

By: Heflin

H.B. No. 478

A BILL TO BE ENTITLED

AN ACT

relating to political advertising; providing civil penalties.

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

SECTION 1. Chapter 255, Election Code, is amended by adding Sections 255.009 and 255.010 to read as follows:

Sec. 255.009. REGULATION OF AUTOMATED POLITICAL TELEPHONE SOLICITATION. (a) This section applies only to a telephone call supporting or opposing a candidate for public office or an officeholder that:

(1) is made through the use of an automatic dial announcing device or similar automated dialing system; and

(2) is made by an officer, an agent, or other person acting on behalf of a candidate, officeholder, political committee, or political party executive committee.

(b) A person making an automated telephone call supporting or opposing a candidate or officeholder must:

(1) state that the telephone call is political advertising;

(2) identify the candidate or officeholder supported or opposed and whether the person making the call supports or opposes the candidate or officeholder; and

(3) identify the person sponsoring the call by stating:

(A) "paid for by _____ (name of persons

1 sponsoring the call)"; or

2 (B) "paid for on behalf of _____ (name of
3 persons authorizing the call)".

4 (c) A person making an automated telephone call supporting
5 or opposing a candidate or officeholder may not state or imply that
6 the caller represents a person unless that person has approved the
7 representation in writing.

8 (d) A person who makes an automated telephone call, or a
9 person described by Subsection (a) who directs or causes the making
10 of an automated telephone call by a person other than a person
11 described by Subsection (a), that supports or opposes a candidate
12 or officeholder, other than a call that would constitute a direct
13 campaign expenditure, must receive the prior written approval of
14 the candidate or officeholder being supported or at least one
15 opponent of the candidate or officeholder being opposed. Before
16 the call may be made, a copy of the written approval must be filed by
17 the approving candidate or officeholder with:

18 (1) in the case of a candidate, the authority with whom
19 the candidate is required to file a campaign treasurer appointment;
20 or

21 (2) in the case of an officeholder, the authority with
22 whom the officeholder would be required to file a campaign
23 treasurer appointment if the officeholder were a candidate for the
24 office held.

25 (e) An automated telephone call that is approved by a
26 candidate or officeholder must include the following statement,
27 recorded by the candidate or officeholder:

1 "My name is (name of candidate or officeholder) and I
2 approved this telephone call."

3 (f) An automated telephone call may not be made using any
4 device or technology that results in the call appearing on a caller
5 ID machine as "blocked," "private," "unknown name," or "unknown
6 caller."

7 (g) This section does not apply to a telephone call in which
8 the individual making the call is not being paid to make the call
9 and the individuals participating in the call know each other
10 before the call is made.

11 (h) This section applies to a person who makes an automated
12 telephone call to a person located in this state, regardless of the
13 location from which the call is made.

14 (i) A person who intentionally violates this section is
15 liable to the state for a civil penalty in an amount determined by
16 the commission not to exceed \$4,000.

17 Sec. 255.010. USE OF ALTERED OR DISTORTED PHOTOGRAPH IN
18 POLITICAL ADVERTISING PROHIBITED. (a) A candidate or political
19 committee may not knowingly publish, broadcast, distribute, or
20 contract for the publication, broadcast, or distribution of
21 political advertising that contains a photograph of the candidate's
22 opponent or of a candidate the committee opposes that has been
23 altered or distorted in a manner that a reasonable person would find
24 to be unflattering or uncomplimentary.

25 (b) A person who intentionally violates this section is
26 liable to the state for a civil penalty in an amount determined by
27 the commission not to exceed \$4,000.

1 SECTION 2. (a) Section 255.009, Election Code, as added by
2 this Act, applies only to a telephone call made on or after
3 September 1, 2009.

4 (b) Section 255.010, Election Code, as added by this Act,
5 applies only to political advertising that is published, broadcast,
6 or distributed on or after September 1, 2009.

7 SECTION 3. This Act takes effect September 1, 2009.