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HOUSE BILL NO. 125

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Privileges and Elections
on March 1, 2022)

(Patron Prior to Substitute—Delegate Davis)

A *BILL to amend and reenact § 24.2-955.3 of the Code of Virginia, relating to elections; political campaign advertisements; illegal negative ads; civil penalty.*

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-955.3 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-955.3. Penalties for violations of this chapter.

A. Any sponsor violating Article 2 (§ 24.2-956 et seq.) ~~of this chapter~~ shall be subject to (i) a civil penalty not to exceed \$1,000; ~~or~~ (ii) in the case of a violation occurring within the 14 days prior to or on the election day of the election to which the advertisement pertains, a civil penalty not to exceed \$2,500; *or (iii) in the case of a violation related to an advertisement that expressly advocates the election or defeat of a clearly identified candidate, a civil penalty not to exceed \$25,000.* In the case of a willful violation, he ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

B. Any sponsor violating Article 3 (§ 24.2-957 et seq.) or 4 (§ 24.2-958 et seq.) ~~of this chapter~~ shall be subject to (i) a civil penalty not to exceed \$1,000 per occurrence; ~~or~~ (ii) in the case of a violation occurring within the 14 days prior to or on the election day of the election to which the advertisement pertains, a civil penalty not to exceed \$2,500 per occurrence; *or (iii) in the case of a violation related to an advertisement that expressly advocates the election or defeat of a clearly identified candidate, a civil penalty not to exceed \$25,000.* In the case of a willful violation, he ~~shall be~~ *is* guilty of a Class 1 misdemeanor. In no event shall the total civil penalties imposed for multiple broadcasts of one particular campaign advertisement exceed ~~\$10,000~~ \$25,000.

C. Any person violating Article 5 (§ 24.2-959 et seq.) ~~of this chapter~~ shall be subject to a civil penalty not to exceed \$2,500; *or in the case of a violation related to campaign telephone calls that expressly advocates the election or defeat of a clearly identified candidate, a civil penalty not to exceed \$25,000,* and in the case of a willful violation, he ~~shall be~~ *is* guilty of a Class 1 misdemeanor. A violation of the provisions of Article 5 ~~of this chapter~~ shall not void any election.

D. The State Board, in a public hearing, shall determine whether to find a violation of this chapter and to assess a civil penalty. At least 10 days prior to such hearing, the State Board shall send notice by certified mail to persons whose actions will be reviewed at such meeting and may be subject to civil penalty. Notice shall include the time and date of the meeting, an explanation of the violation, and the maximum civil penalty that may be assessed.

E. It shall not be deemed a violation of this chapter if the contents of the disclosure legend or statement convey the required information.

F. Any civil penalties collected pursuant to an action under this section shall be payable to the State Treasurer for deposit to the general fund. The procedure to enforce the civil penalties provided in this section shall be as stated in § 24.2-946.3.