

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5141

A bill to amend 1976 PA 388, entitled
"Michigan campaign finance act,"
by amending section 47 (MCL 169.247), as amended by 2015 PA 269,
and by adding section 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 47. (1) Except as otherwise provided in this subsection
2 and subject to subsections (3) and (4), a billboard, placard,
3 poster, pamphlet, or other printed matter having reference to an
4 election, a candidate, or a ballot question, ~~shall bear upon it~~
5 **must display** an identification that contains the name and address
6 of the person paying for the matter. Except as otherwise provided
7 in this subsection and subsection (5) and subject to subsections
8 (3) and (4), if the printed matter relating to a candidate is an

1 independent expenditure that is not authorized in writing by the
 2 candidate committee of that candidate, in addition to the
 3 identification required under this subsection, the printed matter
 4 ~~shall~~**must** contain the following disclaimer: "Not authorized by any
 5 candidate committee". An individual other than a candidate is not
 6 subject to this subsection if the individual is acting
 7 independently and not acting as an agent for a candidate or any
 8 committee. This subsection does not apply to communications between
 9 a separate segregated fund established under section 55 and
 10 individuals who can be solicited for contributions to that separate
 11 segregated fund under section 55.

12 (2) A radio or television paid advertisement having reference
 13 to an election, a candidate, or a ballot question ~~shall~~**must**
 14 identify the sponsoring person as required by the Federal
 15 Communications Commission, bear an identification that contains the
 16 name of the person paying for the advertisement, and be in
 17 compliance with subsection (3) and, except as otherwise provided by
 18 subsection (5), with the following:

19 (a) If the radio or television paid advertisement relates to a
 20 candidate and is an independent expenditure, the advertisement
 21 ~~shall~~**must** contain the following disclaimer: "Not authorized by any
 22 candidate".

23 (b) If the radio or television paid advertisement relates to a
 24 candidate and is not an independent expenditure but is paid for by
 25 a person other than the candidate to which it is related, the
 26 advertisement ~~shall~~**must** contain the following disclaimer:

27 "Authorized by.....".

28 (name of candidate or name of candidate committee)

29 (3) The size and placement of an identification or disclaimer

1 required by this section ~~shall~~**must** be determined by rules
2 promulgated by the secretary of state. The rules may exempt printed
3 matter and certain other items such as campaign buttons or
4 balloons, the size of which makes it unreasonable to add an
5 identification or disclaimer, from the identification or disclaimer
6 required by this section.

7 (4) Except for a communication described in subsection (5) and
8 except for a candidate committee's printed matter or radio or
9 television paid advertisements, each identification required by
10 this section ~~shall~~**must** also indicate that the printed matter or
11 radio or television paid advertisement is paid for "with regulated
12 funds". Printed matter or a radio or television paid advertisement
13 that is not subject to this act ~~shall~~**must** not bear the statement
14 required by this subsection.

15 (5) A communication otherwise entirely exempted from this act
16 under section 6(2)(j) is subject to both of the following:

17 (a) Must contain the identification required by subsection
18 (1), (2), or (7) if that communication references a clearly
19 identified candidate or ballot question within 60 days before a
20 general election or 30 days before a primary election in which the
21 candidate or ballot question appears on a ballot and is targeted to
22 the relevant electorate where the candidate or ballot question
23 appears on the ballot by means of radio, television, mass mailing,
24 or prerecorded telephone message.

25 (b) Is not required to contain the disclaimer required ~~by~~
26 **under** subsection (1) or (2).

27 (6) A person who knowingly violates this section is guilty of
28 a misdemeanor punishable by a fine of not more than \$1,000.00 ~~—~~or
29 imprisonment for not more than 93 days, or both.

1 (7) A prerecorded telephone message that in express terms
2 advocates the election or defeat of a clearly identified candidate,
3 or the qualification, passage, or defeat of a ballot question,
4 ~~shall~~**must** bear an identification that contains the name and
5 telephone number, address, or other contact information of the
6 person paying for the prerecorded telephone message, and ~~shall~~**must**
7 be in compliance with subsection (4). ~~A~~**Except as otherwise**
8 **provided in this subsection, a** prerecorded telephone message
9 subject to this subsection is not required to contain a disclaimer.
10 **If the prerecorded telephone message is generated in whole or**
11 **substantially by artificial intelligence, the prerecorded telephone**
12 **message must contain the following disclaimer: "This message was**
13 **generated in whole or substantially by artificial intelligence."**

14 Sec. 59. (1) If a person, committee, or other entity creates,
15 **originally** publishes, or originally distributes a qualified
16 political advertisement, the qualified political advertisement must
17 include, in a clear and conspicuous manner, a statement that meets
18 all of the following requirements, as applicable:

19 (a) State that the qualified political advertisement was
20 generated in whole or substantially by artificial intelligence.

21 (b) If the qualified political advertisement is a graphic
22 communication, appear in letters at least as large as the majority
23 of the text in the graphic communication and be in the same
24 language as the language used in the graphic communication.

25 (c) If the qualified political advertisement is an audio
26 communication, be spoken in a clearly audible and intelligible
27 manner at the beginning or end of the communication, last at least
28 3 seconds, and be in the same language as the language used in the
29 audio communication.

1 (d) If the qualified political advertisement is a video
2 communication that also includes audio, do all of the following:

3 (i) Appear for at least 4 seconds in letters at least as large
4 as the majority of any text communication, or if there is no other
5 text communication, in a size that is easily readable by the
6 average viewer.

7 (ii) Be spoken in a clearly audible and intelligible manner at
8 the beginning or end of the communication and last at least 3
9 seconds.

10 (iii) Be in the same language as the language used in the video
11 communication.

12 (2) A person that violates subsection (1) is subject to the
13 following:

14 (a) For a first violation, the person is responsible for a
15 state civil infraction and may be ordered to pay a civil fine of
16 not more than \$250.00.

17 (b) For a second or subsequent violation, the person is
18 responsible for a state civil infraction and may be ordered to pay
19 a civil fine of not more than \$1,000.00 for each violation.

20 (3) Each qualified political advertisement that is distributed
21 or aired to the public that violates this section is a separate
22 violation under subsection (2).

23 (4) This section does not apply to any of the following:

24 (a) A radio or television broadcasting station, including a
25 cable or satellite television operator, programmer, or producer
26 that broadcasts a qualified political advertisement or a
27 communication generated in whole or substantially by artificial
28 intelligence as part of a bona fide newscast, news interview, news
29 documentary, or on-the-spot coverage of bona fide news events, if

1 the broadcast clearly acknowledges through content or a disclosure,
2 in a manner that can be easily heard or read by the average
3 listener or viewer, that the qualified political advertisement or
4 communication generated in whole or substantially by artificial
5 intelligence does not accurately represent the speech or conduct of
6 the depicted individual.

7 (b) A radio or television broadcasting station, including a
8 cable or satellite television operator, programmer, or producer,
9 when the station is paid to broadcast qualified political
10 advertisements.

11 (c) A distribution platform, including, but not limited to, a
12 website or a regularly published newspaper, magazine, or other
13 periodical of general circulation, including an internet or
14 electronic publication, that routinely carries news and commentary
15 of general interest and that publishes qualified political
16 advertisements prohibited under this section, if the distribution
17 platform has a clearly stated written policy, provided to any
18 person, committee, or other entity that creates, seeks to publish,
19 or originally distributes a qualified political advertisement, that
20 the qualified political advertisement must include a statement
21 consistent with subsection (1).

22 (d) A qualified political advertisement that constitutes
23 satire or parody.

24 (e) A business or its affiliate if the business or its
25 affiliate is regulated by the Michigan public service commission or
26 the Federal Communications Commission.

27 (5) A distribution platform, as described in subsection
28 (4) (c), is not liable for the lack of disclosure content created in
29 whole or substantially by artificial intelligence in a qualified

1 political advertisement or prerecorded telephone message if the
2 distribution platform can show that the distribution platform
3 provided notice of its prohibitions related to a lack of disclosure
4 of content created in whole or substantially by artificial
5 intelligence in a qualified political advertisement or prerecorded
6 telephone message.

7 (6) As used in this section, "qualified political
8 advertisement" means any paid advertisement, including, but not
9 limited to, search engine marketing, display advertisements, video
10 advertisements, native advertisements, issue advertisements,
11 messaging service advertisements, mobile application
12 advertisements, and sponsorships, relating to a candidate for
13 federal, state, or local office in this state, any election to
14 federal, state, or local office in this state, or a ballot question
15 that contains any image, audio, or video that is generated in whole
16 or substantially with the use of artificial intelligence.

17 Enacting section 1. This amendatory act does not take effect
18 unless House Bill No. 5143 of the 102nd Legislature is enacted into
19 law.