S T A T E O F N E W Y O R K

7257

2009-2010 Regular Sessions

I N A S S E M B L Y

March 26, 2009

Introduced by M. of A. V. LOPEZ -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to prohibiting certain campaign practices involving the unauthorized use or representation of names or likenesses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Sections 14-100 through 14-130 of article 14 of the election law are designated title I and a new title heading is added to read as follows:

GENERAL PROVISIONS

S 2. Article 14 of the election law is amended by adding a new title II to read as follows:

TITLE II

FAIR CAMPAIGN PRACTICES

SECTION 14-200. FAIR CAMPAIGN PRACTICES.

S 14-200. FAIR CAMPAIGN PRACTICES. 1. NO PERSON, POLITICAL PARTY OR COMMITTEE DURING THE COURSE OF ANY CAMPAIGN FOR NOMINATION OR ELECTION TO PUBLIC OFFICE OR PARTY POSITION SHALL, DIRECTLY OR INDIRECTLY, ENGAGE IN OR COMMIT ANY OF THE FOLLOWING:

(A) WILLFUL PREPARATION OR DISTRIBUTION OF ANY COMMUNICATION KNOWN TO BE FRAUDULENT, FORGED OR FALSELY IDENTIFIED.

(B) WILLFUL MISREPRESENTATION OF ANY CANDIDATE'S PARTY AFFILIATION OR PARTY ENDORSEMENT OR ENDORSEMENT BY ANY CLEARLY IDENTIFIED PERSON OR ORGANIZATION INCLUDING, BUT NOT LIMITED TO, THE WILLFUL USE OF DOCTORED PHOTOGRAPHS OR WRITINGS OR FRAUDULENT OR UNTRUE ENDORSEMENTS.

2. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) THE TERM "CLEARLY IDENTIFIED" SHALL MEAN THAT:

(1) THE NAME OF THE PURPORTED ENDORSER INVOLVED APPEARS; OR

(2) A PHOTOGRAPH OR DRAWING OF THE PURPORTED ENDORSER APPEARS; OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(3) THE IDENTITY OF THE PURPORTED ENDORSER IS APPARENT BY UNAMBIGUOUS REFERENCE.

(B) THE TERM "COMMUNICATION" SHALL INCLUDE ANY ADVERTISEMENT, PAMPHLET, CIRCULAR, FLYER, BROCHURE, LETTERHEAD, OR OTHER PRINTED MATTER, AND RADIO OR TELEVISION BROADCAST.

3. A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE PUNISHABLE BY A CIVIL PENALTY, NOT TO EXCEED FIVE HUNDRED DOLLARS FOR A FIRST OFFENSE AND NOT TO EXCEED TWO THOUSAND DOLLARS FOR ANY SECOND OR SUBSEQUENT OFFENSE, TO BE IMPOSED UPON ANY PERSON FOUND BY THE STATE BOARD OF ELECTIONS, UPON CLEAR AND CONVINCING EVIDENCE, AFTER A HEARING, TO HAVE VIOLATED ANY OF SUCH PROVISIONS.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made or completed on or before such effective date.