

JAN 22 2021

A BILL FOR AN ACT

RELATING TO VIOLATIONS OF CAMPAIGN FINANCE LAW.

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

1 SECTION 1. Section 11-391, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§11-391 Advertisements.** (a) Any advertisement that is
4 broadcast, televised, circulated, published, distributed, or
5 otherwise communicated, including by electronic means, shall:

6 (1) Contain the name and address of the candidate,
7 candidate committee, noncandidate committee, or other
8 person paying for the advertisement;

9 (2) Contain a notice in a prominent location stating
10 either that:

11 (A) The advertisement has the approval and authority
12 of the candidate; provided that an advertisement
13 paid for by a candidate, candidate committee, or
14 ballot issue committee does not need to include
15 the notice; or

16 (B) The advertisement has not been approved by the
17 candidate; and



1 (3) Not contain false information about the time, date,
2 place, or means of voting.

3 (b) The fine for violation of this section, if assessed by
4 the commission, shall not exceed \$25 for each advertisement that
5 lacks the information required by this section or provides
6 prohibited information, and shall not exceed an aggregate amount
7 of \$5,000.

8 (c) Any person who knowingly or intentionally provides
9 false information concerning the name or address of the person
10 paying for an advertisement that is subject to the requirements
11 of this section shall be guilty of a class C felony. Section
12 11-412 shall apply to this subsection."

13 SECTION 2. Section 11-410, Hawaii Revised Statutes, is
14 amended by amending subsection (h) to read as follows:

15 "(h) [~~This section~~] Subsections (a) through (f) shall not
16 apply to any person who, prior to the commencement of
17 proceedings under this section, has paid or agreed to pay the
18 fines prescribed by sections 11-340 and 11-391(b)."

19 SECTION 3. Section 11-411, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~[+]§11-411[+]~~ **Criminal referral.** [~~In lieu of~~] In
2 addition to an administrative determination that a violation of
3 this part has been committed, the commission may refer the
4 complaint to the attorney general or county prosecutor [~~at any~~
5 ~~time it believes the respondent may have recklessly, knowingly,~~
6 ~~or intentionally committed a violation~~]."

7 SECTION 4. Section 11-412, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~[+]§11-412[+]~~ **Criminal prosecution.** (a) Any person who
10 recklessly, knowingly, or intentionally violates any provision
11 of this part shall be guilty of a misdemeanor~~[-]~~, unless another
12 criminal penalty is specified.

13 (b) Any person who knowingly or intentionally falsifies
14 any report required by this part with the intent to circumvent
15 the law or deceive the commission or who violates section 11-352
16 or 11-353 shall be guilty of a class C felony. A person charged
17 with a class C felony shall not be eligible for a deferred
18 acceptance of guilty plea or nolo contendere plea under
19 chapter 853.



1 (c) A person who is convicted under this section shall be
2 disqualified from holding elective public office for a period of
3 [~~four~~] ten years from the date of conviction.

4 (d) For purposes of prosecution for violation of this
5 part, the offices of the attorney general and the prosecuting
6 attorney of the respective counties shall be deemed to have
7 concurrent jurisdiction to be exercised as follows:

8 (1) Prosecution shall commence with a written request from
9 the commission [~~or~~], upon the issuance of an order of
10 the court[+], or upon the exercise of the law
11 enforcement authority of the attorney general or
12 prosecuting attorney; provided that prosecution may
13 commence prior to any proceeding initiated by the
14 commission or final determination;

15 (2) In the case of statewide offices, parties, or issues,
16 the attorney general or the prosecuting attorney for
17 the city and county of Honolulu shall prosecute any
18 violation; and

19 (3) In the case of all other offices, parties, or issues,
20 the attorney general or the prosecuting attorney for
21 the respective county shall prosecute any violation.



1 [~~In~~] If prosecution is commenced by a written request from
2 the commission, the [commission's choice of] commission, in
3 choosing the prosecuting agency, [~~it~~] shall be guided by whether
4 any conflicting interest exists between the agency and its
5 appointive authority.

6 (e) The court shall give priority to the expeditious
7 processing of prosecutions under this section.

8 (f) Prosecution for violations of this part shall not
9 commence after five years have elapsed from the date of the
10 violation or date of filing of the report covering the period in
11 which the violation occurred, whichever is later.

12 [~~(g) This section shall not apply to any person who, prior~~
13 ~~to the commencement of proceedings under this section, has paid~~
14 ~~or agreed to pay the fines prescribed by sections 11 340 and 11-~~
15 ~~391(b).~~"] "

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

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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1 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

[Handwritten Signature]



S.B. NO. 665

Report Title:

Campaign Spending; Advertisements; Criminal Penalties

Description:

Establishes that knowingly or intentionally providing false information concerning the name or address of a person paying for a campaign advertisement is a class C felony. Repeals certain exemptions from criminal prosecution for campaign finance violations. Repeals certain state of mind prerequisites with respect to the campaign spending commission's referral of complaints for criminal prosecution. Increases from four years to ten years the period from which a person convicted for a criminal violation of campaign finance law shall be disqualified from holding elective office. Establishes that the exercise of enforcement authority by the attorney general or prosecuting attorney may be the basis for prosecution of campaign finance law violations.

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

