

HOUSE BILL NO. 5141

October 12, 2023, Introduced by Reps. Tsernoglou, Rheingans, Price, Conlin, Puri, Paiz, Hope, Martus, Brixie, Bierlein, Rogers, Scott, Andrews, McFall, Brabec, Morse, Haadsma, Wilson, Dievendorf, Morgan, Aragona, Hood, Skaggs, Byrnes, Steckloff, Tyrone Carter, MacDonell, Hoskins, Brenda Carter, O'Neal, Neeley, Shannon and Farhat and referred to the Committee on Elections.

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~~

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

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

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

27 (b) If the radio or television paid advertisement relates to a
28 candidate and is not an independent expenditure but is paid for by
29 a person other than the candidate to which it is related, the

1 advertisement ~~shall~~**must** contain the following disclaimer:

2 "Authorized by.....".

3 (name of candidate or name of candidate committee)

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

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

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

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

29 (b) Is not required to contain the disclaimer required ~~by~~

1 **under** subsection (1) or (2).

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

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

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

23 (a) State that the qualified political advertisement was
24 generated in whole or in part by artificial intelligence.

25 (b) If the qualified political advertisement is a text or
26 graphic communication, appear in letters at least as large as the
27 majority of the text in the communication.

28 (c) If the qualified political advertisement is an audio
29 communication, be spoken in a clearly audible and intelligible

1 manner at the beginning or end of the communication and last at
2 least 3 seconds.

3 (d) If the qualified political advertisement is a video
4 communication that also includes audio, do both of the following:

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

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

12 (2) A person that violates subsection (1) is guilty of the
13 following:

14 (a) For a first violation, a misdemeanor punishable by
15 imprisonment for not more than 93 days or a fine of not more than
16 \$1,000.00, or both.

17 (b) For a second violation, a misdemeanor punishable by
18 imprisonment for not more than 93 days or a fine of not more than
19 \$1,500.00, or both.

20 (c) For a third or subsequent violation, a felony punishable
21 by imprisonment for not more than 2 years or a fine of not more
22 than \$2,000.00, or both.

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

26 (4) If a person, including, but not limited to, a committee,
27 creates, publishes, or distributes a textual, pictorial, audio, or
28 video communication that is generated in whole or part by
29 artificial intelligence, references an election, a candidate, or a

1 ballot question, and is not a qualified political advertisement,
2 the communication must contain the following disclaimer: "This
3 communication was generated in whole or part by artificial
4 intelligence."

5 (5) A person other than a committee that violates subsection
6 (4) is subject to the following:

7 (a) For a first offense, the person is responsible for a state
8 civil infraction and may be ordered to pay a civil fine of not more
9 than \$250.00 for each violation.

10 (b) For a second or subsequent offense, the person is guilty
11 of a misdemeanor punishable by imprisonment for not more than 93
12 days or a fine of not more than \$1,000.00, or both.

13 (6) A committee that violates subsection (4) is guilty of a
14 misdemeanor punishable by imprisonment for not more than 93 days or
15 a fine of not more than \$1,000.00, or both.

16 (7) The attorney general or a candidate for office who has
17 been injured or is likely to be injured by a violation of this
18 section may apply to any of the following courts for injunctive
19 relief against a person for violating this section:

20 (a) The circuit court for Ingham County.

21 (b) The circuit court for the county in which a party to the
22 alleged violative act or practice resides.

23 (c) The circuit court for the county in which the violation of
24 this section could deceive and influence voters in an upcoming
25 election.

26 (8) This section does not apply to any of the following:

27 (a) A radio or television broadcasting station, including a
28 cable or satellite television operator, programmer, or producer
29 that broadcasts materially deceptive audio or visual media

1 prohibited under this section as part of a bona fide newscast, news
2 interview, news documentary, or on-the-spot coverage of bona fide
3 news events, if the broadcast clearly acknowledges through content
4 or a disclosure, in a manner that can be easily heard or read by
5 the average listener or viewer, that the materially deceptive media
6 does not accurately represent the speech or conduct of the depicted
7 individual.

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

12 (c) A website or a regularly published newspaper, magazine, or
13 other 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 publication
17 clearly states that the qualified political advertisement was
18 generated in whole or in part by artificial intelligence.

19 (d) A qualified political advertisement that constitutes
20 satire or parody.

21 (9) As used in this section, "qualified political
22 advertisement" means any advertisement, including, but not limited
23 to, search engine marketing, display advertisements, video
24 advertisements, native advertisements, and sponsorships, involving
25 a candidate for federal, state, or local office in this state, any
26 election to federal, state, or local office in this state, or a
27 ballot question that does both of the following:

28 (a) Contains any image, audio, or video that is generated in
29 whole or in part with the use of artificial intelligence.

1 **(b) Is made by or on behalf of a candidate or committee.**

2 Enacting section 1. This amendatory act does not take effect
3 unless Senate Bill No.____ or House Bill No. 5143 (request no.
4 04204'23) of the 102nd Legislature is enacted into law.