

By Senator Baxley

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1 A bill to be entitled
2 An act relating to sponsorship identification
3 disclaimers; amending s. 106.011, F.S.; revising the
4 definition of the term "electioneering communication"
5 to conform to changes made by the act; amending s.
6 106.071, F.S.; modifying provisions governing general
7 independent expenditure disclaimers to conform to
8 changes made by the act; amending s. 106.143, F.S.;
9 removing an exemption for text messages from certain
10 requirements governing political advertisement
11 disclaimers to conform to changes made by the act;
12 amending s. 106.1439, F.S.; modifying provisions
13 governing general electioneering communications
14 disclaimer requirements to conform to changes made by
15 the act; amending s. 106.147, F.S.; establishing
16 sponsorship identification disclaimer requirements for
17 certain text messages; modifying existing requirements
18 governing telephone call disclaimers; providing
19 exceptions and restrictions; providing a penalty;
20 revising the definition of the term "person" to
21 conform to changes made by the act; amending s.
22 106.1475, F.S.; requiring specified persons and
23 organizations sending certain paid text messages to
24 have and maintain a registered agent for specified
25 purposes; providing exceptions; providing a penalty;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Paragraph (a) of subsection (8) of section
31 106.011, Florida Statutes, is amended to read:

32 106.011 Definitions.—As used in this chapter, the following
33 terms have the following meanings unless the context clearly
34 indicates otherwise:

35 (8) (a) "Electioneering communication" means a text message
36 or communication that is publicly distributed by a television
37 station, radio station, cable television system, satellite
38 system, newspaper, magazine, direct mail, or telephone which ~~and~~
39 ~~that~~:

40 1. Refers to or depicts a clearly identified candidate for
41 office without expressly advocating the election or defeat of a
42 candidate but that is susceptible of no reasonable
43 interpretation other than an appeal to vote for or against a
44 specific candidate;

45 2. Is made within 30 days before a primary or special
46 primary election or 60 days before any other election for the
47 office sought by the candidate; and

48 3. Is targeted to the relevant electorate in the geographic
49 area the candidate would represent if elected.

50 Section 2. Subsection (2) of section 106.071, Florida
51 Statutes, is amended to read:

52 106.071 Independent expenditures; electioneering
53 communications; reports; disclaimers.—

54 (2) Any political advertisement, other than a text message
55 or a telephone call, paid for by an independent expenditure must
56 ~~shall~~ prominently state "Paid political advertisement paid for
57 by ... (Name and address of person paying for advertisement) ...
58 independently of any ... (candidate or committee)"

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59 Section 3. Paragraph (f) of subsection (10) of section
60 106.143, Florida Statutes, is amended to read:

61 106.143 Political advertisements circulated prior to
62 election; requirements.-

63 (10) This section does not apply to any campaign message or
64 political advertisement used by a candidate and the candidate's
65 supporters or by a political committee if the message or
66 advertisement is:

67 ~~(f) Distributed as a text message or other message via~~
68 ~~Short Message Service, provided the message is no more than 200~~
69 ~~characters in length or requires the recipient to sign up or opt~~
70 ~~in to receive it.~~

71 Section 4. Section 106.1439, Florida Statutes, is amended
72 to read:

73 106.1439 Electioneering communications; disclaimers.-

74 (1) Any electioneering communication, other than a text
75 message or a telephone call, must shall prominently state: "Paid
76 electioneering communication paid for by ...(Name and address of
77 person paying for the communication)...."

78 ~~(2) Any electioneering communication telephone call shall~~
79 ~~identify the persons or organizations sponsoring the call by~~
80 ~~stating either: "Paid for by ...(insert name of persons or~~
81 ~~organizations sponsoring the call)...." or "Paid for on behalf~~
82 ~~of ...(insert name of persons or organizations authorizing~~
83 ~~call)...." This subsection does not apply to any telephone call~~
84 ~~in which the individual making the call is not being paid and~~
85 ~~the individuals participating in the call know each other prior~~
86 ~~to the call.~~

87 (2)~~(3)~~ Any person who fails to include the disclaimer

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88 prescribed in this section in any electioneering communication
89 that is required to contain such disclaimer commits a
90 misdemeanor of the first degree, punishable as provided in s.
91 775.082 or s. 775.083.

92 Section 5. Section 106.147, Florida Statutes, is amended to
93 read:

94 106.147 Text message and telephone solicitation; disclosure
95 requirements; prohibitions; exemptions; penalties.—

96 (1) (a) Any text message or telephone call supporting or
97 opposing a candidate, an elected public official, or a ballot
98 measure, and any electioneering text message or telephone call,
99 must include the phrase ~~proposal must identify the persons or~~
100 ~~organizations sponsoring the call by stating either: "Paid for~~
101 ~~by~~, followed by the ~~(insert name of the persons or~~
102 ~~organizations sponsoring the message or call) or, in the case of~~
103 ~~a text message, a working hyperlink or a uniform resource~~
104 ~~locator (URL) to a website containing the required disclosure~~
105 ~~"paid for on behalf of" (insert name of persons or~~
106 ~~organizations authorizing call).~~

107 (b) A candidate's text message or telephone call must
108 include the phrase "Paid for by," followed by the name of the
109 candidate, then followed by the word "For," and the name of the
110 elective office sought.

111 (c) A website that is hyperlinked, or identified by URL, in
112 a text message must remain online and available to the public
113 for at least 30 days after the date of the election in which the
114 candidate or ballot measure that the advertisement supported or
115 opposed was voted on.

116 (d) 1. If an exchange consists of a sequence of multiple

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117 text messages sent on the same day, the sponsorship disclaimer
118 is only required to be included with the first text message.

119 2. A person or an organization is deemed to be in
120 compliance with this subsection if the sponsorship disclaimer
121 required by this subsection is included in the text message in
122 the form in which the person or organization intended it to be
123 sent, regardless of the form the carrier relayed it to the
124 recipient.

125 3. If a person or an organization includes a working
126 hyperlink or URL in the text message as part of the required
127 disclaimer, the person or organization is deemed to be in
128 compliance with this subsection even if the recipient's device
129 is incapable of accessing the referenced website.

130 (e) This subsection ~~paragraph~~ does not apply to any:

131 1. Telephone call:

132 a. In which both the individual making the call is not
133 being paid and the individuals participating in the call know
134 each other ~~before~~ ~~prior to~~ the call; or

135 b. That is a part of a series of like telephone calls
136 consisting of fewer than 1,000 completed calls averaging more
137 than 2 minutes in duration which are conducted for the purpose
138 of polling respondents regarding a candidate or an elected
139 public official.

140 2. Text message:

141 a. In which both the individual sending the text message is
142 not being paid and the text is individually sent without the
143 assistance of mass distribution technology, including a text
144 messaging platform; or

145 b. That requires the recipient to sign up or opt in to

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146 receive it.

147 ~~(b) Any telephone call conducted for the purpose of polling~~
148 ~~respondents concerning a candidate or elected public official~~
149 ~~which is a part of a series of like telephone calls that~~
150 ~~consists of fewer than 1,000 completed calls and averages more~~
151 ~~than 2 minutes in duration is presumed to be a political poll~~
152 ~~and not subject to the provisions of paragraph (a).~~

153 (2)(e) A text message or a No telephone call may not shall
154 state or imply that the caller:

155 (a) Represents any person or organization unless the person
156 or organization so represented has given specific approval in
157 writing to make such representation; or.

158 ~~(d) No telephone call shall state or imply that the caller~~

159 (b) Represents a nonexistent person or organization.

160 (3)(2) Any text message or telephone call, not conducted by
161 independent expenditure, which expressly advocates for or
162 against a candidate or ballot measure proposal requires prior
163 written authorization by the candidate or sponsor of the ballot
164 measure proposal that the text message or telephone call
165 supports. A copy of such written authorization must be placed on
166 file with the qualifying officer by the candidate or sponsor of
167 the ballot measure before proposal prior to the time the text
168 messages or telephone calls commence.

169 (4) (a)(3)(a) Any person who willfully violates any
170 ~~provision of~~ this section commits a misdemeanor of the first
171 degree, punishable as provided in s. 775.082 or s. 775.083.

172 (b) For purposes of paragraph (a), the term "person"
173 includes any individual or organization making an independent
174 expenditure; any candidate; any officer of any political

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175 committee, affiliated party committee, or political party
176 executive committee; any officer, partner, attorney, or other
177 representative of a corporation, partnership, or other business
178 entity; and any agent or other person acting on behalf of any
179 candidate, political committee, affiliated party committee,
180 political party executive committee, or corporation,
181 partnership, or other business entity.

182 Section 6. Section 106.1475, Florida Statutes, is amended
183 to read:

184 106.1475 Text message and telephone solicitation;
185 registered agent requirements; penalty.—

186 (1) Any person or organization that conducts ~~any~~ business
187 in this state consisting of sending text messages or placing
188 telephone calls that are subject to the disclaimer requirements
189 in s. 106.147 ~~which consists of making paid telephone calls~~
190 ~~supporting or opposing any candidate or elected public official~~
191 must, prior to conducting such business, have and continuously
192 maintain, for at least 180 days following the cessation of such
193 business activities in the state, a registered agent for the
194 purpose of any service of process, notice, or demand required or
195 authorized by law and must file with the division a notice of
196 such registered agent. Such registered agent must be an
197 individual who is a resident of this state, a domestic
198 corporation, or a foreign corporation authorized to do business
199 in this state. However, this subsection does not apply to any
200 person or organization already lawfully registered to conduct
201 business in this state.

202 (2) For purposes of this section, conducting business in
203 this state as specified in subsection (1) includes both sending

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204 text messages or placing telephone calls from a location in this
205 state and sending text messages or placing telephone calls from
206 a location outside this state to individuals located in this
207 state.

208 (3) (a) The division shall create and maintain forms for the
209 notice required by subsection (1), which, at a minimum, must
210 elicit all of the following information:

211 1. The name, address, and telephone number of the
212 registered agent.

213 2. The name, address, and telephone number of the person or
214 organization conducting business in this state as specified in
215 subsection (1).

216 (b) The person or organization conducting business in this
217 state as specified in subsection (1) must immediately notify the
218 division of any changes in the information required in paragraph
219 (a).

220 (4) Any person or organization that violates this section
221 commits a misdemeanor of the first degree, punishable as
222 provided in s. 775.082 or s. 775.083.

223 Section 7. This act shall take effect October 1, 2021.