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HOUSE BILL DRH30477-TC-49

Short Title: Digital Communications in Elections. (Public)

Sponsors: Representatives Harrison, Lewis, G. Martin, and Hardister (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO DEFINE AND REGULATE DIGITAL COMMUNICATION IN
3 ELECTIONEERING COMMUNICATIONS AND ADVERTISING DISCLOSURES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 163A-1411 is amended by adding a new subdivision to read:

6 "(29) The term "digital communication" means any communication placed on an
7 online platform that meets all of the following characteristics:

8 a. Is a public-facing Web site, Web application, or digital application,
9 including a social network, advertising network, or search engine.

10 b. Sells political advertisements, including search engine marketing,
11 display advertisements, video advertisements, native advertisements,
12 and sponsorships."

13 **SECTION 2.** G.S. 163A-1411(41) reads as rewritten:

14 "(41) The term "electioneering communication" means any broadcast, cable, or
15 satellite communication, ~~or~~ mass mailing, ~~or~~ telephone bankbank, or digital
16 communication that has all the following characteristics:

17 a. Refers to a clearly identified candidate for elected office.

18 b. In the case of the general election in November of the even-numbered
19 year is aired or transmitted after September 7 of that year, and in the
20 case of any other election is aired or transmitted within 60 days of the
21 time set for absentee voting to begin pursuant to G.S. 163A-1300,
22 163A-1301, 163A-1302, 163A-1303, and 163A-1304 in an election
23 for that office.

24 c. May be received by either:

25 1. 50,000 or more individuals in the State in an election for
26 statewide office or 7,500 or more individuals in any other
27 election if in the form of broadcast, cable, or satellite
28 ~~communication~~ communication or digital communication.

29 2. 20,000 or more households, cumulative per election, in a
30 statewide election or 2,500 households, cumulative per
31 election, in any other election if in the form of mass mailing or
32 telephone bank."

33 **SECTION 3.** G.S. 163A-1411(43) reads as rewritten:

34 "(43) The term "electioneering communication" does not include any of the
35 following:



1 a. A communication appearing in a news story, commentary, or editorial
 2 distributed through the facilities of any broadcasting ~~station, station or~~
 3 any online or digital newspaper, magazine, blog, publication, or
 4 periodical, unless these such broadcasting, online, or digital facilities
 5 are owned or controlled by any political party, affiliated party
 6 committee, political committee, or candidate.

7 ...

8 g. A communication made by a news medium, as defined in
 9 ~~G.S. 8-53.11(a)(3), if the communication is in~~
 10 print. ~~G.S. 8-53.11(a)(3)."~~

11 **SECTION 4.** G.S. 163A-1411(70) reads as rewritten:

12 "(70) The term "mass mailing" means any mailing by United States ~~mail or mail,~~
 13 ~~facsimile, or messages sent and received electronically~~ to 20,000 or
 14 more households, cumulative per election, in a statewide election or 2,500
 15 households, cumulative per election, in any other election."

16 **SECTION 5.** G.S. 163A-1434(b) reads as rewritten:

17 "(b) Each media outlet shall require written authority for each independent expenditure or
 18 electioneering communication from each individual, person, or entity making or authorizing an
 19 independent expenditure or electioneering communication. All written authorizations of
 20 independent expenditures or electioneering communications shall be deemed public records, and
 21 copies of those written authorizations shall be available for inspection during normal business
 22 hours at the office(s) of the media outlet making the publication or broadcast nearest to the
 23 place(s) of publication or broadcast. The written authorization shall include all of the following:

- 24 (1) The name and address of the individual, person, or entity making the
 25 independent expenditure or electioneering communication.
 26 (2) The information required by G.S. 163A-1476(a), provided however that the
 27 provisions of G.S. 163A-1476(a)(7) and (a)(8) shall not apply to radio or
 28 television advertising.

29 For the purposes of this section, a media outlet shall include any online platform that meets
 30 the characteristics defined in G.S. 163A-1411(29)."

31 **SECTION 6.** G.S. 163A-1475(1) reads as rewritten:

32 "(1) "Advertisement" means any message appearing in the print media, on
 33 ~~television, or on radio~~ television or radio, or through digital communication
 34 that constitutes a contribution or expenditure under this Article."

35 **SECTION 7.** G.S. 163A-1476 reads as rewritten:

36 **"§ 163A-1476. Basic disclosure requirements for all political advertisements.**

37 (a) Basic Requirements. – It shall be unlawful for any sponsor to sponsor an
 38 advertisement in the print ~~media or media,~~ on radio or ~~television~~ television, or through digital
 39 communication that constitutes an expenditure, independent expenditure, electioneering
 40 communication, or contribution required to be disclosed under this Article unless all the
 41 following conditions are met:

- 42 (1) It bears the legend or includes the statement: "Paid for by ____ [Name of
 43 candidate, candidate campaign committee, political party organization,
 44 political action committee, referendum committee, individual, or other
 45 sponsor]." In television or digital communication advertisements, this
 46 disclosure shall be made by visual legend.

47 ...

48 (b) Size Requirements. – Size requirements shall be as follows:

- 49 (1) In a print media advertisement covered by subsection (a) of this section, the
 50 height of all disclosure statements required by that subsection shall constitute
 51 at least five percent (5%) of the height of the printed space of the

1 advertisement, provided that the type shall in no event be less than 12 points
2 in size. In an advertisement in a newspaper or a newspaper insert, the total
3 height of the disclosure statement need not constitute five percent (5%) of the
4 printed space of the advertisement if the type of the disclosure statement is at
5 least 28 points in size. If a single advertisement consists of multiple pages,
6 folds, or faces, the disclosure requirement of this section applies only to one
7 page, fold, or face.

8 (2) In a television advertisement covered by subsection (a) of this section, the
9 visual disclosure legend shall constitute four percent (4%) of vertical picture
10 height in size, and where the television advertisement that appears is paid for
11 by a candidate or candidate campaign committee, the visual disclosure legend
12 shall appear simultaneously with an easily identifiable photograph of the
13 candidate for at least two seconds.

14 (3) In a radio advertisement covered by subsection (a) of this section, the
15 disclosure statement shall last at least two seconds, provided the statement is
16 spoken so that its contents may be easily understood.

17 (4) In a digital communication advertisement covered by subsection (a) of this
18 section, the disclosure statement shall appear in letters at least as large as the
19 majority of the text in the communication and have a reasonable degree of
20 color contrast between the background and the disclosure statement. If the
21 digital communication is disseminated through a medium in which the
22 provision of the disclosure statement is not possible, the communication shall,
23 in a clear and conspicuous manner, include the following:

24 a. The name of the person who paid for the communication.

25 b. A means for the recipient of the communication to obtain the
26 remainder of the information required by this section with minimal
27 effort and without receiving or viewing any additional material other
28 than the disclosure statement.

29 (c) Misrepresentation of Authorization. – Notwithstanding G.S. 163A-1445(a), any
30 candidate, candidate campaign committee, political party organization, political action
31 committee, referendum committee, individual, or other sponsor making an advertisement in the
32 print ~~media or~~ media, on radio or ~~television~~ television, or through digital communication bearing
33 any legend required by subsection (a) of this section that misrepresents the sponsorship or
34 authorization of the advertisement is guilty of a Class 1 misdemeanor."

35 **SECTION 8.** This act becomes effective January 1, 2019, and applies to elections
36 conducted on or after that date.