

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 publishes, or originally distributes a qualified political
16 advertisement, the qualified political advertisement must include,
17 in a clear and conspicuous manner, a statement that meets all of
18 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 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 originally distributes a pictorial, audio,
28 or video communication that is generated in whole or substantially
29 by artificial intelligence, references an election, a candidate, or

1 a 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 substantially 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 the county in which a party to the
21 alleged violative act or practice resides.

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

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

26 (a) A radio or television broadcasting station, including a
27 cable or satellite television operator, programmer, or producer
28 that broadcasts a qualified political advertisement or a
29 communication generated in whole or substantially by artificial

1 intelligence as part of a bona fide newscast, news interview, news
2 documentary, or on-the-spot coverage of bona fide news events, if
3 the broadcast clearly acknowledges through content or a disclosure,
4 in a manner that can be easily heard or read by the average
5 listener or viewer, that the qualified political advertisement or
6 communication generated in whole or substantially by artificial
7 intelligence does not accurately represent the speech or conduct of
8 the depicted individual.

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

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

24 (d) A qualified political advertisement that constitutes
25 satire or parody.

26 (9) A distribution platform, as described in subsection
27 (8)(c), is not liable for the lack of disclosure content created in
28 whole or substantially by artificial intelligence in a qualified
29 political advertisement or prerecorded telephone message if the

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

6 (10) As used in this section, "qualified political
7 advertisement" means any advertisement, including, but not limited
8 to, search engine marketing, display advertisements, video
9 advertisements, native advertisements, messaging service
10 advertisements, mobile application advertisements, and
11 sponsorships, involving a candidate for federal, state, or local
12 office in this state, any election to federal, state, or local
13 office in this state, or a ballot question that does both of the
14 following:

15 (a) Contains any image, audio, or video that is generated in
16 whole or substantially with the use of artificial intelligence.

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

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