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SENATE BILL NO. 265

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact §§ 24.2-943 and 24.2-944 of the Code of Virginia, relating to disclosure requirements for political campaign advertisements; penalties.

 Patron—Bell

 Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:**1. That §§ 24.2-943 and 24.2-944 of the Code of Virginia are amended and reenacted as follows:**

§ 24.2-943. Basic requirements for political campaign advertisements; penalty.

A. It shall be unlawful for any sponsor to sponsor an advertisement in the print media or on radio or television that constitutes an expenditure or contribution required to be disclosed under Chapter 9 (§ 24.2-900 et seq.) of this title unless all of the following conditions are met:

1. It bears the legend or includes the statement: "Paid for by [Name of candidate, candidate campaign committee, political party committee, political action committee, individual, or other sponsor]." In television advertisements, this disclosure shall be made by visual legend. In the legend or statement, the phrase "Paid for by [Name of candidate or candidate campaign committee]" may be replaced by the phrase "Authorized by [Name of candidate or candidate campaign committee]" in an advertisement sponsored by the candidate or his campaign committee that supports the nomination or election of that candidate and that does not identify or make any reference to any other clearly identified candidate.

2. The name used in the labeling required in subdivision 1 for a political party committee contains the name of the political party and for a political action committee is the name that appears on the statement of organization as required in § 24.2-908.

3. In a print media advertisement supporting or opposing the nomination or election of one or more clearly identified candidates, the sponsor states whether it is authorized by a candidate. The visual legend in the advertisement shall state either "Authorized by [name of candidate], candidate for [name of office]" or "Not authorized by a candidate." This subdivision does not apply if the sponsor of the advertisement is the candidate the advertisement supports or that candidate's campaign committee.

4. In a print media advertisement that identifies a candidate the sponsor is opposing, the sponsor discloses in the advertisement the name of the candidate who is intended to benefit from the advertisement. This subdivision applies only when the sponsor coordinates or consults about the advertisement or the expenditure for it with the candidate who is intended to benefit or with that candidate's campaign committee.

5. If an advertisement described in this section is jointly sponsored, the disclosure statement shall name all the sponsors.

B. In a print media advertisement covered by subsection A, any disclosure statement required by that subsection shall be displayed in a conspicuous manner. "Conspicuous" means so written, displayed, or presented that a reasonable person ought to have noticed it. If a single advertisement consists of multiple pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face. In a television advertisement covered by subsection A, the visual disclosure legend shall constitute 20 scan lines in size. In a radio advertisement covered by subsection A, the disclosure statement shall last at least two seconds and the statement shall be spoken so that its contents may be easily understood.

C. Any candidate, candidate campaign committee, political party committee, political action committee, individual, or other sponsor violating any provision of this section shall be subject to (i) a civil penalty not to exceed \$100; ~~and in~~ or (ii) in the case of a violation occurring between the 31st and 14th day prior to the election day, a civil penalty not to exceed \$1,000; or (iii) in the case of a violation occurring within the 14 days prior to or on the election day, a civil penalty not to exceed \$2,500. In the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. It shall not be deemed a violation of this section if the contents of the disclosure legend or statement convey the required information. 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 § 24.2-929.

D. The person accepting an advertisement for a radio or television outlet shall require, and for one year shall retain a copy of, proof of identity of the person who submits the advertisement for broadcast

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59 when the authorization statement on the advertisement is made by an individual or entity other than a
60 candidate, candidate campaign committee, political party committee, or political action committee. Proof
61 of identity shall be submitted either (i) in person and include a valid Virginia driver's license, or any
62 other identification card issued by a government agency of the Commonwealth, one of its political
63 subdivisions, or the United States; or (ii) other than in person, in which case, the person submitting the
64 advertisement shall provide a telephone number and the person accepting the advertisement may phone
65 the person to verify the validity of the person's identifying information before broadcasting the
66 advertisement.

67 E. Television or radio outlets shall not be liable under this section for carriage of political
68 advertisements that fail to include the disclosure requirements provided for in this section. This
69 provision supersedes any contrary provisions of the Code of Virginia.

70 § 24.2-944. Additional requirements for radio and television campaign advertisements.

71 A. In addition to the basic identification requirements of § 24.2-943, it shall be unlawful for any
72 sponsor to sponsor an advertisement on radio or television that constitutes an expenditure or contribution
73 required to be disclosed under Chapter 9 (§ 24.2-900 et seq.) of this title unless the expanded disclosure
74 requirements set out in this section are met.

75 B. This subsection shall apply to political campaign advertisements on television.

76 1. Television advertisements purchased by a candidate or by a candidate campaign committee
77 supporting or opposing the nomination or election of one or more clearly identified candidates shall
78 include a disclosure statement spoken by the candidate containing at least the following words: "I am (or
79 "This is) [name of candidate], candidate for [name of]
80 office, and I (or "my campaign") sponsored this ad." This requirement shall not apply to a television
81 advertisement purchased by a candidate or by his candidate campaign committee that supports the
82 nomination or election of that candidate and that does not identify or make any reference to any other
83 clearly identified candidate.

84 2. Television advertisements purchased by a political party committee supporting or opposing the
85 nomination or election of one or more clearly identified candidates shall include a disclosure statement
86 spoken by the chair, executive director, or treasurer of the political party committee containing at least
87 the following words: "The [name of political party committee] sponsored this ad." The disclosed name
88 of the political party committee shall include the name of the political party.

89 3. Television advertisements purchased by a political action committee supporting or opposing the
90 nomination or election of one or more clearly identified candidates shall include a disclosure statement
91 spoken by the chief executive officer or treasurer of the political action committee containing at least the
92 following words: "The [name of political action committee] political action committee sponsored this
93 ad." The name of the political action committee used in the advertisement shall be the name that appears
94 on the statement of organization as required in § 24.2-908.

95 4. Television advertisements purchased by an individual supporting or opposing the nomination or
96 election of one or more clearly identified candidates shall include a disclosure statement spoken by the
97 individual containing at least the following words: "I am [individual's name], and I sponsored this ad."

98 5. Television advertisements purchased by a sponsor (other than a candidate, a candidate campaign
99 committee, a political party committee, political action committee, or an individual) supporting or
100 opposing the nomination or election of one or more clearly identified candidates shall include a
101 disclosure statement spoken by the chief executive or principal decision-maker of the sponsor containing
102 at least the following words: "[Name of sponsor] sponsored this ad."

103 6. In any television advertisement described in subdivisions 1 through 5, an unobscured, full-screen
104 picture containing the disclosing individual, either in photographic form or through the actual appearance
105 of the disclosing individual on camera, shall be featured throughout the disclosure statement.

106 7. In any television advertisement during which the advertiser does not have the option of controlling
107 the audio, if any, heard during the advertisement, the disclosure requirements shall be the same as for
108 print media.

109 C. This subsection shall apply to political campaign advertisements on radio.

110 1. Radio advertisements purchased by a candidate or by a candidate campaign committee supporting
111 or opposing the nomination or election of one or more clearly identified candidates shall include a
112 disclosure statement spoken by the candidate containing at least the following words: "I am (or "This is
113) [name of candidate], candidate for [name of office], and
114 this ad was paid for (or 'sponsored by' or 'furnished by') [name of candidate campaign committee that
115 paid for the advertisement]." This requirement shall not apply to a radio advertisement purchased by a
116 candidate or by his candidate campaign committee that supports the nomination or election of that
117 candidate and that does not identify or make any reference to any other clearly identified candidate.

118 2. Radio advertisements purchased by a political party committee supporting or opposing the
119 nomination or election of one or more clearly identified candidates shall include a disclosure statement
120 spoken by the chair, executive director, or treasurer of the political party committee containing at least

the following words: "This ad was paid for (or 'sponsored by' or 'furnished by') [name of political party committee]." The disclosed name of the political party committee shall include the name of the political party.

3. Radio advertisements purchased by a political action committee supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive officer or treasurer of the political action committee containing at least the following words: "This ad was paid for (or 'sponsored by' or 'furnished by') [name of political action committee]." The name of the political action committee used in the advertisement shall be the name that appears on the statement of organization as required in § 24.2-908.

4. Radio advertisements purchased by an individual supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the individual containing at least the following words: "I am [individual's name], and I sponsored this ad."

5. Radio advertisements purchased by a sponsor (other than a candidate, a candidate campaign committee, a political party committee, political action committee, or an individual) supporting or opposing the nomination or election of one or more clearly identified candidates shall include a disclosure statement spoken by the chief executive or principal decision-maker of the sponsor containing at least the following words: "[Name of sponsor] paid for (or 'sponsored' or 'furnished') this ad."

D. In advertisements on television, a sponsor may place the disclosure statement required by this section at any point during the advertisement, except if the duration of the advertisement is more than five minutes, the disclosure statement shall be made both at the beginning and end of the advertisement. The sponsor may provide the oral disclosure statement required by this section at the same time as the visual disclosure required under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317, is shown. Any visual disclosure legend shall be at least 20 scan lines in size. For advertisements on radio, the placement of the oral disclosure statement shall comply with the requirements of the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

E. In its oral disclosure statement, a sponsoring political party committee, political action committee, individual, or other noncandidate sponsor may choose to identify an advertisement as either supporting or opposing the nomination or election of one or more clearly identified candidates.

F. If an advertisement described in this section is jointly sponsored, the disclosure statement shall name all the sponsors and the disclosing individual shall be one of those sponsors. If a candidate is one of the sponsors, that candidate shall be the disclosing individual, and if more than one candidate is the sponsor, at least one of the candidates shall be the disclosing individual.

G. Any candidate, candidate campaign committee, political party committee, political action committee, individual, or other sponsor violating any provision of this section shall be subject to (i) a civil penalty not to exceed \$500 per occurrence; ~~and in~~ or (ii) *in the case of a violation occurring between the 31st and 14th day prior to the election day, a civil penalty not to exceed \$1,000 per occurrence; or (iii) in the case of a violation occurring within the 14 days prior to or on the election day, a civil penalty not to exceed \$2,500 per occurrence.* In the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. It shall not be deemed a violation of this section if the contents of the disclosure legend or statement convey the required information. For the purposes of this section, an "occurrence" shall be defined as one broadcast of a radio or television political campaign advertisement in violation of this section. In no event shall the total civil penalties imposed for multiple broadcasts of one particular campaign advertisement exceed ~~\$5,000~~ *\$10,000*. 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 § 24.2-929.

H. Television advertisements by a sponsor supporting or opposing the nomination or election of one or more clearly identified candidates shall comply with the oral disclosure requirements of this section. Those advertisements shall also comply with the disclosure requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 by use of visual legends. The content of those visual legends is specified by the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 and this section. The size of those visual legends is determined by subsection D, which satisfies requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317. In the case of radio advertisements, the oral disclosure requirements under this section incorporate the content requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

I. Television or radio outlets shall not be liable under this section for carriage of political advertisements that fail to include the disclosure requirements provided for in this section. This provision supersedes any contrary provisions of the Code of Virginia.