

8187--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

October 4, 2013

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Introduced by M. of A. ZEBROWSKI, LUPARDO, McDONALD, JAFFEE, THIELE, SIMOTAS, MILLMAN, BENEDETTO, PAULIN, QUART, DINOWITZ, SEPULVEDA, HENNESSEY, STIRPE, ROSENTHAL, STECK, FAHY, CAHILL, GALEF, GOTTFRIED, BROOK-KRASNY, MILLER, SOLAGES, CYMBROWITZ, RAIA, JACOBS -- Multi-Sponsored by -- M. of A. BRENNAN, CROUCH, GLICK, MAGEE, MAYER, SWEENEY, WEISENBERG -- read once and referred to the Committee on Election Law -- recommitted to the Committee on Election Law in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the election law, in relation to requiring the disclosure of the identity of certain entities making expenditures for political communications and providing penalties for failure to do so

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

1     Section 1. Section 14-100 of the election law is amended by adding a  
2     new subdivision 12 to read as follows:  
3     12. "POLITICAL COMMUNICATION" MEANS ANY PRINT, RADIO, TELEVISED OR  
4     INTERNET ADVERTISING, BROCHURE, FLYER, POSTER, MAILING OR OTHER COMMUNI-  
5     CATION THAT ADVOCATES FOR OR AGAINST A CANDIDATE, ELECTION, BALLOT MEAS-  
6     URE OR ISSUE.  
7     S 2. The election law is amended by adding a new section 14-132 to  
8     read as follows:  
9     S 14-132. POLITICAL COMMUNICATION DISCLOSURE. 1. FOR THE PURPOSES OF  
10    THIS SECTION:  
11    A. "POLITICAL COMMUNICATION" MEANS ANY PRINT, RADIO, TELEVISED OR  
12    INTERNET ADVERTISING, BROCHURE, FLYER, POSTER, MAILING, ELECTRONIC  
13    COMMUNICATION, INCLUDING BY COMPUTER OR OTHER ELECTRONIC DEVICE INCLUD-  
14    ING, BUT NOT LIMITED TO, ELECTRONIC MAIL OR TEXT MESSAGE, OR OTHER  
15    COMMUNICATION THAT EXPRESSLY ADVOCATES FOR OR AGAINST A CANDIDATE OR  
16    ADVOCATES FOR OR AGAINST A BALLOT MEASURE OR ISSUE.  
17    B. "EXPRESS ADVOCACY" MEANS A COMMUNICATION:

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

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(1) THAT CONTAINS EXPRESS WORDS SUCH AS VOTE, OPPOSE, SUPPORT, ELECT, DEFEAT, OR REJECT, WHICH CALL FOR THE ELECTION OR DEFEAT OF A CANDIDATE, OR

(2) WHEN TAKEN AS A WHOLE WITH LIMITED REFERENCE OR EXTERNAL EVENTS, SUCH AS THE PROXIMITY TO THE ELECTION, COULD ONLY BE INTERPRETED BY A REASONABLE PERSON AS CONTAINING ADVOCACY OF THE ELECTION OR DEFEAT OF ONE OR MORE CLEARLY IDENTIFIED CANDIDATES BECAUSE:

(A) THE ELECTORAL PORTION OF THE COMMUNICATION IS UNMISTAKABLE, UNAMBIGUOUS, AND SUGGESTIVE OF ONLY ONE MEANING; AND

(B) REASONABLE MINDS COULD NOT DIFFER AS TO WHETHER IT ENCOURAGES ACTIONS TO ELECT OR DEFEAT ONE OR MORE CLEARLY IDENTIFIED CANDIDATES OR ENCOURAGES SOME OTHER KIND OF ACTION.

C. "CLEARLY IDENTIFIED CANDIDATE" MEANS THAT:

(1) THE NAME OF THE CANDIDATE INVOLVED APPEARS;

(2) A PHOTOGRAPH OR DRAWING OF THE CANDIDATE APPEARS; OR

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

2. ANY CANDIDATE OR POLITICAL COMMITTEE THAT MAKES AN EXPENDITURE FOR A POLITICAL COMMUNICATION, WHICH EXPRESSLY ADVOCATES FOR OR AGAINST A CLEARLY IDENTIFIED CANDIDATE OR ADVOCATES FOR OR AGAINST A BALLOT MEASURE, OR ISSUE, SHALL BE REQUIRED TO DISCLOSE THE IDENTITY OF THE CANDIDATE OR POLITICAL COMMITTEE WHICH MADE THE EXPENDITURE ON SUCH POLITICAL COMMUNICATION. THE DISCLOSURE ON PRINTED POLITICAL COMMUNICATIONS, INCLUDING BUT NOT LIMITED TO BROCHURES, FLYERS, POSTERS, MAILINGS, INTERNET ADVERTISEMENTS, SHALL BE PRINTED OR TYPED IN AN APPROPRIATE LEGIBLE FORM TO READ AS FOLLOWS: "PAID FOR BY:" FOLLOWED BY THE NAME OF THE POLITICAL COMMITTEE MAKING THE EXPENDITURE.

3. THE DISCLOSURE ON NON-PRINTED POLITICAL COMMUNICATIONS SHALL CLEARLY AND PROMINENTLY DISPLAY OR SPEAK THE FOLLOWING STATEMENT: "PAID FOR BY:" FOLLOWED BY THE NAME OF THE POLITICAL COMMITTEE MAKING THE EXPENDITURE. IN THE CASE OF A POLITICAL COMMUNICATION THAT IS NOT VISUAL, SUCH AS RADIO OR AUTOMATED TELEPHONE CALLS, CLEARLY SPEAKING THE STATEMENT WILL SATISFY THE REQUIREMENTS OF THIS SECTION.

4. PROMOTIONAL ITEMS THAT SUPPORT A PARTICULAR CANDIDATE, ELECTION, BALLOT MEASURE OR ISSUE AND LIMIT THE CONTENT OF COMMUNICATION TO THE NAME, OFFICE AND BRIEF MESSAGE OF SUPPORT, SHALL BE EXEMPT FROM THE PROVISIONS OF THIS SECTION. PROMOTIONAL ITEMS SHALL BE ITEMS THAT ARE OF NOMINAL VALUE AND ARE DISTRIBUTED TO SUPPORTERS IN AN EFFORT TO PROMOTE A PARTICULAR CANDIDATE, ELECTION, BALLOT MEASURE OR ISSUE. PROMOTIONAL ITEMS INCLUDE BUT ARE NOT LIMITED TO PENS, BUMPER STICKERS, YARD SIGNS, BUTTONS, SHIRTS, BAGS OR BALLOONS.

5. ANY PERSON WHO FAILS TO MAKE A DISCLOSURE AS REQUIRED BY THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO A CIVIL PENALTY, NOT IN EXCESS OF ONE THOUSAND DOLLARS FOR EACH VIOLATION, TO BE RECOVERABLE IN A SPECIAL PROCEEDING OR CIVIL ACTION TO BE BROUGHT BY THE STATE BOARD OF ELECTIONS OR OTHER BOARD OF ELECTIONS.

6. ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION THREE TIMES UPON THE OCCURRENCE OF THE THIRD VIOLATION SHALL BE GUILTY OF A MISDEMEANOR.

S 3. This act shall take effect immediately.