AN ACT establishing the "Democracy Protection Act"; and to amend the election law, in relation to the disclosure of the identities of political committees, persons, organizations, or agents making certain expenditures for political communications.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 14-106 of the election law, as amended by section 3 of subpart C of part H of chapter 55 of the laws of 2014, is amended to read as follows:

§ 14-106. Political communication. The statements required to be filed under the provisions of this article next succeeding a primary, general or special election shall be accompanied by a copy of all broadcast, cable or satellite schedules and scripts, [internet] paid internet or digital, print and other types of advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced, and reproductions of statements or information published to five hundred or more members of a general public audience by computer or other electronic device including but not limited to electronic mail or text message, purchased in connection with such election by or under the authority of the person filing the statement or the committee or the person on whose behalf it is filed, as the case may be. Such copies, schedules and scripts shall be preserved by the officer with whom or the board with which it is required to be filed for a period of one year from the date of filing thereof.

§ 2. The election law is amended by adding a new section 14-106-a to read as follows:

§ 14-106-a. Disclosure of political communications. 1. All political committees required to file a statement under the provisions of this article that make an expenditure for a political communication shall be required to disclose the identity of the political committee which made the expenditure for such political communication. The disclosure on printed or digital political communications, including but not limited

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

LBD12051-02-8
to brochures, flyers, posters, mailings, or internet or digital advertising 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. The disclosure on non-printed or digital political communications shall clearly and prominently display and/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.

2. Political communications that are promotional items of nominal value such as pens, bumper stickers, buttons, shirts, bags or balloons shall be exempt from the provisions of subdivision one of this section.

3. A political communication that is considered an internet or digital advertisement which advertises for or against a particular candidate, election or ballot measure which limits the content of such communication to the name, office and brief message shall not be subject to the provisions of subdivision one of this section if such internet or digital advertisement is unable to contain the "paid for by" statement due to its small size and contains a link to another webpage where the "paid for by" statement is prominently displayed.

§ 3. Paragraph (a) of subdivision 1 of section 14-107 of the election law, as amended by section 1 of part A of chapter 286 of the laws of 2016, is amended to read as follows:

(a) "Independent expenditure" means an expenditure made by an independent expenditure committee [conveyed to five hundred or more members of a general public audience] in the form of (i) an audio or video communication via broadcast, cable or satellite, (ii) a written communication via advertisements, pamphlets, circulars, flyers, brochures, letterheads or (iii) other published statements, where such expenditure is conveyed to five hundred or more members of a general public audience, or in the form of any paid internet or digital advertisement targeted to fifty or more members of a general public audience, which:

(i) irrespective of when such communication is made, contains words such as "vote," "oppose," "support," "elect," "defeat," or "reject," which call for the election or defeat of the clearly identified candidate, (ii) refers to and advocates for or against a clearly identified candidate or ballot proposal on or after January first of the year of the election in which such candidate is seeking office or such proposal shall appear on the ballot, or (iii) within sixty days before a general or special election for the office sought by the candidate or thirty days before a primary election, includes or references a clearly identified candidate. An independent expenditure shall not include communications where such candidate, the candidate’s political committee or its agents, a party committee or its agents, or a constituted committee or its agents or a political committee formed to promote the success or defeat of a ballot proposal or its agents, did authorize, request, suggest, foster or cooperate in such communication.

§ 4. Subdivision 2 of section 14-107 of the election law, as amended by section 2 of part A of chapter 286 of the laws of 2016, is amended to read as follows:

2. Whenever any person makes an independent expenditure [that costs one thousand dollars or more in the aggregate], such communication shall, in a manner consistent with section 14-106-a of this article, clearly state the name of the person who paid for, or otherwise published or distributed the communication and state, with respect to
communications regarding candidates, that the communication was not expressly authorized or requested by any candidate, or by any candidate's political committee or any of its agents.

§ 5. The opening paragraph of subdivision 3 of section 14-107 of the election law, as amended by section 3 of part A of chapter 286 of the laws of 2016, is amended to read as follows:

Any person prior to making any independent expenditure shall first register with the state board of elections as a political committee and as an independent expenditure committee in conformance with this article provided, however, that no foreign national, government, instrumentality or agent may register as an independent expenditure committee for the purpose of making independent expenditures in any state or local election. Such person shall comply with all disclosure obligations required for political committees by law and shall provide the following additional information upon registration:

§ 6. Subparagraph (ii) of paragraph (a) of subdivision 4 of section 14-107 of the election law, as added by section 4 of part A of chapter 286 of the laws of 2016, is amended to read as follows:

(ii) Any independent expenditure committee who has registered with the state board of elections pursuant to subdivision three of this section shall disclose to the state board of elections electronically, within twenty-four hours of receipt, any contribution to such independent expenditure committee of one thousand dollars or more made by such committee over five thousand dollars made within thirty days before any primary, general, or special election.

§ 7. The election law is amended by adding a new section 14-107-b to read as follows:

§ 14-107-b. Independent expenditure verification. 1. Upon the purchase of an independent expenditure, as defined in section 14-107 of this article, each television or radio broadcast station, provider of cable or satellite television, or online platform shall require that the independent expenditure committee making such purchase file with such station, provider or platform a copy of the registration form filed by such committee with the state board of elections pursuant to subdivision three of section 14-107 of this article.

2. Each online platform shall maintain and make available online for public inspection in a machine readable format, a complete record of any purchase on such online platform of any independent expenditure which is made by an independent expenditure committee. Such record shall be retained for a period not less than five years from the date of such purchase.

3. A record maintained under subdivision two of this section shall contain:

(a) a digital copy of such independent expenditure;

(b) a description of the audience targeted by the advertisement, the number of views generated from the advertisement, and the date and time that the advertisement is first displayed and last displayed; and

(c) information regarding:

(i) the rate charged for such advertisement;

(ii) if the advertisement refers to a candidate, the name of the candidate and the office to which the candidate is seeking election;

(iii) the ballot proposal, if any, to which such advertisement refers;

(iv) the name of the person purchasing such advertisement and the address and phone number of such person; and
(v) the information provided on the registration form of the independent expenditure committee making the purchase pursuant to paragraphs (a) and (b) of subdivision three of section 14-107 of this article.

§ 8. Subdivision 3 of section 14-126 of the election law, as added by section 6 of subpart C of part H of chapter 55 of the laws of 2014, is amended and a new subdivision 7 is added to read as follows:

3. Any person who falsely identifies or knowingly fails to identify any independent expenditure as required by subdivision two of section 14-107 of this article, and any person who fails to comply with the provisions of section 14-106-a of this article, shall be subject to a civil penalty up to one thousand dollars or up to the cost of the communication, whichever is greater, in a special proceeding or civil action brought by the state board of elections chief enforcement counsel pursuant to paragraph (a) of subdivision five of section 3-104 of this chapter. For purposes of this subdivision, the term "person" shall mean a person, group of persons, corporation, unincorporated business entity, labor organization or business, trade or professional association or organization or political committee.

7. Any television or radio broadcast station, provider of cable or satellite television, or online platform that fails to comply with the requirements of section 14-107-b of this article, as applicable, shall be subject to a civil penalty up to one thousand dollars for each violation in a special proceeding or civil action brought by the state board of elections chief enforcement counsel pursuant to paragraph (a) of subdivision five of section 3-104 of this chapter.

§ 9. This act shall take effect immediately and shall apply to all communications made on or after the sixtieth day next succeeding the date on which it shall have become a law.