

Date of Hearing: April 23, 2024

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION
Rebecca Bauer-Kahan, Chair

AB 2905 (Low) – As Amended March 21, 2024

AS PROPOSED TO BE AMENDED

SYNOPSIS

The existence of affordable, user-friendly generative artificial intelligence (AI) tools has ushered in a new era in scamming. For the first time, robocalls – telephone calls made using automatic dialing-announcing devices – contain voices that are recognizable to the target of the scam, either because they belong to a trusted family member, or because they are based on the voice of a well-known celebrity. Upon receiving such a call, the target of a scam can be convinced or threatened into sending the scammer money or personal information; alternatively, the scammer may desire to alter the target’s behavior. Such was the case in a recent robocalling incident in New Hampshire: prior to the 2024 Democratic primary election, a call was made to thousands of residents urging them not to cast their votes. The call was lent credibility by fact that President Biden himself appeared to have recorded the message.

In California, automatic dialing-announcing devices are regulated by the Public Utilities Commission (CPUC). Existing law requires that when an automated call is made, the prerecorded message of the call must be preceded by a natural voice announcement. This bill would require that this natural voice announcement additionally include whether the prerecorded message was produced, in whole or in part, by artificial intelligence.

This bill is author-sponsored and has no support or opposition.

SUBJECT: Telecommunications: automatic dialing-announcing devices: artificial voices

SUMMARY: Requires that automatic telephone calls containing artificial intelligence (AI)-generated voices disclose their use of AI. Specifically, **this bill:**

- 1) Requires that a natural voice announcement be used to disclose whether an automatic dialing-announcing device’s prerecorded message uses an artificial voice.
- 2) Defines “artificial voice” to include, but not be limited to, a voice simulated or generated using artificial intelligence.

EXISTING LAW:

- 1) Categorizes private corporations that own, operate, control, or manage systems for the transmission of telephone messages as public utilities. (California Constitution XII § 3.)
- 2) Defines an “automatic dialing-announcing device” to mean any automatic equipment that incorporates a storage capability of telephone numbers to be called or a random or sequential number generator capable of producing numbers to be called and the capability, working alone or in conjunction with other equipment, to disseminate a prerecorded message to the telephone number called. (Pub. Util. Code § 2871.)

- 3) Places connections between automatic dialing devices and telephone lines under the jurisdiction of the CPUC. (Pub. Util. Code § 2872.)
- 4) Establishes that a person shall not operate an automatic dialing-announcing device except in accordance with existing procedures that generally prohibit the use of the devices during the hours between 9 p.m. and 9 a.m. (Pub. Util. Code § 2872.)
- 5) Allows use of automatic dialing-announcing devices to place calls over telephone lines only pursuant to a prior agreement between the persons involved, whereby the recipient consents to such calls. (Pub. Util. Code § 2873.)
- 6) Requires that whenever telephone calls are placed through the use of an automatic dialing-announcing device, the device may be operated only after an unrecorded, natural voice announcement has been made to the person called by the person calling. (Pub. Util. Code § 2874.)

FISCAL EFFECT: As currently in print, this bill is keyed fiscal.

COMMENTS:

1) **A brief history of robocalls.** Automatic dialing-announcing devices were first developed in the mid-20th century to automate the laborious task of dialing telephone numbers. Frequently used by call centers and telemarketing organizations, these devices could quickly dial phone numbers from a pre-set list. Autodialers became more sophisticated with the rise of digital technology and integrated computer systems in the late 20th century: they evolved from simple mechanical devices into software-based systems capable of managing thousands of calls simultaneously. As these devices became more accessible, they increasingly became a tool for widespread robocalling, wherein prerecorded messages could be delivered to a vast audience without human operators.¹ Robocalls have been employed in various sectors for debt collection, political campaigns, and consumer sales, as well as for intrusive spam calls and scams. In California, various organizations use autodialing devices to legally disseminate pre-recorded messages to telephone numbers located within a defined target area.

Aside from legal uses of robocalling, Californians are frequently subjected to robocall-related scams. These scams often aim to trick vulnerable communities into handing over personal information or money under fraudulent pretenses. Robocall-related scams have grown more devious through the development of caller identification spoofing technologies, which allow scammers to disguise their phone numbers in order to appear legitimate. The Federal Communications Commission (FCC) estimated that fraudulent phone calls and texts have led to more than \$1.13 billion in losses across the country.² The number of phone scam victims in the U.S. nearly tripled between 2017 and 2022, according to a Truecaller/Harris poll.³ In response to the negative impact of these technologies, state and local governments have stepped in to

¹ Tara Bernard, “Yes, It’s Bad. Robocalls, and Their Scams, Are Surging.” *New York Times*, May 6, 2018, <https://www.nytimes.com/2018/05/06/your-money/robocalls-rise-illegal.html>.

² Chase DiFelicianantonio, “FCC cracks down on AI-generated scam calls that simulate human voices,” *San Francisco Chronicle*, Feb. 8, 2024, <https://www.sfchronicle.com/bayarea/article/fcc-cracks-ai-generated-scams-calls-simulate-human-18656122.php>.

³ Truecaller, “Truecaller Insights 2022 U.S. Spam & Scam Report,” May 24, 2022, <https://www.truecaller.com/blog/insights/truecaller-insights-2022-us-spam-scam-report>.

regulate the use of automatic dialing-announcing devices. In February, the FCC issued a unanimous ruling clarifying that it was illegal to use voice cloning technologies in common robocall scams.⁴

2) **The California Public Utilities Commission.** CPUC oversees a variety of utility services within the state. According to CPUC, “California’s economy depends on the infrastructure the [CPUC] and utilities provide. For almost 100 years, the CPUC has worked to protect consumers and ensure the provision of safe, reliable utility service and infrastructure at reasonable rates, with a commitment to environmental enhancement and a healthy California economy.” Established in 1911, the CPUC originated from the Railroad Commission of California; today, the CPUC regulates services and utilities such as telecommunications, electric, water, natural gas, and transportation within California. CPUC’s jurisdiction includes the regulation and mitigation of robocalls. Existing law within the Public Utilities Code governs the use of automatic dialing-announcing devices.

3) **Artificial intelligence.** Artificial intelligence (AI) is creating exciting opportunities to grow California’s economy and improve the lives of its residents – but just as the development of software-based automatic dialing devices ushered in the era of robocalling, the development of artificial intelligence has sparked a revolution in scamming and the dissemination of misinformation.

What is AI? AI refers to the use of artificial systems to mimic human cognitive abilities. AI uses algorithms – sets of rules – to transform inputs into outputs. Inputs and outputs can be anything a computer can process: numbers, text, audio, video, or movement. This is because AI is not fundamentally different from other computer functions. Its novelty lies in its application: unlike normal computer functions, AI is able to accomplish tasks that are normally performed by humans.

Voice cloning. The rise of cheap, user-friendly AI has enabled bad actors to adapt novel technologies for nefarious purposes. “Voice cloning” allows Hollywood to use actors’ voices in commercials and animated movies long after an actor has retired, but it is also allowing scammers to emulate recognizable voices in robocalls to consumers. These voices are often used in imposter scams to spread misinformation, endorse products, or steal money and personal information. Scammers may attempt to fool an unsuspecting grandparent by feverishly explaining that their grandchild (who appears to be on the other end of the telephone line) is in trouble and requires immediate financial assistance. Alternatively, a voice seeming to belong to a trusted celebrity may solicit donations to a fake charity. When the target of the scam pays up, the money is instead directed into the pockets of the scammer.

The AI tools that enable scammers to generate fake voices are most often trained on publicly available data. The more data a target has online, the easier it is to develop a passable imitation of them or their loved ones. This is especially true of wealthy and famous individuals, whose public appearances, including speeches, are often widely available on the internet. A complicated scam utilizing both deepfake video and false audio was recently performed in Hong Kong: a multinational company lost \$25.6 million after an employee was fooled by deepfake technology

⁴ Federal Communications Commission, “Implications of Artificial Intelligence Technologies on Protecting Consumers from Unwanted Robocalls and Robotexts,” Feb. 2, 2024, <https://www.fcc.gov/document/fcc-makes-ai-generated-voices-robocalls-illegal>.

when a digitally recreated version of the company's chief financial officer ordered money transfers in a video conference call. Everyone present on the video call, except the employee, was a fake representation of real people. The scammers applied deepfake technology to turn publicly available video and other footage into convincing versions of the meeting's participants.⁵

Political propaganda and disinformation. AI technology is being used around the world to spread disinformation and propaganda. 2024 is a major election year in democracies around the globe: at least 64 countries will hold elections, representing close to 49% of the world's population. It is also likely to be the first of many election years in which AI plays a pivotal role, as the technology becomes more widely available and easier to use. This has already been observed in Slovakia, where AI-generated audio influenced an election in 2023:

Days before a pivotal election in Slovakia to determine who would lead the country, a damning audio recording spread online in which one of the top candidates seemingly boasted about how he'd rigged the election. And if that wasn't bad enough, his voice could be heard on another recording talking about raising the cost of beer. The recordings immediately went viral on social media, and the candidate, who is pro-NATO and aligned with Western interests, was defeated in September by an opponent who supported closer ties to Moscow and Russian President Vladimir Putin.⁶

Similar technologies have now been deployed in the United States in advance of the 2024 presidential election. In late January, between 5,000 and 20,000 New Hampshire residents received AI-generated phone calls impersonating President Biden that told them not to vote in the state's primary.⁷ The call told voters: "It's important that you save your vote for the November election." Concern about this call has led at least 14 states to introduce legislation targeting AI-powered disinformation. It is still unclear how many people might not have voted based on these calls.

4) **What this bill would do.** This bill's scope is quite narrow. Existing law provides that whenever telephone calls are placed through the use of an automatic dialing-announcing device, the device may be operated only after an unrecorded, natural voice announcement has been made. This natural voice announcement must state the nature of the call, the contact information of the caller, and obtain affirmative consent from the person being called.

If the content of the call – in other words, the prerecorded message that follows the natural voice announcement – was generated using AI, then this bill would require the natural voice announcement to disclose that fact.

5) **Author's statement.** According to the author:

⁵ Harvey Kong, "Everyone looked real": multinational firm's Hong Kong office loses HK\$200 million after scammers stage deepfake video meeting," *South China Morning Post*, Feb. 4th, 2024, www.scmp.com/news/hong-kong/law-and-crime/article/3250851/everyone-looked-real-multinational-firms-hong-kong-office-loses-hk200-million-after-scammers-stage.

⁶ Curt Devine, Donie O'Sullivan, Sean Lyngass, "A fake recording of a candidate saying he'd rigged the election went viral. Experts say it's only the beginning," *CNN*, Feb. 1, 2024, www.cnn.com/2024/02/01/politics/election-deepfake-threats-invs/index.html.

⁷ Cat Zakrzewski and Pranshu Verma, "New Hampshire opens criminal probe into AI calls impersonating Biden," *Washington Post*, Feb. 6, 2024, www.washingtonpost.com/technology/2024/02/06/nh-robocalls-ai-biden/.

In our tech-driven world, protecting our communities from AI scam calls is paramount. These deceptive practices, targeting vulnerable Californians, are unacceptable. That's why I'm introducing legislation to ban AI in scams. This bill underscores our commitment to protecting consumer rights, privacy, and security in the digital age.

6) **Analysis.** As written, this bill would specifically affect robocalls made by lawful entities using automatic dialing-announcement devices. Had the law that this bill prescribes been established in New Hampshire prior to the 2024 Democratic primary election, it would not have prevented the infamous Biden robocall from being made, as those scammers – who appear to have been based in Texas – exhibited minimal regard for existing voter suppression laws.⁸ This bill also does not address one of the main concerns related to artificial intelligence scamming: the ability for a scammer to actively engage with a participant, and convince them in real time to behave according to the scammer's wishes. By definition, automated dialing-announcing devices disseminate prerecorded messages.

7) **Committee amendments.** Two committee amendments have been introduced for this bill in collaboration with the author. The first inserts a definition for “artificial intelligence” into the bill’s text. The second inserts a definition for “artificial voice.”

(c) “Artificial intelligence” means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.

~~(e) For purposes of this section, “artificial voice” includes, but is not limited to, a voice simulated or generated using artificial intelligence.~~

(d) “Artificial voice” means a voice that is generated or significantly altered using artificial intelligence.

8) **Related legislation.** AB 2839 (Pellerin, 2024) would prohibit election-related communications containing digitally-altered or -created audio in the period around an election, including by telephone. This bill is pending in the Assembly Judiciary Committee.

AB 3050 (Low, 2024) would establish liability for damages resulting from the creation of a nonconsensual deepfake of a person’s voice. This bill is pending in this Committee.

SB 942 (Becker, 2024) would require the provider of a generative AI system to embed an imperceptible disclosure into generated content, including audio. This bill is pending in the Senate Governmental Organization Committee.

SB 970 (Ashby, 2024) would expand penalties related to the nonconsensual use of an individual’s digital likeness to include audio impersonations created through the use of artificial intelligence. This bill is pending in the Senate Public Safety Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

⁸ Maggie Astor, “Texas Company Was Behind Voter Robocalls That Impersonated Biden, N.H. Says,” *New York Times*, Feb. 6, 2024, <https://www.nytimes.com/2024/02/06/us/politics/biden-robocall-new-hampshire.html>.

None on file.

Opposition

None on file.

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