

3863

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. STEWART-COUSINS, C. JOHNSON, THOMPSON -- read twice
and ordered printed, and when printed to be committed to the Committee
on Elections

AN ACT to amend the election law, in relation to identifying the sources
of campaign telephone canvasses or "push polls"

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

1 Section 1. Subdivision 1 of section 3-106 of the election law, as
2 amended by chapter 8 of the laws of 1978 and as redesignated by chapter
3 9 of the laws of 1978, is amended to read as follows:
4 1. (A) In addition to the powers and duties elsewhere enumerated in
5 this article, the state board of elections, after public hearings, shall
6 adopt a "fair campaign code" [setting] WHICH SHALL SET forth ethical
7 standards of conduct for persons, political parties and committees
8 engaged in election campaigns including, but not limited to, specific
9 prohibitions against practices of political espionage and other politi-
10 cal practices [involving] WHICH INVOLVE subversion of the political
11 parties and process, SUCH AS, BUT NOT LIMITED TO, THE MISREPRESENTATION
12 OF THE CRIMINAL RECORD OR BACKGROUND, MORAL TURPITUDE, CHARACTER, VOTING
13 RECORD OR OTHER SPECIFIC ACTS OR OMISSIONS OF A CANDIDATE, TO A POTEN-
14 TIAL VOTER, BY MEANS OF PERSONAL CONTACT OR TELEPHONE CANVASS FROM A
15 LIST OF NAMES OF POTENTIAL VOTERS NOT DERIVED FROM A SCIENTIFICALLY
16 MEASURABLE AND RANDOM SAMPLING TECHNIQUE AND WHICH CONTACT OR CANVASS IS
17 DESIGNED TO PERSUADE VOTERS RATHER THAN TO GATHER A RANDOM SAMPLE OF
18 OPINION, AS A FOUNDATION FOR ASKING A POTENTIAL VOTER IN ONE OR MORE
19 CANVASS QUESTIONS OR CANVASS SAMPLINGS WHICH ARE SPECIFICALLY DIRECTED
20 AT PERSUADING A VOTER RATHER THAN AT GATHERING A RANDOM SAMPLE OF OPIN-
21 ION, AND CONDUCTED IN PERSON OR BY TELEPHONE HIS OR HER OPINION OR HOW
22 HE OR SHE WILL VOTE, AND SPECIFIC REQUIREMENTS TO DISCLOSE THE TRUE
23 IDENTITY OF THE CALLER AND BY WHOM THE CANVASS WAS COMMISSIONED AND BY
24 WHOM IT IS CONDUCTED, SPONSORED AND PAID, AND IF PAID FOR OR SPONSORED

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

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1 BY ONE OR MORE CANDIDATES OR BY A POLITICAL COMMITTEE SUPPORTING ONE OR
2 MORE CANDIDATES, REQUIRING THAT FACT AND THEIR IDENTITIES TO BE
3 DISCLOSED TO THE POTENTIAL VOTER.

4 (B) NO CANDIDATE, POLITICAL PARTY OR COMMITTEE SHALL ATTEMPT TO
5 PROMOTE THE SUCCESS OR DEFEAT OF A CANDIDATE BY, DIRECTLY OR INDIRECTLY,
6 DISCLOSING OR CAUSING TO BE DISCLOSED, THE RESULTS OF ANY CANVASS OR
7 POLL RELATING TO A CANDIDATE FOR SUCH OFFICE OR POSITION, UNLESS WITHIN
8 FORTY-EIGHT HOURS AFTER SUCH DISCLOSURE, THEY PROVIDE THE FOLLOWING
9 INFORMATION CONCERNING THE CANVASS OR POLL TO THE BOARD OR OFFICER WITH
10 WHOM STATEMENTS OR COPIES OF STATEMENTS OF CAMPAIGN RECEIPTS AND EXPEND-
11 ITURES ARE REQUIRED TO BE FILED BY THE CANDIDATE TO WHOM SUCH CANVASS OR
12 POLL RELATES:

13 (I) THE NAME OF THE PERSON, PARTY OR ORGANIZATION THAT CONTRACTED FOR
14 OR WHOM COMMISSIONED THE CANVASS OR POLL AND/OR PAID FOR IT.

15 (II) THE NAME AND ADDRESS OF THE ORGANIZATION THAT CONDUCTED THE
16 CANVASS OR POLL.

17 (III) THE NUMERICAL SIZE OF THE TOTAL CANVASS OR POLL SAMPLE, THE
18 GEOGRAPHIC AREA COVERED BY THE CANVASS OR POLL AND ANY SPECIAL CHARAC-
19 TERISTICS OF THE POPULATION INCLUDED IN THE CANVASS OR POLL SAMPLE.

20 (IV) THE EXACT WORDING OF THE QUESTIONS ASKED IN THE CANVASS OR POLL
21 AND THE SEQUENCE OF SUCH QUESTIONS.

22 (V) THE METHOD OF CANVASSING OR POLLING WHETHER BY PERSONAL INTERVIEW,
23 TELEPHONE, MAIL OR OTHER.

24 (VI) THE TIME PERIOD DURING WHICH THE CANVASS OR POLL WAS CONDUCTED.

25 (VII) THE NUMBER OF PERSONS IN THE CANVASS OR POLL SAMPLE; THE NUMBER
26 CONTACTED WHO RESPONDED TO EACH SPECIFIC CANVASS OR POLL QUESTION; THE
27 NUMBER OF PERSONS CONTACTED WHO DID NOT SO RESPOND.

28 (VIII) THE RESULTS OF THE CANVASS OR POLL.

29 S 2. Section 14-106 of the election law, as amended by chapter 8 of
30 the laws of 1978, is amended to read as follows:

31 S 14-106. Political advertisements and literature. The statements
32 required to be filed under the provisions of this article next succeed-
33 ing a primary, general or special election shall be accompanied by a
34 facsimile or copy of all advertisements, pamphlets, circulars, flyers,
35 brochures, letterheads and other printed matter purchased or produced
36 and a schedule of all radio or television time, AND OF ANY CANVASSING
37 DESIGNED OR SPECIFICALLY DIRECTED TO PERSUADE POTENTIAL VOTERS AND
38 CONDUCTED EITHER IN PERSON OR BY TELEPHONE, AS DESCRIBED IN PARAGRAPH
39 (A) OF SUBDIVISION ONE OF SECTION 3-106 OF THIS CHAPTER, and scripts
40 used therein, purchased in connection with such election by or under the
41 authority of the person filing the statement or the committee or the
42 person on whose behalf it is filed, as the case may be. Such facsimiles,
43 copies, schedules and scripts shall be preserved by the officer with
44 whom or the board with which it is required to be filed for a period of
45 one year from the date of filing thereof.

46 S 3. The election law is amended by adding a new section 17-153 to
47 read as follows:

48 S 17-153. UNLAWFUL CANVASSING. IT SHALL BE UNLAWFUL FOR ANY CANDI-
49 DATE, POLITICAL COMMITTEE OR CONSTITUTED COMMITTEE, OR FOR AN AGENT OR
50 EMPLOYEE OF, OR CONTRACTOR OR FIRM HIRED BY, ANY OF THE FOREGOING, OR
51 FOR ANY OTHER COMMITTEE, ASSOCIATION, PARTNERSHIP, CORPORATION, CAMPAIGN
52 WORKER OR VOLUNTEER OR OTHER PERSON, TO INITIATE, COMMISSION, SPONSOR OR
53 PARTICIPATE IN A CANVASS CONDUCTED EITHER IN PERSON OR BY TELEPHONE FROM
54 A LIST OF NAMES OF POTENTIAL VOTERS NOT DERIVED FROM A SCIENTIFICALLY
55 MEASURABLE AND RANDOM SAMPLING TECHNIQUE AND WHICH CONTACT OR CANVASS IS
56 DESIGNED TO PERSUADE VOTERS RATHER THAN TO GATHER A RANDOM SAMPLE OF

1 OPINION, OF POTENTIAL VOTERS RESPECTING ONE OR MORE OF SUCH VOTER'S
2 PREFERENCES AMONG CANDIDATES OR FOR WHOM SUCH VOTER WILL VOTE, OR SOLIC-
3 ITING SUCH VOTER'S OPINION ON A CAMPAIGN ISSUE, PRECEDED BY ONE OR MORE
4 MISREPRESENTATIONS FROM THE KINDS DESCRIBED IN PARAGRAPH (A) OF SUBDIVI-
5 SION ONE OF SECTION 3-106 OF THIS CHAPTER, IN ANY INSTANCE IN CONNECTION
6 WITH A SUBSEQUENT PRIMARY, GENERAL, SPECIAL OR SCHOOL BOARD ELECTION TO
7 BE HELD WITHIN THIS STATE UNLESS AT THE BEGINNING OF THE EXECUTION OF
8 THE CANVASS, THE PERSON IN DIRECT CONTACT WITH THE POTENTIAL VOTER IDEN-
9 TIFIES TO THE POTENTIAL VOTER THE TRUE NAME OF THE SPONSOR OR SOURCE, OF
10 THE CANVASS, INCLUDING THE TRUE NAME, IF ANY, OF THE SPECIFIC CANDIDATE
11 OR COMMITTEE SUPPORTING A CANDIDATE ON BEHALF OF WHOM THE PERSON IN
12 DIRECT CONTACT WITH THE POTENTIAL VOTER WILL BE ASKING QUESTIONS OR
13 IMPARTING INFORMATION; AND, IF THE NAME OF THE COMMITTEE OR OTHER ENTITY
14 OR PERSON WHICH HAS OR WHO HAS INITIATED, COMMISSIONED, SPONSORED OR
15 PARTICIPATED IN THE TELEPHONE OR IN-PERSON CANVASS OF POTENTIAL VOTERS
16 DOES NOT INCLUDE THE NAME OF THE CANDIDATE AFFILIATED WITH OR SUPPORTED
17 BY SUCH COMMITTEE, OTHER ENTITY OR PERSON, THEN THE CANDIDATE'S NAME
18 MUST BE DISCLOSED AT THE BEGINNING OF THE EXECUTION OF SUCH CANVASS, IN
19 ADDITION TO THE NAME OF SUCH COMMITTEE, OTHER ENTITY OR PERSON.

20 ANY CANDIDATE, POLITICAL COMMITTEE OR CONSTITUTED COMMITTEE, OR AGENT
21 OR EMPLOYEE OF, OR CONTRACTOR OR FIRM HIRED BY, ANY OF THE FOREGOING, OR
22 ANY OTHER COMMITTEE, ASSOCIATION, PARTNERSHIP, CORPORATION, CAMPAIGN
23 WORKER OR VOLUNTEER OR OTHER PERSON, WHO OR WHICH VIOLATES ANY OF THE
24 FOREGOING PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDE-
25 MEANOR, WHICH SHALL BE PUNISHABLE AS PROVIDED IN THE PENAL LAW NOTWITH-
26 STANDING THE PROVISIONS OF SECTION 17-166 OF THIS ARTICLE.

27 S 4. This act shall take effect on the first of December next succeed-
28 ing the date on which it shall have become a law, provided, however,
29 that effective immediately, the addition, amendment and repeal of any
30 rules and regulations necessary for the implementation of this act on
31 its effective date are authorized and directed to be made and completed
32 on or before such effective date.