

1 SENATE BILL NO. 293

2 INTRODUCED BY B. STORY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING POLITICAL CAMPAIGN ADVERTISING PROVISIONS;
5 REQUIRING THAT DOCUMENTATION TO SUPPORT CLAIMS AND ALLEGATIONS IN POLITICAL
6 ADVERTISEMENTS BE SUBMITTED TO THE COMMISSIONER OF POLITICAL PRACTICES; REQUIRING A
7 WEBSITE FOR PUBLIC ACCESS TO THE DOCUMENTATION; PROVIDING A COMPLAINT PROCESS AND
8 PENALTIES; AUTHORIZING RULEMAKING; AND AMENDING SECTION 13-35-225, MCA."

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

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12 NEW SECTION. **Section 1. Definition.** As used in [sections 1 through 4], 13-35-225, and 13-35-240,
13 "commissioner" means the commissioner of political practices established in 13-37-102.

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15 NEW SECTION. **Section 2. Supporting documentation required for advertisements about**
16 **candidates -- public access website.** (1) (a) A person financing any political advertisement making a claim or
17 allegation about a candidate's position on an issue or the candidate's voting record through any broadcast, print,
18 or internet media shall file with the commissioner documentation to support each claim or allegation made in the
19 advertisement.

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(b) Documentation concerning another candidate's voting record must include:

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

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(ii) a disclosure of contrasting votes known to have been made by the candidate on the same issue if

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closely related in time.

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(c) The person's agent shall also sign and submit an affidavit swearing that, to the best of the signer's
25 knowledge, each claim or allegation is true and verifiable based on the documentation submitted.

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(2) The documentation and affidavit must be submitted by no later than the date on which the
27 communication becomes public and in a format that allows for the documentation to be easily posted on a website
28 that the commissioner shall maintain for the purposes of this section. The commissioner may require that the
29 person submitting the documentation is responsible for completing actions necessary to post the documentation
30 on the website.

1
2 **NEW SECTION. Section 3. Complaint procedure -- penalty.** (1) Any person alleging a violation of
3 [section 1] either on the grounds that the required documentation was not filed or that it does not substantiate a
4 claim or allegation made in the political advertisement may file a complaint with the commissioner. A complaint
5 must be accompanied by documentation supporting the allegation of the violation.

6 (2) The commissioner shall immediately investigate the complaint pursuant to the authority provided in
7 13-37-111 and make a determination within 5 business days of receiving the complaint. The commissioner shall
8 immediately notify both parties of the determination.

9 (3) A person determined by the commissioner to have violated a provision of [section 2] shall immediately
10 withdraw the communication from circulation and advertise a retraction. The retraction must be advertised
11 beginning no later than 1 week after the notification under subsection (2) of this section for the same number of
12 days, in the same media, and targeting the same audience as the initial advertisement. If a person fails to comply
13 with the provisions of this subsection, the commissioner shall refer the matter to the county attorney, who may
14 file a cause of action against the person for false swearing under 45-7-202, except that the penalty for a person
15 convicted of false swearing pursuant to this section may not exceed \$5,000.

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17 **NEW SECTION. Section 4. Rulemaking.** The commissioner may adopt rules to implement the
18 provisions of [sections 1 through 4], 13-35-225, and 13-35-240.

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20 **Section 5.** Section 13-35-225, MCA, is amended to read:

21 **"13-35-225. Election materials not to be anonymous --~~statement of accuracy.~~** (1) All
22 communications advocating the success or defeat of a candidate, political party, or ballot issue through any
23 broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, poster, handbill, bumper
24 sticker, internet website, or other form of general political advertising must clearly and conspicuously include the
25 attribution "paid for by" followed by the name and address of the person who made or financed the expenditure
26 for the communication. When a candidate or a candidate's campaign finances the expenditure, the attribution
27 must be the name and the address of the candidate or the candidate's campaign. In the case of a political
28 committee, the attribution must be the name of the committee, the name of the committee treasurer, and the
29 address of the committee or the committee treasurer.

30 (2) Communications in a partisan election financed by a candidate or a political committee organized

1 on the candidate's behalf must state the candidate's party affiliation or include the party symbol.

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

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

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

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

9 ~~—— (b) The statement required under subsection (3)(a) must be signed:~~

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

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

14 ~~(4)(3)~~ If a document or other article of advertising is too small for the requirements of subsections (1)
15 ~~through (3) and (2)~~ to be conveniently included, the candidate responsible for the material or the person financing
16 the communication shall file a copy of the article with the commissioner ~~of political practices~~, together with the
17 required information or statement, at the time of its public distribution.

18 ~~(5)(4)~~ If information required in subsections (1) ~~through (3) and (2)~~ is omitted or material is not printed
19 filed as required in subsection (3), upon discovery of or notification about the omission or failure to file required
20 material, the candidate responsible for the material or the person financing the communication shall:

21 (a) file notification of the omission with the commissioner ~~of political practices~~ within 5 days of the
22 discovery or notification;

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

24 (c) withdraw any noncompliant communication from circulation as soon as reasonably possible."
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26 **NEW SECTION. Section 6. Codification instruction.** (1) [Sections 1 through 4] are intended to be
27 codified as an integral part of Title 13, chapter 35, and the provisions of Title 13, chapter 35, apply to [sections
28 1 through 4].

29 (2) Sections 13-35-225 and 13-35-240 are intended to be renumbered and codified with [sections 1
30 through 4] as a new part of Title 13, chapter 35.

