

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
33 | following terms have the following meanings unless the context
34 | clearly 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
49 | geographic 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)"

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
64 or political advertisement used by a candidate and the
65 candidate's supporters or by a political committee if the
66 message or 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
 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
 93 | to read:

94 | 106.147 Text message and telephone solicitation;
 95 | disclosure 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,
112 in 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
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
142 is 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
146 receive it.

147 ~~(b) Any telephone call conducted for the purpose of~~
148 ~~polling respondents concerning a candidate or elected public~~
149 ~~official which is a part of a series of like telephone calls~~
150 ~~that consists of fewer than 1,000 completed calls and averages~~

151 ~~more than 2 minutes in duration is presumed to be a political~~
152 ~~poll 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
156 person or organization so represented has given specific
157 approval in 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
161 by 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
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
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
209 the 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
214 or organization conducting business in this state as specified
215 in 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.