there are questions about the authenticity of the materially deceptive AI-generated audio or visual media.

“(2) A regularly published newspaper, magazine, or other periodical of general circulation, including an internet or electronic publication, that routinely carries news and commentary of general interest, and that publishes materially deceptive AI-generated audio or visual media prohibited under this section, if the publication clearly states that the materially deceptive AI-generated audio or visual
media does not accurately represent the speech or
conduct of the covered individual.

“(3) Materially deceptive AI-generated audio or
visual media that constitutes satire or parody.

“(d) Civil Action.—

“(1) Injunctive or other equitable relief.—

“(A) In general.—A covered individual
whose voice or likeness appears in, or who is
the subject of, a materially deceptive AI-gen-
erated audio or visual media, including content
distributed as part of a Federal election activ-
ity, distributed in violation of this section may
seek injunctive or other equitable relief prohib-
iting the distribution of materially deceptive AI-
generated audio or visual media in violation of
this section.

“(B) Precedence.—An action under this
paragraph shall be entitled to precedence in ac-
cordance with the Federal Rules of Civil Proce-
dure.

“(2) Damages.—

“(A) In general.—A covered individual
whose voice or likeness appears in, or who is
the subject of, a materially deceptive AI-gen-
erated audio or visual media, including content
distributed as part of a Federal election activ-
ity, distributed in violation of this section may
bring an action for general or special damages
against the person, committee, or other entity
that distributed the materially deceptive AI-gen-
erated audio or visual media.

“(B) ATTORNEY’S FEES AND COSTS.—In
addition to any damages awarded under sub-
paragraph (A), the court may also award a pre-
vailing party reasonable attorney’s fees and
costs.

“(C) RULE OF CONSTRUCTION.—Nothing
in this paragraph shall be construed to limit or
preclude a plaintiff from securing or recovering
any other available remedy.

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

(b) SEVERABILITY.—If any provision of this Act, or
an amendment made by this Act, or the application of
such provision to any person or circumstance, is held to
be invalid, the remainder of this Act, or an amendment
made by this Act, or the application of such provision to other persons or circumstances, shall not be affected.