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SENATE BILL NO. 775

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections
on February 14, 2025)

(Patron Prior to Substitute—Senator Surovell)

A *BILL to amend and reenact §§ 24.2-955, 24.2-955.1, 24.2-955.3, and 24.2-960 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 9.5 of Title 24.2 an article numbered 7, consisting of a section numbered 24.2-961, relating to elections; political campaign advertisements; synthetic media; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-955, 24.2-955.1, 24.2-955.3, and 24.2-960 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 9.5 of Title 24.2 an article numbered 7, consisting of a section numbered 24.2-961, as follows:

§ 24.2-955. Scope of disclosure requirements.

The disclosure requirements of this chapter apply to any sponsor of an advertisement *or electioneering communication* in the print media, on radio or television, or placed or promoted for a fee on an online platform, the cost or value of which constitutes an expenditure or contribution required to be disclosed under Chapter 9.3 (§ 24.2-945 et seq.) except that the disclosure requirements of this chapter do not apply to (i) an individual who makes independent expenditures aggregating less than \$1,000 in an election cycle for or against a candidate for statewide office or less than \$200 in an election cycle for or against a candidate for any other office or (ii) an individual who incurs expenses only with respect to a referendum.

§ 24.2-955.1. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advertisement" means any message appearing in the print media, on television, on radio, or on an online platform, that constitutes a contribution or expenditure under Chapter 9.3 (§ 24.2-945 et seq.). "Advertisement" shall not include novelty items authorized by a candidate including, but not limited to, pens, pencils, magnets, and buttons to be attached to wearing apparel.

"Authorized by _____" means the same as "authorization" as defined in § 24.2-945.1.

"Campaign telephone calls" means a series of telephone calls or text messages, electronic or otherwise, made (i) to 25 or more telephone numbers in the Commonwealth, (ii) during the 180 days before a general or special election or during the 90 days before a primary or other political party nominating event, (iii) conveying or soliciting information relating to any candidate or political party participating in the election, primary, or other nominating event, and (iv) under an agreement to compensate the telephone callers.

"Candidate" means "candidate" as defined in § 24.2-101.

"Candidate campaign committee" or "campaign committee" means "campaign committee" as defined in § 24.2-945.1.

"Coordinated" or "coordination" means an expenditure that is made (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

"Conspicuous" means so written, displayed, or communicated that a reasonable person ought to have noticed it.

"*Electioneering communication*" means any message appearing in the print media, on television, on radio, or on an online platform (i) that refers to a clearly identified candidate; (ii) that is published, broadcast, or otherwise publicly distributed within 30 days of a primary election for the office sought by the candidate or 60 days of a general or special election for the office sought by the candidate and is targeted to the relevant electorate; and (iii) for which money and services of any amount, or any other thing of value, was paid, loaned, provided, or in any other way disbursed. "*Electioneering communication*" does not include (a) a candidate debate or forum or promotion of such debate or forum by the sponsor of the event or (b) a communication paid for by a federal candidate in connection with a federal election, provided that such communication does not expressly advocate for a candidate for office in Virginia.

"Full-screen" means the only picture appearing on the television screen during the oral disclosure statement that (i) contains the disclosing person, (ii) occupies all visible space on the television screen, and (iii) contains the image of the disclosing person that occupies at least 50% of the vertical height of the television screen.

"Independent expenditure" means "independent expenditure" as defined in § 24.2-945.1.

"Name of candidate" means (i) the full name of the candidate as it appears on the statement of qualification filed pursuant to § 24.2-501 or as it will appear on the ballot or (ii) the first name, middle name,

HOUSE SUBSTITUTE

SB775H1

60 or "nickname" of the candidate as it appears on his statement of qualification and a last name of the candidate
 61 as it appears on his statement of qualification.

62 "Occurrence" means one broadcast of a radio or television political campaign advertisement.

63 "Online platform" means any public-facing website, web application, or digital application, including a
 64 social network, ad network, or search engine, that sells advertisements.

65 "Online political advertisement" means an advertisement that is placed or promoted for a fee on an online
 66 platform.

67 "Online political advertiser" means any person who purchases an advertisement *or electioneering*
 68 *communication* from an online platform or promotes an advertisement on an online platform for a fee.

69 "Political action committee" means "political action committee" as defined in § 24.2-945.1.

70 "Political committee" means "political committee" as defined in § 24.2-945.1.

71 "Political party" has the same meaning as "party" or "political party" as defined in § 24.2-101.

72 "Political party committee" means any state political party committee, congressional district political
 73 party committee, county or city political party committee, or organized political party group of elected
 74 officials. The term shall not include any other organization or auxiliary associated with or using the name of a
 75 political party.

76 "Print media" means billboards, cards, newspapers, newspaper inserts, magazines, printed material
 77 disseminated through the mail, pamphlets, fliers, bumper stickers, periodicals, websites, electronic mail, non-
 78 video or non-audio messages placed or promoted for a fee on an online platform, yard signs, and outdoor
 79 advertising facilities. If a single print media advertisement consists of multiple pages, folds, or faces, the
 80 disclosure requirement of this section applies only to one page, fold, or face.

81 "Radio" means any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

82 "Scan line" means a standard term of measurement used in the electronic media industry calculating a
 83 certain area in a television advertisement.

84 "Sponsor" means a candidate, candidate campaign committee, political committee, or person that
 85 purchases an advertisement *or electioneering communication*.

86 "Telephone call" means any single telephone call or text message, electronic or otherwise, that when
 87 combined with other telephone calls or text messages constitutes campaign telephone calls.

88 "Television" means any television broadcast station, cable television system, wireless-cable multipoint
 89 distribution system, satellite company, or telephone company transmitting video programming that is subject
 90 to the provisions of 47 U.S.C. §§ 315 and 317.

91 "Unobscured" means that the only printed material that may appear on the television screen is a visual
 92 disclosure statement required by law, and that nothing is blocking the view of the disclosing person's face.

93 "Yard sign" means a sign paid for or distributed by a candidate, campaign committee, or political
 94 committee to be placed on public or private property. Yard signs paid for or distributed prior to July 1, 2015,
 95 shall not be subject to the provisions of §§ 24.2-956 and 24.2-956.1.

96 **§ 24.2-955.3. Penalties for violations of this chapter.**

97 A. Any sponsor violating Article 2 (§ 24.2-956 et seq.) shall be subject to a civil penalty not to exceed
 98 \$25,000. In the case of a willful violation, he is guilty of a Class 1 misdemeanor.

99 B. Any sponsor violating Article 3 (§ 24.2-957 et seq.) or 4 (§ 24.2-958 et seq.) shall be subject to a civil
 100 penalty not to exceed \$25,000. In the case of a willful violation, he is guilty of a Class 1 misdemeanor. In no
 101 event shall the total civil penalties imposed for multiple broadcasts of one particular campaign advertisement
 102 exceed \$25,000.

103 C. Any person violating Article 5 (§ 24.2-959 et seq.) shall be subject to a civil penalty not to exceed
 104 \$25,000, and in the case of a willful violation, he is guilty of a Class 1 misdemeanor. A violation of the
 105 provisions of Article 5 shall not void any election.

106 D. *Any sponsor violating Article 7 (§ 24.2-961) shall be subject to a civil penalty not to exceed \$25,000.*
 107 *In the case of a willful violation, he is guilty of a Class 1 misdemeanor. In no event shall the total civil*
 108 *penalties imposed for multiple broadcasts of one particular electioneering communication exceed \$25,000.*

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

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

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

119 **§ 24.2-960. Identification and certification by online political advertisers.**

120 A. Prior to purchasing an online political advertisement *or electioneering communication* from or
 121 promoting an online political advertisement *or electioneering communication* on an online platform, a person

122 shall identify himself to the online platform as an online political advertiser and certify to the online platform
 123 that he is permitted under state and local laws to lawfully purchase or promote for a fee online political
 124 advertisements *or electioneering communications*.

125 B. An online platform shall establish reasonable procedures to enable online political advertisers to
 126 comply with the identification and certification requirements of subsection A.

127 C. An online platform may rely in good faith on the information provided by online political advertisers
 128 under this section when selling online political advertisements *or electioneering communications* to online
 129 political advertisers.

130 *Article 7.*

131 *Electioneering Communications.*

132 **§ 24.2-961. Electioneering communications; synthetic media.**

133 A. *As used in this section, "synthetic media" means (i) images or audio recordings of real events relating*
 134 *to an identifiable individual that have been intentionally altered in a manner that would cause a reasonable*
 135 *person (a) to mistakenly believe that the manipulated image or audio is a recording of a real event and (b) to*
 136 *have a fundamentally different understanding or impression of the expressive content of the image or audio*
 137 *than that person would have if the person were hearing or seeing the unaltered, original version of the image*
 138 *or audio and (ii) artificially generated images or audio, which are not composed from a discernable original*
 139 *source image or audio recording of real events, of an identifiable individual's appearance, conduct, or*
 140 *speech that would cause a reasonable person to mistakenly believe is a recording of a real event.*

141 B. *It is unlawful for any committee organized under Chapter 9.3 (§ 24.2-945 et seq.) or any person to*
 142 *sponsor an electioneering communication that contains synthetic media unless all of the following conditions*
 143 *are met:*

144 1. *The electioneering communication also bears the legend or includes the statement: "This message*
 145 *contains synthetic media that has been altered from its original source or artificially generated and may*
 146 *present conduct or speech that did not occur."*

147 2. *The disclosure statement is communicated in a conspicuous manner. If the electioneering*
 148 *communication contains visual media, the statement shall be displayed in a font size proportionate to the size*
 149 *of the advertisement. The State Board shall promulgate standards for meeting the requirements of this*
 150 *subdivision.*

151 3. *Any print media electioneering communication appearing in electronic format displays the disclosure*
 152 *statement in a minimum font size of seven points; however, if the advertisement lacks sufficient space for a*
 153 *disclosure statement in a minimum font size of seven points, the advertisement may meet disclosure*
 154 *requirements if, by clicking on the print media advertisement appearing in electronic format, the viewer is*
 155 *taken to a landing page or a home page that displays the disclosure statement in a conspicuous manner.*

156 4. *If the electioneering communication is in a video or audio format, the sponsor places the disclosure*
 157 *statement required by this section at any point during the electioneering communication, except if the*
 158 *duration of the electioneering communication is more than five minutes, the disclosure statement is made*
 159 *both at the beginning and end of the electioneering communication.*

160 C. *Media outlets and online platforms shall not be liable under this article for carriage of electioneering*
 161 *communications that fail to include the disclosure requirements provided for in this article. This provision*
 162 *supersedes any contrary provisions of the Code of Virginia.*

163 D. *The person accepting an electioneering communication for a media outlet shall require, and for one*
 164 *year shall retain a copy of, proof of identity of the person who submits the advertisement for publication or*
 165 *broadcast. Proof of identity shall be submitted either (i) in person and include a valid Virginia driver's*
 166 *license or any other identification card issued by a government agency of the Commonwealth, one of its*
 167 *political subdivisions, or of the United States or (ii) other than in person, in which case, the person*
 168 *submitting the advertisement shall provide a telephone number and the person accepting the advertisement*
 169 *may phone the person to verify the validity of the person's identifying information before publishing or*
 170 *broadcasting the advertisement.*