

Chapter 42.62 RCW
ELECTIONEERING COMMUNICATIONS—USE OF SYNTHETIC MEDIA

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RCW 42.62.010 Definitions—Chapter 42.17A RCW applies.
(Effective until January 1, 2026.) The definitions used in chapter 42.17A RCW apply throughout this chapter unless the context clearly requires otherwise. [2023 c 360 s 1.]

RCW 42.62.020 Action by candidate for relief and damages—Defenses. (Effective until January 1, 2026. Recodified as RCW 29B.35.010.) (1) For purposes of this section "synthetic media" means an image, an audio recording, or a video recording of an individual's appearance, speech, or conduct that has been intentionally manipulated with the use of generative adversarial network techniques or other digital technology in a manner to create a realistic but false image, audio, or video that produces:

(a) A depiction that to a reasonable individual is of a real individual in appearance, action, or speech that did not actually occur in reality; and

(b) A fundamentally different understanding or impression of the appearance, action, or speech than a reasonable person would have from the unaltered, original version of the image, audio recording, or video recording.

(2) A candidate whose appearance, action, or speech is altered through the use of a synthetic media in an electioneering communication may seek injunctive or other equitable relief prohibiting the publication of such synthetic media.

(3) A candidate whose appearance, action, or speech is altered through the use of a synthetic media in an electioneering communication may bring an action for general or special damages against the sponsor. The court may also award a prevailing party reasonable attorneys' fees and costs. This subsection does not limit or preclude a plaintiff from securing or recovering any other available remedy.

(4) It is an affirmative defense for any action brought under this section that the electioneering communication containing a synthetic media includes a disclosure stating, "This (image/video/audio) has been manipulated," in the following manner:

(a) For visual media, the text of the disclosure must appear in size easily readable by the average viewer and no smaller than the largest font size of other text appearing in the visual media. If the visual media does not include any other text, the disclosure must appear in a size that is easily readable by the average viewer. For visual media that is a video, the disclosure must appear for the duration of the video; or

(b) If the media consists of audio only, the disclosure must be read in a clearly spoken manner and in a pitch that can be easily heard by the average listener, at the beginning of the audio, at the

end of the audio, and, if the audio is greater than two minutes in length, interspersed within the audio at intervals of not more than two minutes each.

(5) In any action commenced under this section, the plaintiff bears the burden of establishing the use of synthetic media by clear and convincing evidence.

(6) Courts are encouraged to determine matters under this section expeditiously. [2023 c 360 s 2.]

RCW 42.62.030 Liability of medium disseminating communication. (Effective until January 1, 2026. Recodified as RCW 29B.35.020.) (1)

For an action brought under RCW 42.62.020, the sponsor of the electioneering communication may be held liable, and not the medium disseminating the electioneering communication except as provided in subsection (2) of this section.

(2) 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 may be held liable in a cause of action brought under RCW 42.62.020 if:

(a) The medium removes any disclosure described in RCW 42.62.020(4) from the electioneering communication it disseminates; or

(b) Subject to affirmative defenses described in RCW 42.62.020, the medium changes the content of an electioneering communication such that it qualifies as synthetic media, as defined in RCW 42.62.020.

(3) (a) No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider. However, an interactive computer service may be held liable in accordance with subsection (2) of this section.

(b) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

(c) "Information content provider" means any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the internet or any other interactive computer service. [2023 c 360 s 3.]

RCW 42.62.040 Rule-making authority. (Effective until January 1, 2026. Recodified as RCW 29B.35.030.) The public disclosure commission must adopt rules in furtherance of the purpose of this chapter. Nothing in this chapter constitutes a violation under chapter 42.17A RCW, or otherwise authorizes the public disclosure commission to take action under RCW 42.17A.755. [2023 c 360 s 4.]