

JAN 24 2013

A BILL FOR AN ACT

RELATING TO ELECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, by its nature,
2 political advertising tries to push voters toward a particular
3 viewpoint. However, the legislature also finds that voters need
4 accurate and complete facts about candidates and political
5 issues in order to make informed choices. Fact-finder reports
6 in political advertising can help assure that voters receive
7 accurate and complete facts about candidates and political
8 issues.

9 For example, an advertisement might state that a certain
10 candidate is an embezzler when, in fact, the candidate was
11 arrested and charged with embezzlement but later acquitted. A
12 fact-finder's report attached to the advertisement would help by
13 stating that the candidate in the foregoing example was arrested
14 but acquitted.

15 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
16 by adding a new section to part XIII, subpart H, to be
17 appropriately designated and to read as follows:



1 "§11- Advertisements; fact-finder's report required.

2 (a) Any communications medium that carries a paid advertisement
3 that makes claims in favor of or against any candidate or
4 political issue shall also contain a fact-finder's report
5 immediately after or adjacent to the advertisement which
6 factually confirms, partially confirms, refutes, or partially
7 refutes the claims made in the advertisement.

8 If the advertisement is in print or text, such as
9 newspapers or on mobile devices, the fact-finder's report shall
10 be placed immediately adjacent to the advertisement and shall be
11 of the same size and font as the advertisement. If the
12 advertisement is made through audio means, such as radio or on
13 mobile devices, or video means, such as television, the
14 Internet, or on mobile devices, the fact-finder's report shall
15 immediately follow the advertisement and shall be the same
16 length and volume as the advertisement.

17 (b) The fact-finder's report shall be as complete as
18 possible in the space or time allotted; provided that, in all
19 cases, the fact-finder's report shall be understandable to a
20 reasonable person.

21 (c) The fact-finder's report shall be prepared by the
22 communications medium's news division or by an outside party



1 with appropriate expertise; provided that the outside party
2 shall be chosen by the communications medium without input from
3 any candidate or from the person who placed or paid for the
4 advertisement. The fact-finder's report shall not be subject to
5 approval, censorship, redaction, or vetting by any candidate or
6 by the person who placed or paid for the advertisement.

7 (d) A fact-finder's report which, in the judgment of the
8 attorney general, fails to meet the requirements of subsections
9 (a) and (b) shall constitute a violation of this section.

10 (e) An advertisement that only promotes people voting in
11 favor of or against a certain candidate or political issue
12 without making any claims for or against any candidate or
13 political issue or that expresses only hyperbole or opinion
14 without making any claims for or against any candidate or
15 political issue shall be exempt from this section.

16 (f) The communications medium shall pass the cost of the
17 fact-finder's report and its inclusion in the advertisement to
18 the candidate or person paying for the advertisement.

19 (g) The owner of the communications medium shall be fined
20 up to triple the amount of the payment received for the
21 advertisement or \$1,000, whichever is greater, for each
22 violation of this section. For radio and television, each



1 broadcast of an advertisement that is in violation of this
2 section shall constitute a separate violation. For print media,
3 each print run containing an advertisement that is in violation
4 of this section shall constitute a separate violation. For
5 blogs, websites, mobile device applications, and other
6 electronic media, each day carrying an advertisement that is in
7 violation of this section shall constitute a separate
8 violation."

9 SECTION 3. Section 11-302, Hawaii Revised Statutes, is
10 amended by adding four new definitions to be appropriately
11 inserted and to read as follows:

12 "Claims" mean statements of fact or purported fact.

13 "Communications medium" means any electronic or print
14 medium by which one or more individuals communicate with one or
15 more individuals and includes but is not limited to blogs,
16 flyers, mobile device applications, newspapers, newsletters,
17 radio, television, and websites.

18 "Fact-finder's report" means a complete and impartial
19 assessment of the accuracy of claims in favor of or against any
20 candidate or political issue made in an advertisement.

21 "Political issue" means a question placed on the ballot or
22 legislation being considered by a legislative body."



1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

6 INTRODUCED BY: *John Mercedo Jr.*

By Request



S.B. NO. 1379

Report Title:

Elections; Advertising; Communications Media; Fact-finder's Report

Description:

Requires communications media to include a fact-finder's report with advertisements that make fact-specific claims in favor of or against candidates or political issues. Establishes requirements for the creation and content of the fact-finder's report. Establishes penalties for violations.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

