

By Senator Sachs

34-00110A-13

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1 A bill to be entitled
 2 An act relating to elections; amending s. 104.271,
 3 F.S.; revising the provision concerning false or
 4 malicious statements about a candidate; prohibiting
 5 certain parties from making any statement or
 6 sponsoring political advertising or electioneering
 7 communications with actual malice; providing a
 8 penalty; defining the term "libel or defamation per
 9 se"; amending s. 106.143, F.S.; requiring a candidate
 10 to file an oath with his or her filing officer within
 11 a specified time after the original publication of a
 12 political advertisement; reenacting s. 106.265(1),
 13 F.S., relating to civil penalties, to incorporate the
 14 amendments made to s. 104.271, F.S., in a reference
 15 thereto; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 104.271, Florida Statutes, is amended to
 20 read:

21 104.271 False or malicious ~~charges against, or false~~
 22 statements about, ~~opposing~~ candidates; penalty.-

23 (1) A ~~Any~~ candidate who, in a primary election or other
 24 election, willfully accuses ~~charges~~ an opposing candidate
 25 participating in such election of ~~with~~ a violation ~~of any~~
 26 ~~provision~~ of this code, which accusation ~~charge~~ is known by the
 27 candidate making such accusation ~~charge~~ to be false or
 28 malicious, commits ~~is guilty of~~ a felony of the third degree,
 29 punishable as provided in s. 775.082 or s. 775.083 and, if

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30 convicted, is in addition, after conviction shall be
31 disqualified to hold office.

32 (2) A person, candidate, political committee,
33 electioneering communications organization, political party, or
34 other organization or group of persons, including a group
35 organized under s. 527 of the Internal Revenue Code of 1986,
36 which ~~Any candidate who~~, in a primary election or other
37 election, ~~with actual malice~~ makes or causes to be made a any
38 statement, or sponsors a political advertisement or
39 electioneering communication, about a an opposing candidate with
40 actual malice which constitutes libel or defamation per se,
41 violates ~~which is false is guilty of a violation of this code.~~
42 An aggrieved candidate may file a complaint with the Florida
43 Elections Commission pursuant to s. 106.25. The commission shall
44 adopt rules to provide an expedited hearing of complaints filed
45 under this subsection. Notwithstanding any other provision of
46 law, the commission shall assess a civil penalty of up to \$5,000
47 against the person, candidate, political committee,
48 electioneering communications organization, political party, or
49 other organization or group of persons, including a group
50 organized under s. 527 of the Internal Revenue Code of 1986, any
51 ~~candidate~~ found in violation of this subsection, which sum shall
52 be deposited into ~~to~~ the account of the General Revenue Fund of
53 the state. The penalty shall be commensurate with the
54 commission's determination of the extent of the damages suffered
55 by the candidate and the scope, substance, or intent of the
56 violation.

57 (3) As used in this section, the term "libel or defamation
58 per se" means a false or malicious statement that injures the

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59 reputation of a candidate and exposes the candidate to public
60 hatred, contempt, or ridicule.

61 Section 2. Subsection (12) is added to section 106.143,
62 Florida Statutes, to read:

63 106.143 Political advertisements circulated prior to
64 election; requirements.—

65 (12) A candidate, in a primary election or other election,
66 shall file an oath with his or her filing officer within 72
67 hours after the original publication of the political
68 advertisement attesting that the content of the political
69 advertisement is truthful and has been verified and approved by
70 the candidate. A candidate who files with the division must file
71 such oath by means of the division's electronic filing system
72 pursuant to s. 106.0705.

73 Section 3. For the purpose of incorporating the amendment
74 made by this act to section 104.271, Florida Statutes, in a
75 reference thereto, subsection (1) of section 106.265, Florida
76 Statutes, is reenacted to read:

77 106.265 Civil penalties.—

78 (1) The commission or, in cases referred to the Division of
79 Administrative Hearings pursuant to s. 106.25(5), the
80 administrative law judge is authorized upon the finding of a
81 violation of this chapter or chapter 104 to impose civil
82 penalties in the form of fines not to exceed \$1,000 per count,
83 or, if applicable, to impose a civil penalty as provided in s.
84 104.271 or s. 106.19.

85 Section 4. This act shall take effect July 1, 2013.