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# A BILL FOR AN ACT

RELATING TO CAMPAIGN FINANCE.

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

1           SECTION 1. The legislature finds that new forms of  
2   communications technology and campaign techniques are now being  
3   utilized by third parties to influence the outcome of elections.  
4   These communications using digital means, the Internet, or  
5   online social media platforms to reach voters are not subject to  
6   the same legal standard of transparency that is used to ensure  
7   fair elections regarding traditional forms of campaigning. The  
8   legislature further finds that the growing ubiquity of these  
9   forms of media and their reach compounds the need to address  
10  their influence on our election process. Common-sense steps  
11  must be taken to ensure transparency in elections and confidence  
12  in the democratic process.

13           The purpose of this Act is to clarify that campaign  
14  advertisements broadcast, televised, circulated, published,  
15  distributed, or otherwise communicated by digital means are  
16  subject to campaign finance disclosure requirements.



1 SECTION 2. Section 11-341, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:

3 "(d) For purposes of this section:

4 "Disclosure date" means, for every calendar year, the first  
5 date by which a person has made expenditures during that same  
6 year of more than \$2,000 in the aggregate for electioneering  
7 communications, and the date of any subsequent expenditures by  
8 that person for electioneering communications.

9 "Electioneering communication" means any advertisement that  
10 is broadcast from a cable, satellite, television, or radio  
11 broadcast station; published in any periodical or newspaper or  
12 by electronic or digital means; or sent by mail at a bulk rate,  
13 and that:

- 14 (1) Refers to a clearly identifiable candidate;
- 15 (2) Is made, or scheduled to be made, either within thirty  
16 days prior to a primary or initial special election or  
17 within sixty days prior to a general or special  
18 election; and
- 19 (3) Is not susceptible to any reasonable interpretation  
20 other than as an appeal to vote for or against a  
21 specific candidate.



1 "Electioneering communication" shall not include  
2 communications:

- 3 (1) In a news story or editorial disseminated by any  
4 broadcast station or publisher of periodicals or  
5 newspapers, unless the facilities are owned or  
6 controlled by a candidate, candidate committee, or  
7 noncandidate committee;
- 8 (2) That constitute expenditures by the expending  
9 organization;
- 10 (3) In house bulletins; or
- 11 (4) That constitute a candidate debate or forum, or solely  
12 promote a debate or forum and are made by or on behalf  
13 of the person sponsoring the debate or forum."

14 SECTION 3. Section 11-391, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16 "(a) Any advertisement that is broadcast, televised,  
17 circulated, published, distributed, or otherwise communicated,  
18 including by electronic or digital means, shall:

- 19 (1) Contain the name and address of the candidate,  
20 candidate committee, noncandidate committee, or other  
21 person paying for the advertisement;



- 1 (2) Contain a notice in a prominent location stating
- 2 either that:
- 3 (A) The advertisement has the approval and authority
- 4 of the candidate; provided that an advertisement
- 5 paid for by a candidate, candidate committee, or
- 6 ballot issue committee does not need to include
- 7 the notice; or
- 8 (B) The advertisement has not been approved by the
- 9 candidate; and

10 (3) Not contain false information about the time, date,

11 place, or means of voting[-];

12 provided that a hyperlink to a webpage containing the

13 information required under paragraphs (1) and (2) is allowed for

14 advertisements distributed through electronic or digital means

15 if including the information within the advertisement is

16 impracticable."

17 SECTION 4. Section 11-393, Hawaii Revised Statutes, is

18 amended by amending the title and subsection (a) to read as

19 follows:

20 " [+] §11-393 [+] Identification of certain top contributors

21 to noncandidate committees making only independent expenditures.

1 (a) An advertisement shall contain an additional notice in a  
2 prominent location immediately after or below the notices  
3 required by section 11-391, if the advertisement is broadcast,  
4 televised, circulated, or published, including by electronic or  
5 digital means, and is paid for by a noncandidate committee that  
6 certifies to the commission that it makes only independent  
7 expenditures. This additional notice shall start with the  
8 words, "The three top contributors for this advertisement are",  
9 followed by the names of the three top contributors, as defined  
10 in subsection (e), who made the highest aggregate contributions  
11 to the noncandidate committee for the purpose of funding the  
12 advertisement; provided that:

13 (1) If a noncandidate committee is only able to identify  
14 two top contributors who made contributions for the  
15 purpose of funding the advertisement, the additional  
16 notice shall start with the words, "The two top  
17 contributors for this advertisement are", followed by  
18 the names of the two top contributors;

19 (2) If a noncandidate committee is able to identify only  
20 one top contributor who made contributions for the  
21 purpose of funding the advertisement, the additional



1 notice shall start with the words, "The top  
2 contributor for this advertisement is", followed by  
3 the name of the top contributor;

4 (3) If a noncandidate committee is unable to identify any  
5 top contributors who made contributions for the  
6 purpose of funding the advertisement, the additional  
7 notice shall start with the words, "The three top  
8 contributors for this noncandidate committee are",  
9 followed by the names of the three top contributors  
10 who made the highest aggregate contributions to the  
11 noncandidate committee; and

12 (4) If there are no top contributors to the noncandidate  
13 committee, the noncandidate committee shall not be  
14 subject to this section.

15 In no case shall a noncandidate committee be required to  
16 identify more than three top contributors pursuant to this  
17 section."

18 SECTION 5. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.



1           SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.  
3           SECTION 7. This Act shall take effect on July 1, 2035.



**Report Title:**

Elections; Campaign Finance; Advertisements; Internet; Social Media

**Description:**

Clarifies that certain disclosure requirements for campaign advertisements apply to advertisements communicated by electronic or digital means. Effective 7/1/2035. (SD1)

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

