

STATE OF NEW YORK

6795

2019-2020 Regular Sessions

IN SENATE

October 23, 2019

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the penal law, the election law and the general business law, in relation to the crime of criminal impersonation in the first degree and fraud in connection with a primary election, caucus or convention; and to repeal certain provisions of the election law relating thereto

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

1 Section 1. Subdivision 3 of section 190.26 of the penal law, as added
2 by chapter 2 of the laws of 1998, is amended to read as follows:

3 3. Pretending to be a duly licensed physician or other person author-
4 ized to issue a prescription for any drug or any instrument or device
5 used in the taking or administering of drugs for which a prescription is
6 required by law, communicates to a pharmacist an oral prescription which
7 is required to be reduced to writing pursuant to section thirty-three
8 hundred thirty-two of the public health law; or

9 4. Pretends to be an elected official or candidate for an elected
10 office and acts by impersonating such an elected official, or candidate
11 or campaign for such an elected office, by communication by internet
12 website or electronic means, with intent to obtain a benefit or injure
13 or defraud another.

14 § 2. Subdivision 5 of section 17-102 of the election law is REPEALED
15 and subdivisions 6, 7, 8, 9, 10, 11, 12 and 13 are renumbered subdivi-
16 sions 5, 6, 7, 8, 9, 10, 11 and 12.

17 § 3. The election law is amended by adding a new section 17-101 to
18 read as follows:

19 § 17-101. Fraud in connection with a primary election, caucus or
20 convention. 1. Any person who fraudulently or wrongfully performs any
21 act or attempts to perform any act tending to affect the result of any

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

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1 primary election, caucus or convention, shall be guilty of a class E
2 felony.

3 2. A person who fraudulently or wrongfully performs any act or
4 attempts to perform any act tending to affect the result of any primary
5 election, caucus or convention shall also be subject to a civil penalty
6 for each violation. The state board of elections shall have authority to
7 impose any such civil penalty for a violation of subdivision one of this
8 section.

9 § 4. The election law is amended by adding a new section 3-104-b to
10 read as follows:

11 § 3-104-b. Powers and authority; certain impersonation of elected
12 officials and other fraud. 1. The state board of elections shall have
13 the right to seek injunctive relief to require a social media company to
14 immediately cease and desist operations where there is reason to believe
15 that such social media company has failed to address a complaint by any
16 elected official or candidate for elected office alleging criminal
17 impersonation in the first degree under section 190.26 of the penal law
18 or fraud in connection with any primary election, caucus or convention
19 under section 17-101 of this chapter.

20 2. The state board of elections chief enforcement counsel shall have
21 independent authority to investigate allegations or claims of any such
22 allegation or claim, including subpoena powers and to issue cease and
23 desist orders to the relevant social media companies upon proof of such
24 impersonation or fraudulent or wrongful act.

25 § 5. The general business law is amended by adding a new section 392-k
26 to read as follows:

27 § 392-k. Closure of certain social media accounts. A social media
28 company that receives a complaint alleging criminal impersonation in the
29 first degree or claiming fraud in connection with any primary election,
30 caucus or convention in violation of section 17-101 of the election law
31 shall close any such impersonated or fraudulent account within twenty-
32 four hours of such notification. Social media companies shall establish
33 practical mechanisms for closing any such social media account within
34 such time frame.

35 § 6. This act shall take effect immediately.