

SENATE BILL NO. 397

INTRODUCED BY C. KAUFMANN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE AUTHORITY OF THE COMMISSIONER OF
5 POLITICAL PRACTICES TO ENFORCE LAWS PERTAINING TO ANONYMOUS ELECTION MATERIAL;
6 PROVIDING NEW CIVIL PENALTIES; PROVIDING A HEARING PROCESS; PROVIDING FOR THE
7 COLLECTION AND DISPOSITION OF PENALTIES; AND AMENDING SECTION 13-35-225, MCA."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 NEW SECTION. **Section 1. Civil penalties for anonymous materials -- option for hearing --**
12 **collection and disposition of penalty amounts.** (1) In addition to any other penalties or remedies established
13 by law, a person whose election materials violate a provision of 13-35-225 is subject to a civil penalty of \$100 for
14 each instance, as defined by rule, in which the election material is not corrected or withdrawn from circulation
15 after an order of noncompliance has been issued under 13-35-225(6), up to a maximum penalty of \$2,500.

16 (2) (a) A person against whom a civil penalty is imposed pursuant to this section may request a hearing
17 before the commissioner within 10 days of receiving a notice from the commissioner of imposition of a civil
18 penalty. Upon receipt of a timely request, the commissioner shall hold an informal contested case hearing under
19 the provisions of Title 2, chapter 4, part 6.

20 (b) At the hearing, the commissioner shall consider any mitigating factors or circumstances and may
21 reduce or waive the civil penalty.

22 (3) (a) Penalties not paid in a timely manner are subject to collection pursuant to Title 17, chapter 4, part
23 1.

24 (b) Subject to 17-4-106, penalties paid pursuant to this section must be deposited to the general fund.
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26 **Section 2.** Section 13-35-225, MCA, is amended to read:

27 "**13-35-225. Election materials not to be anonymous -- statement of accuracy -- order of**
28 **noncompliance -- penalty.** (1) All communications advocating the success or defeat of a candidate, political
29 party, or ballot issue through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct
30 mailing, poster, handbill, bumper sticker, internet website, or other form of general political advertising must

1 clearly and conspicuously include the attribution "paid for by" followed by the name and address of the person
2 who made or financed the expenditure for the communication. When a candidate or a candidate's campaign
3 finances the expenditure, the attribution must be the name and the address of the candidate or the candidate's
4 campaign. In the case of a political committee, the attribution must be the name of the committee, the name of
5 the committee treasurer, and the address of the committee or the committee treasurer.

6 (2) Communications in a partisan election financed by a candidate or a political committee organized
7 on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

8 (3) (a) Printed election material described in subsection (1) that includes information about another
9 candidate's voting record must include:

10 (i) a reference to the particular vote or votes upon which the information is based;

11 (ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue if
12 closely related in time; and

13 (iii) a statement, signed as provided in subsection (3)(b), that to the best of the signer's knowledge, the
14 statements made about the other candidate's voting record are accurate and true.

15 (b) The statement required under subsection (3)(a) must be signed:

16 (i) by the candidate if the election material was prepared for the candidate or the candidate's political
17 committee and includes information about another candidate's voting record; or

18 (ii) by the person financing the communication or the person's legal agent if the election material was not
19 prepared for a candidate or a candidate's political committee.

20 (4) If a document or other article of advertising is too small for the requirements of subsections (1)
21 through (3) to be conveniently included, the candidate responsible for the material or the person financing the
22 communication shall file a copy of the article with the commissioner of political practices, together with the
23 required information or statement, at the time of its public distribution.

24 (5) If information required in subsections (1) through (3) is omitted or not printed, upon discovery of or
25 notification about the omission, the candidate responsible for the material or the person financing the
26 communication shall:

27 (a) file notification of the omission with the commissioner of political practices within 5 days of the
28 discovery or notification;

29 (b) bring the material into compliance with subsections (1) through (3); and

30 (c) withdraw any noncompliant communication from circulation as soon as reasonably possible.

1 (6) If the commissioner determines that election material does not comply with the provisions of this
2 section and that the person responsible for the material has been notified and has had a reasonable opportunity
3 to bring the material into compliance or withdraw the material as required in subsection (5), the commissioner
4 may issue an order of noncompliance and notify the person that the penalties and provisions of [section 1] apply
5 from the date the order of noncompliance is issued under this subsection."
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7 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
8 integral part of Title 13, chapter 37, and the provisions of Title 13, chapter 37, apply to [section 1].

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