



February 15, 2024

Senate Rules Committee
Oregon State Legislature
900 Court St. NE
Salem, OR 97301

RE: Testimony in Opposition to House Bill 1571

Dear Chair Lieber, Vice-Chair Knopp, and Members of the Committee

Thank you for the opportunity to provide testimony on behalf of the American Civil Liberties Union of Oregon (ACLU of Oregon). The ACLU of Oregon is a nonpartisan, nonprofit organization dedicated to preserving and enhancing civil liberties and civil rights, with more than 28,000 supporters statewide.

The ACLU of Oregon recognizes the challenges and risks of artificial intelligence technology – and particularly “deep fake”-style videos, voice recordings, and pictures – could pose for democratic processes and maintaining an informed electorate. **The approach for regulating AI technology within House Bill 1571, however, is likely an unconstitutional restriction on speech under Oregon Article I, Section 8.**

Under Article I, section 8 of the Oregon Constitution,¹ Oregon’s Legislative Assembly may not restrict a person's right to "speak, write, or print freely on any subject" unless the restriction falls under a well-established exception or the limitation is directed not at the speech but the effects of the speech. *State v. Robertson*, 293 Or 402, 649 P2d 569 (1982).

One illustrative example for this analysis is former statute, ORS 260.522, which outlawed anonymous political publications. The Attorney General issued an [opinion](#) in 1999 that this was almost certainly an unconstitutional restriction of speech under Oregon’s Article I, Section 8 and the First Amendment. With this guidance, the legislature repealed the statute in 2001.

The AG’s analysis of ORS 260.250 provides a direct parallel to the approach of SB 1571, which would restrict people and organizations use of AI-drafted speech related to campaigns unless they declared it as such.

¹ No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right. Oregon Constitution, art. 1, section 8.



SB 1571, like ORS 260.250, is directed at speech per se and does not fall within one of the historical exceptions for which speech may legitimately be limited: perjury, solicitation, conspiracy and some forms of fraud. And while SB 1571 may be designed to address harms that “may legitimately be regulated, such as fraud and misrepresentation,” it does not “proscribe the speech *only* when it actually or necessarily produces (or is imminently likely to produce) the harm”² [emphasis added]. Therefore, SB 1571’s content-based restriction is likely impermissible.

We appreciate the scale of these potential electoral risks but believe this bill as written would likely be challenged and overturned. This bill will require extensive revision to comply with Oregon’s vital protections for speech and expression.

Respectfully,
Emily Hawley
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² Oregon Attorney General Advisory Opinion No. 8266, March 10, 1999.