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2011-2012 Regular Sessions

I N S E N A T E

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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 the disclosure of
sources for political advertisements

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

1 Section 1. The election law is amended by adding a new section 14-107
2 to read as follows:
3 S 14-107. INDEPENDENT EXPENDITURE REPORTING. 1. FOR PURPOSES OF THIS
4 SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
5 (A) (I) "INDEPENDENT EXPENDITURE" SHALL MEAN AN EXPENDITURE MADE BY A
6 PERSON FOR AN AUDIO OR VIDEO COMMUNICATION TO A GENERAL PUBLIC AUDIENCE
7 VIA BROADCAST, CABLE OR SATELLITE OR A WRITTEN COMMUNICATION TO A GENER-
8 AL PUBLIC AUDIENCE VIA ADVERTISEMENTS, PAMPHLETS, CIRCULARS, FLYERS,
9 BROCHURES, LETTERHEADS OR OTHER PRINTED MATTER AND STATEMENTS OR INFOR-
10 MATION CONVEYED TO FIVE HUNDRED OR MORE MEMBERS OF A GENERAL PUBLIC
11 AUDIENCE BY COMPUTER OR OTHER ELECTRONIC DEVICES WHICH: (A) EXPRESSLY
12 ADVOCATES THE ELECTION OR DEFEAT OF A CLEARLY IDENTIFIED CANDIDATE OR
13 THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL OR AMENDMENT TO THE CONSTITU-
14 TION OF THE STATE OF NEW YORK AND (B) SUCH CANDIDATE, THE CANDIDATE'S
15 POLITICAL COMMITTEE OR ITS AGENTS, OR A POLITICAL COMMITTEE FORMED TO
16 PROMOTE THE SUCCESS OR DEFEAT OF A BALLOT PROPOSAL OR ITS AGENTS, DID
17 NOT AUTHORIZE, REQUEST, SUGGEST, FOSTER OR COOPERATE IN ANY SUCH COMMU-
18 NICATION.
19 (II) INDEPENDENT EXPENDITURES SHALL NOT INCLUDE:
20 (A) A COMMUNICATION APPEARING IN A WRITTEN NEWS STORY, COMMENTARY, OR
21 EDITORIAL DISTRIBUTED THROUGH THE FACILITIES OF ANY BROADCASTING
22 STATION, CABLE OR SATELLITE UNLESS SUCH PUBLICATION OR FACILITIES ARE
23 OWNED OR CONTROLLED BY ANY POLITICAL PARTY, POLITICAL COMMITTEE OR
24 CANDIDATE; OR

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

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1 (B) A COMMUNICATION THAT CONSTITUTES A CANDIDATE DEBATE OR FORUM; OR
2 (C) A COMMUNICATION WHICH CONSTITUTES AN EXPENDITURE MADE BY AN ENTITY
3 REQUIRED TO REPORT SUCH EXPENDITURE WITH A BOARD OF ELECTIONS.

4 (B) "PERSON" SHALL MEAN A PERSON, GROUP OF PERSONS, ENTITY, ORGANIZA-
5 TION OR ASSOCIATION.

6 (C) "TRADE ASSOCIATION" SHALL MEAN AN ENTITY HAVING AS A PRIMARY
7 PURPOSE THE PROMOTION, ADVANCEMENT OR SELF-REGULATION OF BUSINESSES,
8 INCLUDING BUT NOT LIMITED TO A CORPORATION, UNINCORPORATED ASSOCIATION,
9 PARTNERSHIP, TRUST OR LIMITED LIABILITY COMPANY, WHETHER OR NOT SUCH
10 ENTITY IS ORGANIZED FOR PROFIT, NOT-FOR-PROFIT, BUSINESS OR NON-BUSINESS
11 PURPOSES.

12 2. WHENEVER ANY PERSON OR TRADE ASSOCIATION MAKES AN INDEPENDENT
13 EXPENDITURE THAT COSTS MORE THAN ONE THOUSAND DOLLARS IN THE AGGREGATE,
14 SUCH COMMUNICATION SHALL CLEARLY STATE WHO PAID FOR, OR OTHERWISE
15 PUBLISHED OR DISTRIBUTED, THE COMMUNICATION AND STATE, WITH RESPECT TO
16 COMMUNICATIONS REGARDING CANDIDATES, THAT THE COMMUNICATION IS NOT
17 AUTHORIZED BY ANY CANDIDATE, ANY CANDIDATE'S POLITICAL COMMITTEE OR ANY
18 OF ITS AGENTS. A KNOWING AND WILLFUL VIOLATION OF THE PROVISIONS OF
19 THIS SUBDIVISION SHALL SUBJECT THE PERSON OR TRADE ASSOCIATION TO A
20 CIVIL PENALTY EQUAL TO ONE THOUSAND DOLLARS OR THE COST OF THE COMMUNI-
21 CATION, WHICHEVER IS GREATER, IN A SPECIAL PROCEEDING OR CIVIL ACTION
22 BROUGHT BY THE STATE BOARD OF ELECTIONS. ANY ADVERTISEMENT PAID FOR BY
23 A TRADE ASSOCIATION SHALL DISCLOSE THE THREE CONTRIBUTORS WHO CONTRIB-
24 UTED THE MOST MONEY IN THE AGGREGATE TO SUCH TRADE ASSOCIATION SINCE THE
25 FIRST OF JANUARY OF THE YEAR IN WHICH THE ADVERTISEMENT IS PUBLISHED,
26 PROVIDED FURTHER, THAT IF THE ADVERTISEMENT IS MADE WITH RESPECT TO A
27 PRESIDENTIAL PRIMARY RACE, THEN IT SHALL DISCLOSE THE TRADE ASSOCI-
28 ATION'S THREE LARGEST CONTRIBUTORS IN THE AGGREGATE SINCE THE FIRST OF
29 JULY OF THE YEAR PRIOR TO SUCH PRIMARY.

30 3. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE ATTORNEY GENERAL
31 SHALL HAVE CONCURRENT JURISDICTION WITH ANY DISTRICT ATTORNEY IN THE
32 PROSECUTION OF ANY OFFENSES UNDER THIS SECTION RELATING TO DECEPTIVE
33 PRACTICES AS WELL AS ANY OFFENSES ARISING OUT OF SUCH PROSECUTION.

34 S 2. This act shall take effect immediately.