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:

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

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

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

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 Subdivision 5 of section 17-102 of the election law is REPEALED and subdivisions 6, 7, 8, 9, 10, 11, 12 and 13 are renumbered subdivisions 5, 6, 7, 8, 9, 10, 11 and 12.

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

§ 17-101. Fraud in connection with a primary election, caucus or convention. 1. Any person who fraudulently or wrongfully performs any 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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primary election, caucus or convention, shall be guilty of a class E felony.

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

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

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

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

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

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

§ 6. This act shall take effect immediately.