

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2145 Session of
2008

INTRODUCED BY BENNINGHOFF, BASTIAN, BEAR, BELFANTI, BOBACK,
BRENNAN, CALTAGIRONE, CARROLL, CUTLER, DALLY, DENLINGER,
DePASQUALE, FAIRCHILD, FLECK, GEIST, GEORGE, GOODMAN, GRELL,
HARRIS, HENNESSEY, HERSHEY, HORNAMAN, HUTCHINSON, M. KELLER,
KOTIK, LEACH, MANN, MANTZ, MARSHALL, McGEEHAN, R. MILLER,
MILNE, MOUL, MUNDY, MURT, NAILOR, PEIFER, PETRONE, PHILLIPS,
READSHAW, ROAE, RUBLEY, SCHRODER, STERN, SWANGER, TRUE,
WANSACZ, J. WHITE, YOUNGBLOOD AND D. O'BRIEN, JANUARY 3, 2008

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 3, 2008

AN ACT

1 Amending the act of June 3, 1937 (P.L.1333, No.320), entitled
2 "An act concerning elections, including general, municipal,
3 special and primary elections, the nomination of candidates,
4 primary and election expenses and election contests; creating
5 and defining membership of county boards of elections;
6 imposing duties upon the Secretary of the Commonwealth,
7 courts, county boards of elections, county commissioners;
8 imposing penalties for violation of the act, and codifying,
9 revising and consolidating the laws relating thereto; and
10 repealing certain acts and parts of acts relating to
11 elections," defining "prerecorded political message"; and
12 further providing for advertising.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 1621 of the act of June 3, 1937
16 (P.L.1333, No.320), known as the Pennsylvania Election Code, is
17 amended by adding a subsection to read:

18 Section 1621. Definitions.--As used in this article, the
19 following words have the following meanings:

20 * * *

1 (n) The words "prerecorded political message" shall mean a
2 prerecorded or synthesized voice message by:

3 (1) A political candidate or political party.

4 (2) A person when the content of the message advocates the
5 success or defeat of any candidate, party or measure at any
6 election or contains information about any candidate or party.

7 Section 2. Section 1638 of the act, added October 4, 1978
8 (P.L.893, No.171), is amended to read:

9 Section 1638. Advertising.--

10 (a) [Whenever] Except as provided under subsection (c),
11 whenever any person makes an expenditure for the purpose of
12 financing communications expressly advocating the election or
13 defeat of a candidate, or ballot questions, through any
14 broadcasting station, newspaper, magazine, outdoor advertising
15 facility, direct mailing, or any other type of general public
16 political advertising, such communication:

17 (1) If authorized by the candidate, his authorized political
18 committee or their agents, shall clearly and conspicuously state
19 that the communication has been authorized.

20 (2) If not authorized by a candidate, his authorized
21 political committee, or their agents, shall clearly and
22 conspicuously state the name of the person who made or financed
23 the expenditure for the communication, including, in the case of
24 a political committee the name of any affiliated or connected
25 organization.

26 (b) (1) No candidate for public office, or political
27 committee or party acting on his behalf, shall place any
28 advertisement referring to an opposing candidate for the same
29 office which is to be broadcast or published during the one
30 hundred and twenty (120) hours immediately prior to an election

1 or published in a weekly newspaper or periodical during the
2 eight (8) days immediately prior to an election, with a
3 television or radio broadcasting station, newspaper or
4 periodical, unless he has first given a copy of the material to
5 appear or be used in the advertisement and reasonable notice to
6 the opposing candidate and the county board of elections of the
7 county where the advertisement is to be placed in sufficient
8 time for a reply advertisement to be published or broadcast at
9 the same approximate time or in the same issue of the
10 publication or on the same radio or television broadcast as the
11 original advertisement and prior to the election in question.

12 (2) The reasonable notice referred to in clause (1) shall be
13 given in writing by registered mail, return receipt requested,
14 addressee signature only, with a true copy of the material
15 enclosed to appear or be used in the advertisement so as to
16 afford the recipient sufficient time to place a reply
17 advertisement to be published or broadcast at the same
18 approximate time or in the same issue of the publication or on
19 the same radio or television broadcast as the original
20 advertisement and prior to the election in question.

21 (3) Any person, firm or corporation, political committee or
22 party or member thereof, violating any of the provisions of this
23 section, shall be guilty of a misdemeanor, and upon conviction
24 thereof, shall be sentenced to pay a fine not exceeding one
25 thousand dollars (\$1,000), or to undergo an imprisonment of not
26 less than one (1) month nor more than two (2) years, or both, in
27 the discretion of the court.

28 (c) Whenever any person makes an expenditure for the purpose
29 of financing communications to influence the outcome of an
30 election, through a prerecorded political message, such

1 communication:

2 (1) If authorized by the candidate, his authorized political
3 committee or their agents shall clearly and conspicuously state
4 the communication has been authorized.

5 (2) If not authorized by a candidate, his authorized
6 political committee or their agents shall clearly and
7 conspicuously state the name of the person who made or financed
8 the expenditure for the communication, including, in the case of
9 a political committee, the name of any affiliated or connected
10 organization.

11 Section 3. This act shall take effect in 60 days.