

# STATE OF NEW YORK

9930

## IN ASSEMBLY

February 24, 2018

Introduced by M. of A. ZEBROWSKI, LAVINE, SKOUFIS -- (at request of the Governor) -- read once and referred to the Committee on Election Law

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:

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

4 § 14-106. Political communication. The statements required to be filed  
5 under the provisions of this article next succeeding a primary, general  
6 or special election shall be accompanied by a copy of all broadcast,  
7 cable or satellite schedules and scripts, [~~internet~~] paid internet or  
8 digital, print and other types of advertisements, pamphlets, circulars,  
9 flyers, brochures, letterheads and other printed matter purchased or  
10 produced, and reproductions of statements or information published to  
11 five hundred or more members of a general public audience by computer or  
12 other electronic device including but not limited to electronic mail or  
13 text message, purchased in connection with such election by or under the  
14 authority of the person filing the statement or the committee or the  
15 person on whose behalf it is filed, as the case may be. Such copies,  
16 schedules and scripts shall be preserved by the officer with whom or the  
17 board with which it is required to be filed for a period of one year  
18 from the date of filing thereof.

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

21 § 14-106-a. Disclosure of political communications. 1. All political  
22 committees required to file a statement under the provisions of this  
23 article that make an expenditure for a political communication shall be  
24 required to disclose the identity of the political committee which made  
25 the expenditure for such political communication. The disclosure on  
26 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.

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1 to brochures, flyers, posters, mailings, or internet or digital adver-  
2 tising shall be printed or typed in an appropriate legible form to read  
3 as follows: "Paid for by:" followed by the name of the political commit-  
4 tee making the expenditure. The disclosure on non-printed or digital  
5 political communications shall clearly and prominently display and/or  
6 speak the following statement: "Paid for by:" followed by the name of  
7 the political committee making the expenditure. In the case of a poli-  
8 tical communication that is not visual, such as radio or automated tele-  
9 phone calls, clearly speaking the statement will satisfy the require-  
10 ments of this section.

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

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

22 § 3. Paragraph (a) of subdivision 1 of section 14-107 of the election  
23 law, as amended by section 1 of part A of chapter 286 of the laws of  
24 2016, is amended to read as follows:

25 (a) "Independent expenditure" means an expenditure made by an inde-  
26 pendent expenditure committee [~~conveyed to five hundred or more members~~  
27 ~~of a general public audience~~] in the form of (i) an audio or video  
28 communication via broadcast, cable or satellite, (ii) a written communi-  
29 cation via advertisements, pamphlets, circulars, flyers, brochures,  
30 letterheads or (iii) other published statements, where such expenditure  
31 is conveyed to five hundred or more members of a general public audi-  
32 ence, or in the form of any paid internet or digital advertisement  
33 targeted to fifty or more members of a general public audience, which:  
34 (i) irrespective of when such communication is made, contains words such  
35 as "vote," "oppose," "support," "elect," "defeat," or "reject," which  
36 call for the election or defeat of the clearly identified candidate,  
37 (ii) refers to and advocates for or against a clearly identified candi-  
38 date or ballot proposal on or after January first of the year of the  
39 election in which such candidate is seeking office or such proposal  
40 shall appear on the ballot, or (iii) within sixty days before a general  
41 or special election for the office sought by the candidate or thirty  
42 days before a primary election, includes or references a clearly identi-  
43 fied candidate. An independent expenditure shall not include communi-  
44 cations where such candidate, the candidate's political committee or its  
45 agents, a party committee or its agents, or a constituted committee or  
46 its agents or a political committee formed to promote the success or  
47 defeat of a ballot proposal or its agents, did authorize, request,  
48 suggest, foster or cooperate in such communication.

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

52 2. Whenever any person makes an independent expenditure [~~that costs~~  
53 ~~one thousand dollars or more in the aggregate~~], such communication  
54 shall, in a manner consistent with section 14-106-a of this article,  
55 clearly state the name of the person who paid for, or otherwise  
56 published or distributed the communication and state, with respect to

1 communications regarding candidates, that the communication was not  
2 expressly authorized or requested by any candidate, or by any candi-  
3 date's political committee or any of its agents.

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

7 Any person prior to making any independent expenditure shall first  
8 register with the state board of elections as a political committee and  
9 as an independent expenditure committee in conformance with this article

10 provided, however, that no foreign national, government, instrumentality  
11 or agent may register as an independent expenditure committee for the  
12 purpose of making independent expenditures in any state or local  
13 election. Such person shall comply with all disclosure obligations  
14 required for political committees by law and shall provide the following  
15 additional information upon registration:

16 § 6. Subparagraph (ii) of paragraph (a) of subdivision 4 of section  
17 14-107 of the election law, as added by section 4 of part A of chapter  
18 286 of the laws of 2016, is amended to read as follows:

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

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

28 § 14-107-b. Independent expenditure verification. 1. Upon the purchase  
29 of an independent expenditure, as defined in section 14-107 of this  
30 article, each television or radio broadcast station, provider of cable  
31 or satellite television, or online platform shall require that the inde-  
32 pendent expenditure committee making such purchase file with such  
33 station, provider or platform a copy of the registration form filed by  
34 such committee with the state board of elections pursuant to subdivision  
35 three of section 14-107 of this article.

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

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

44 (a) a digital copy of such independent expenditure;

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

48 (c) information regarding:

49 (i) the rate charged for such advertisement;

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

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

53 (iv) the name of the person purchasing such advertisement and the  
54 address and phone number of such person; and

1 (v) the information provided on the registration form of the independ-  
2 ent expenditure committee making the purchase pursuant to paragraphs (a)  
3 and (b) of subdivision three of section 14-107 of this article.

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

7 3. Any person who falsely identifies or knowingly fails to identify  
8 any independent expenditure as required by subdivision two of section  
9 14-107 of this article, and any person who fails to comply with the  
10 provisions of section 14-106-a of this article, shall be subject to a  
11 civil penalty up to one thousand dollars or up to the cost of the commu-  
12 nication, whichever is greater, in a special proceeding or civil action  
13 brought by the state board of elections chief enforcement counsel [~~or~~  
14 ~~imposed directly by the state board of elections~~] pursuant to paragraph  
15 (a) of subdivision five of section 3-104 of this chapter. For purposes  
16 of this subdivision, the term "person" shall mean a person, group of  
17 persons, corporation, unincorporated business entity, labor organization  
18 or business, trade or professional association or organization or poli-  
19 tical committee.

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

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