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## HOUSE BILL NO. 849

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
 (Proposed by the Senate Committee on Privileges and Elections  
 on February 18, 2020)

(Patron Prior to Substitute—Delegate Simon)

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 and to amend the Code of Virginia by adding in Chapter 9.5 of Title 24.2 an article numbered 6, consisting of a section numbered 24.2-960, relating to political campaign advertisements; applicability of disclosure requirements to advertisements placed or promoted for a fee on an online platform; identification and certification requirements.

**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 and that the Code of Virginia is amended by adding in Chapter 9.5 of Title 24.2 an article numbered 6, consisting of a section numbered 24.2-960, 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 ~~or~~, 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, ~~or~~ on radio, *or 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.

"Online political advertisement" means an advertisement that is placed or promoted for a fee on an online platform.

"Online political advertiser" means any person who purchases an advertisement from an online platform or promotes an advertisement on an online platform for a fee.

"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.

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

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

69 "Radio" means any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and  
 70 317.

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

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

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

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

81 "Yard sign" means a sign paid for or distributed by a candidate, campaign committee, or political  
 82 committee to be placed on public or private property. Yard signs paid for or distributed prior to July 1,  
 83 2015, shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.

#### 84 Article 3.

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

#### 86 § 24.2-957. General provisions; applicability to advertisements in video format.

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

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

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

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

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

#### 104 Article 4.

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

#### 106 § 24.2-958. General provisions; applicability to advertisements in audio format.

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

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

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

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

122 pursuant to this article.

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Article 6.

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Online Political Advertisements.

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**§ 24.2-960. Identification and certification by online political advertisers.**

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A. Prior to purchasing an online political advertisement from or promoting an online political advertisement on an online platform, a person shall identify himself to the online platform as an online political advertiser and certify to the online platform that he is permitted under state and local laws to lawfully purchase or promote for a fee online political advertisements.

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B. An online platform shall establish reasonable procedures to enable online political advertisers to comply with the identification and certification requirements of subsection A.

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C. An online platform may rely in good faith on the information provided by online political advertisers under this section when selling online political advertisements to online political advertisers.