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HOUSE BILL NO. 849

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 24.2-955, 24.2-955.1, 24.2-957, and 24.2-958 of the Code of Virginia, relating to political campaign advertisements; applicability of disclosure requirements to advertisements placed or promoted for a fee on an online platform.

Patrons—Simon and Levine

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-955, 24.2-955.1, 24.2-957, and 24.2-958 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-955. Scope of disclosure requirements.

The disclosure requirements of this chapter apply to any sponsor of an advertisement in the print media, on radio or television, or placed or promoted for a fee on an online platform, the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 (§ 24.2-945 et seq.) except that the disclosure requirements of this chapter do not apply to (i) an individual who makes independent expenditures aggregating less than \$1,000 in an election cycle for or against a candidate for statewide office or less than \$200 in an election cycle for or against a candidate for any other office or (ii) an individual who incurs expenses only with respect to a referendum.

§ 24.2-955.1. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advertisement" means any message appearing in the print media, on television, on radio, or placed or promoted for a fee on an online platform, that constitutes a contribution or expenditure under Chapter 9.3 (§ 24.2-945 et seq.). "Advertisement" shall not include novelty items authorized by a candidate including, but not limited to, pens, pencils, magnets, and buttons to be attached to wearing apparel.

"Authorized by \_\_\_\_\_" means the same as "authorization" as defined in § 24.2-945.1.

"Campaign telephone calls" means a series of telephone calls, electronic or otherwise, made (i) to 25 or more telephone numbers in the Commonwealth, (ii) during the 180 days before a general or special election or during the 90 days before a primary or other political party nominating event, (iii) conveying or soliciting information relating to any candidate or political party participating in the election, primary or other nominating event, and (iv) under an agreement to compensate the telephone callers.

"Candidate" means "candidate" as defined in § 24.2-101.

"Candidate campaign committee" or "campaign committee" means "campaign committee" as defined in § 24.2-945.1.

"Coordinated" or "coordination" means an expenditure that is made (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

"Conspicuous" means so written, displayed, or communicated that a reasonable person ought to have noticed it.

"Full-screen" means the only picture appearing on the television screen during the oral disclosure statement that (i) contains the disclosing person, (ii) occupies all visible space on the television screen, and (iii) contains the image of the disclosing person that occupies at least 50% of the vertical height of the television screen.

"Independent expenditure" means "independent expenditure" as defined in § 24.2-945.1.

"Occurrence" means one broadcast of a radio or television political campaign advertisement.

"Online platform" means any public-facing website, web application, or digital application, including a social network, ad network, or search engine, that sells advertisements.

"Political action committee" means "political action committee" as defined in § 24.2-945.1.

"Political committee" means "political committee" as defined in § 24.2-945.1.

"Political party" has the same meaning as "party" or "political party" as defined in § 24.2-101.

"Political party committee" means any state political party committee, congressional district political party committee, county or city political party committee, or organized political party group of elected officials. The term shall not include any other organization or auxiliary associated with or using the

INTRODUCED

HB849

59 name of a political party.

60 "Print media" means billboards, cards, newspapers, newspaper inserts, magazines, printed material  
61 disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, ~~website~~ *websites*,  
62 electronic mail, *non-video or non-audio messages placed or promoted for a fee on an online platform*,  
63 yard signs, and outdoor advertising facilities. If a single print media advertisement consists of multiple  
64 pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face.

65 "Radio" means any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and  
66 317.

67 "Scan line" means a standard term of measurement used in the electronic media industry calculating  
68 a certain area in a television advertisement.

69 "Sponsor" means a candidate, candidate campaign committee, political committee, or person that  
70 purchases an advertisement.

71 "Television" means any television broadcast station, cable television system, wireless-cable multipoint  
72 distribution system, satellite company, or telephone company transmitting video programming that is  
73 subject to the provisions of 47 U.S.C. §§ 315 and 317.

74 "Unobscured" means that the only printed material that may appear on the television screen is a  
75 visual disclosure statement required by law, and that nothing is blocking the view of the disclosing  
76 person's face.

77 "Yard sign" means a sign paid for or distributed by a candidate, campaign committee, or political  
78 committee to be placed on public or private property. Yard signs paid for or distributed prior to July 1,  
79 2015, shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.

#### 80 Article 3.

#### 81 Television and Certain Video Advertisement Requirements.

#### 82 § 24.2-957. General provisions; applicability to advertisements in video format.

83 A. Television outlets *and online platforms* shall not be liable under this article for carriage of  
84 political advertisements that fail to include the disclosure requirements provided for in this article. This  
85 provision supersedes any contrary provisions of the Code of Virginia.

86 B. If the sponsor does not have the option of controlling the audio, if any, heard during the  
87 television advertisement, the disclosure requirements shall be the same as for print media.

88 C. The person accepting an advertisement for a television outlet *or online platform* shall require, and  
89 for one year shall retain a copy of, proof of identity of the person who submits the advertisement for  
90 broadcast. Proof of identity shall be submitted either (i) in person and include a valid Virginia driver's  
91 license, or any other identification card issued by a government agency of the Commonwealth, one of its  
92 political subdivisions, or the United States, or (ii) other than in person, in which case, the person  
93 submitting the advertisement shall provide a telephone number and the person accepting the  
94 advertisement may phone the person to verify the validity of the person's identifying information before  
95 broadcasting *or posting* the advertisement.

96 D. Any disclosure statement required by this article shall be displayed in a conspicuous manner.

97 E. *An advertisement that is in video format and is placed or promoted for a fee on an online*  
98 *platform shall be subject to the same disclosure requirements to which television advertisements are*  
99 *subject pursuant to this article.*

#### 100 Article 4.

#### 101 Radio and Certain Audio Advertisement Requirements.

#### 102 § 24.2-958. General provisions; applicability to advertisements in audio format.

103 A. Radio outlets *and online platforms* shall not be liable under this article for carriage of political  
104 advertisements that fail to include the disclosure requirements provided for in this article. This provision  
105 supersedes any contrary provisions of the Code of Virginia.

106 B. The person accepting an advertisement for a radio outlet *or online platform* shall require, and for  
107 one year shall retain a copy of, proof of identity of the person who submits the advertisement for  
108 broadcast. Proof of identity shall be submitted either (i) in person and include a valid Virginia driver's  
109 license, or any other identification card issued by a government agency of the Commonwealth, one of its  
110 political subdivisions, or the United States, or (ii) other than in person, in which case, the person  
111 submitting the advertisement shall provide a telephone number and the person accepting the  
112 advertisement may phone the person to verify the validity of the person's identifying information before  
113 broadcasting the advertisement.

114 C. Any disclosure statement required by this section shall be communicated in a conspicuous  
115 manner.

116 D. *An advertisement that is in audio format and is placed or promoted for a fee on an online*  
117 *platform shall be subject to the same disclosure requirements to which radio advertisements are subject*  
118 *pursuant to this article.*