

By Representative Carlton

1 A bill to be entitled
2 An act relating to political telephone
3 solicitation and polling; amending s. 106.011,
4 F.S.; providing definitions; creating s.
5 106.145, F.S.; requiring sponsorship
6 information or a toll-free telephone number for
7 access to such information to be provided in
8 certain political telephone polls or
9 solicitations and providing requirements with
10 respect thereto; prohibiting misrepresentation
11 with regard to sponsorship or access to
12 sponsorship; creating s. 106.147, F.S.;
13 requiring the appointment of a registered agent
14 for any person or organization conducting
15 certain political telephone polls or
16 solicitations; requiring the filing of a notice
17 of such appointment with the Division of
18 Elections of the Department of State and
19 providing requirements of such notice;
20 providing for long arm jurisdiction over
21 out-of-state persons or organizations
22 conducting certain political telephone polls or
23 solicitations in this state; providing a
24 penalty; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Subsections (18) and (19) are added to
29 section 106.011, Florida Statutes, to read:

30
31

1 106.011 Definitions.--As used in this chapter, the
2 following terms have the following meanings unless the context
3 clearly indicates otherwise:

4 (18)(a) "Persuasion poll" means any telephone survey,
5 or any series of telephone surveys that are similar in nature,
6 which aggregates or is designed to include more than 1,000
7 completed calls, which references a candidate or group of
8 candidates other than in a basic preference question, and to
9 which any one or more of the following apply:

10 1. A list or directory is used, in whole or in part,
11 to select respondents belonging to a particular subset or
12 combination of subsets of the population, based on demographic
13 or political characteristics such as race, sex, age,
14 ethnicity, or party affiliation.

15 2. The poll fails to make demographic inquiries on
16 factors such as age, household income, or status as a likely
17 voter, sufficient to allow for the tabulation of results based
18 on any relevant subset or combination of relevant subsets of
19 the population consistent with standard industry practices.

20 3. The pollster or polling organization does not
21 collect or tabulate survey results.

22 4. The poll takes less than 3 minutes to complete,
23 excluding any sponsorship identification.

24 5. The poll is commenced less than 10 days prior to an
25 election.

26 (b) The term "persuasion poll" does not include any
27 poll supporting a particular candidate which fails to
28 reference another candidate or candidates, other than in a
29 basic preference question.

30 (c) For purposes of this subsection:

31

1 1. "Completed call" means a telephone call voluntarily
2 terminated by the interviewer, polling organization, or
3 telephonic device initiating the call.

4 2. "Basic preference question" means a question which
5 provides a respondent with a nondescriptive list of
6 candidates' names and asks which candidate the respondent
7 supports in a particular race.

8 (19) "Political telephone solicitation or contact"
9 means any telephone call to a residence, other than a poll or
10 survey, which supports or opposes any candidate, elected
11 official, political party, or political organization.

12 Section 2. Section 106.145, Florida Statutes, is
13 created to read:

14 106.145 Persuasion polls; political telephone
15 solicitations or contacts; sponsorship disclosure
16 requirements.--

17 (1)(a) No person or organization may authorize,
18 commission, conduct, or administer any persuasion poll or
19 political telephone solicitation or contact by telephone or
20 telephonic device unless, during each call, the caller either:

21 1. Identifies each person or organization sponsoring
22 or authorizing the call by stating "This is a paid political
23 advertisement by ...(Name of each person or organization
24 sponsoring or authorizing the call)...." and also the
25 organization making the call, if different from the sponsor,
26 by stating "This call is being conducted by ...(Name of
27 organization)...."; or

28 2. Offers access to such identification by stating
29 "Sponsorship information for this poll, solicitation, or
30 contact is available for a limited time by calling the
31 following toll-free number ...(Toll-free number)...."

1 (b) If any person or organization sponsoring or
2 authorizing the call is not otherwise required to file
3 identifying documentation with election officials pursuant to
4 this chapter, a valid, current, publicly listed telephone
5 number for the person or organization must also be provided.

6 (c) If any person or organization sponsoring or
7 authorizing the call is affiliated with a candidate, the
8 candidate's name and the office sought by such candidate must
9 also be provided.

10 (d) If the call is an independent expenditure, a
11 statement that no candidate has approved the call must also be
12 provided.

13 (2) If the call provides a toll-free number for access
14 to sponsorship information instead of providing the
15 sponsorship information during the call:

16 (a) The toll-free number provided shall be operational
17 at the time the calls begin and shall continue in operation
18 until 1 week after the poll or series of solicitations or
19 contacts ends or until 5 p.m. on the day after election day,
20 whichever occurs first.

21 (b)1. The sponsorship information provided from the
22 toll-free number may include only:

23 a. The information required to be disclosed under
24 subsection (1);

25 b. The dates on which the poll or solicitations or
26 contacts were made; and

27 c. Instructions essential to the efficient operation
28 of the telephone system, such as directions for the caller to
29 "hold."

30 2. There shall be no reference to any candidate or
31 other person or organization, except as specifically

1 authorized in this paragraph, nor shall there be any reference
2 to any issue.

3 (c) Any toll-free telephone system used to provide
4 sponsorship information required by this section must be
5 designed to expeditiously process all callers, and that design
6 must be based on the premise that every respondent will timely
7 call for sponsorship information.

8 (3) There is no violation of this section if the
9 respondent voluntarily terminates the call or asks, before the
10 required disclosures are made, to be called back, unless the
11 respondent is in any way encouraged to do so by the person or
12 organization initiating the call.

13 (4) No person or organization may state or imply any
14 false or fictitious name or telephone number when providing
15 the disclosures required by this section.

16 (5) All oral disclosures required by this section must
17 be made in a clear and intelligible manner and must be
18 repeated in like fashion upon request of the respondent or, if
19 made by telephonic device, must offer respondents a procedure
20 to have the disclosures repeated.

21 (6) This section does not apply to a persuasion poll
22 or political telephone solicitation or contact if the
23 individuals participating in the call know each other prior to
24 the call.

25 (7) This section does not apply to a persuasion poll
26 or political telephone solicitation or contact if the caller
27 is not being paid.

28 Section 3. Section 106.147, Florida Statutes, is
29 created to read:

30
31

1 106.147 Persuasion polling and political telephone
2 solicitation or contact; registered agent requirements;
3 penalty.--

4 (1) Any person or organization that conducts any paid
5 persuasion poll or paid political telephone solicitation or
6 contact in this state must, prior to conducting such business,
7 have and continuously maintain, for at least 180 days
8 following the cessation of such business activities in the
9 state, a registered agent for the purpose of any service of
10 process, notice, or demand required or authorized by law and
11 must file with the division a notice of such registered agent.
12 Such registered agent must be an individual who is a resident
13 of this state, a domestic corporation, or a foreign
14 corporation authorized to do business in this state. However,
15 this subsection does not apply to any person or organization
16 already lawfully registered to conduct business in this state.

17 (2) For purposes of this section, conducting business
18 in this state as specified in subsection (1) includes both
19 placing telephone calls from a location in this state and
20 placing telephone calls from a location outside this state to
21 individuals located in this state.

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

25 1. The name, address, and telephone number of the
26 registered agent.

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

30 (b) The person or organization conducting business in
31 this state as specified in subsection (1) must immediately

1 notify the division of any changes in the information required
2 in paragraph (a).

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

6 Section 4. This act shall take effect January 1, 1998.

7

8

9

HOUSE SUMMARY

10

11 Requires sponsorship information or a toll-free telephone
12 number for access to such information to be provided in
13 certain political telephone polls or solicitations and
14 provides requirements with respect thereto. Prohibits
15 misrepresentation with regard to sponsorship or access to
16 sponsorship. Requires the appointment of a registered
17 agent for any person or organization conducting certain
18 political telephone polls or solicitations. Requires the
19 filing of a notice of such appointment with the Division
20 of Elections of the Department of State and provides
21 requirements of such notice. Provides for long arm
22 jurisdiction over out-of-state persons or organizations
23 conducting certain political telephone polls or
24 solicitations in this state. See bill for details.

18

19

20

21

22

23

24

25

26

27

28

29

30

31