

By: González of El Paso, Walle, et al.

H.B. No. 421

A BILL TO BE ENTITLED

AN ACT

relating to the creation of certain explicit deep fake material;
providing a private cause of action.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is
amended by adding Chapter 121 to read as follows:

CHAPTER 121. CREATION OF EXPLICIT DEEP FAKE MATERIAL

Sec. 121.001. DEFINITIONS. In this chapter:

(1) "Deep fake generator" means an Internet website or
application operating in this state that allows a user to create or
generate deep fake material using software provided by the website
or application. The term does not include a separate platform on
which deep fake material is posted, sent, or distributed.

(2) "Deep fake material" means visual material,
created with the intent to deceive, that appears to depict a real
person performing an action that did not occur in reality.

(3) "Explicit deep fake material" means deep fake
material that appears to depict a real person engaging in sexual
conduct or other conduct resulting in the exposure of the person's
intimate parts.

(4) "Intimate parts," "sexual conduct," and "visual
material" have the meanings assigned by Section 21.16, Penal Code.

Sec. 121.002. REQUIRED AGE VERIFICATION. (a) Before a deep
fake generator creates or generates explicit deep fake material,

1 the owner of the deep fake generator shall verify the age of the
2 person apparently depicted by the explicit deep fake material using
3 a commercially reasonable age verification method.

4 (b) The owner of a deep fake generator may not allow the deep
5 fake generator to create or generate explicit deep fake material
6 apparently depicting a person who is at least 18 years old without
7 the written consent of the person.

8 (c) The owner of a deep fake generator may not allow the deep
9 fake generator to create or generate explicit deep fake material
10 apparently depicting a person who is younger than 18 years old.

11 Sec. 121.003. PRIVATE CAUSE OF ACTION. (a) A person in
12 this state apparently depicted by explicit deep fake material in
13 violation of this chapter, or the person's parent or guardian if the
14 person is younger than 18 years old, may bring an action against the
15 owner of a deep fake generator who violates this chapter.

16 (b) A person who prevails in an action under this section
17 shall be awarded:

18 (1) actual damages, including damages for mental
19 anguish;

20 (2) court costs; and

21 (3) reasonable attorney's fees.

22 (c) In addition to an award under Subsection (b), a person
23 who prevails in an action under this section may recover exemplary
24 damages.

25 (d) A cause of action under this section is cumulative of
26 any other remedy provided by common law or statute.

27 SECTION 2. Section 121.003, Business & Commerce Code, as

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1 added by this Act, applies only to a cause of action that accrues on
2 or after the effective date of this Act.

3 SECTION 3. This Act takes effect September 1, 2025.