

HOUSE BILL 711

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9lr0388

By: **Delegate Rosenberg**

Introduced and read first time: February 7, 2019

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Online Platforms – Anonymous Foreign Political**
3 **Communications**

4 FOR the purpose of requiring an online platform to make reasonable efforts to detect
5 anonymous foreign political communications disseminated through the online
6 platform and prevent the dissemination of anonymous foreign political
7 communications through the online platform; requiring an online platform to report
8 certain information to the State Board of Elections within a certain period of time
9 after the online platform becomes aware that an anonymous foreign political
10 communication has been disseminated through the online platform; requiring the
11 State Board to make certain information available on the State Board's website and
12 provide the information to media outlets in the State within a certain period of time
13 after receiving a certain report from an online platform; authorizing the State Board
14 to require an online platform to submit a report at any time to the State Board
15 describing the efforts of the online platform to comply with certain provisions of this
16 Act; requiring an online platform to submit the report within a certain period of time
17 after the State Board requests the report; authorizing the State Board to require an
18 online platform to take certain actions and submit a certain report if the State Board
19 considers the efforts of the online platform to comply with certain provisions of this
20 Act insufficient; authorizing the State Board to assess a certain civil penalty against
21 an online platform if the online platform fails to take certain actions required under
22 certain provisions of this Act or by the State Board; providing for the assessment of,
23 distribution of, and liability for the civil penalty; defining certain terms; and
24 generally relating to anonymous foreign political communications on online
25 platforms.

26 BY repealing and reenacting, without amendments,
27 Article – Election Law
28 Section 1–101(dd–1) and 13–604.1(e), (h), (i), (j), (k), and (q)
29 Annotated Code of Maryland
30 (2017 Replacement Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Election Law
3 Section 13–405.3
4 Annotated Code of Maryland
5 (2017 Replacement Volume and 2018 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
7 That the Laws of Maryland read as follows:

8 **Article – Election Law**

9 1–101.

10 (dd–1) “Online platform” means any public–facing website, web application, or
11 digital application, including a social network, ad network, or search engine, that:

12 (1) has 100,000 or more unique monthly United States visitors or users for
13 a majority of months during the immediately preceding 12 months; and

14 (2) receives payment for qualifying paid digital communications.

15 **13–405.3.**

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

18 (2) “AGENT OF A FOREIGN PRINCIPAL” HAS THE MEANING STATED IN
19 22 U.S.C. § 611(C).

20 (3) “ANONYMOUS FOREIGN POLITICAL COMMUNICATION” MEANS
21 ANY COMMUNICATION DISSEMINATED OR ATTEMPTED TO BE DISSEMINATED BY A
22 FOREIGN PRINCIPAL OR AN AGENT OF A FOREIGN PRINCIPAL THROUGH AN ONLINE
23 PLATFORM FOR A FEE OR FREE OF CHARGE THAT:

24 (I) DOES NOT INCLUDE A CLEAR AND CONSPICUOUS
25 DISCLOSURE ON THE FACE OF THE COMMUNICATION OF THE IDENTITY OF THE
26 FOREIGN PRINCIPAL THAT DISSEMINATED THE COMMUNICATION OR THE FOREIGN
27 PRINCIPAL ON WHOSE BEHALF THE COMMUNICATION IS DISSEMINATED;

28 (II) IS DISSEMINATED TO 500 OR MORE INDIVIDUALS IN THE
29 STATE; AND

1 (III) THE FOREIGN PRINCIPAL OR AGENT OF A FOREIGN
2 PRINCIPAL THAT DISSEMINATES THE COMMUNICATION INTENDS TO IN ANY WAY
3 INFLUENCE:

4 1. AN ELECTION FOR STATE OR LOCAL OFFICE;

5 2. A STATE OR LOCAL AGENCY OR OFFICIAL IN THE
6 EXERCISE OF THE OFFICIAL DUTIES OF THE AGENCY OR OFFICIAL; OR

7 3. PUBLIC OPINION IN THE STATE REGARDING ANY
8 STATE OR LOCAL POLICY ISSUE.

9 (4) "FOREIGN PRINCIPAL" HAS THE MEANING STATED IN 22 U.S.C. §
10 611(B).

11 (B) AN ONLINE PLATFORM SHALL MAKE REASONABLE EFFORTS TO:

12 (1) DETECT ANONYMOUS FOREIGN POLITICAL COMMUNICATIONS
13 DISSEMINATED THROUGH THE ONLINE PLATFORM; AND

14 (2) PREVENT THE DISSEMINATION OF ANONYMOUS FOREIGN
15 POLITICAL COMMUNICATIONS THROUGH THE ONLINE PLATFORM.

16 (C) WITHIN 48 HOURS AFTER AN ONLINE PLATFORM BECOMES AWARE THAT
17 AN ANONYMOUS FOREIGN POLITICAL COMMUNICATION HAS BEEN DISSEMINATED
18 THROUGH THE ONLINE PLATFORM, THE ONLINE PLATFORM SHALL REPORT THE
19 FOLLOWING INFORMATION TO THE STATE BOARD, IF KNOWN:

20 (1) THE IDENTITY OF THE FOREIGN PRINCIPAL RESPONSIBLE FOR
21 THE COMMUNICATION;

22 (2) THE DATES AND TIMES THAT THE COMMUNICATION WAS FIRST
23 DISSEMINATED AND LAST DISSEMINATED;

24 (3) A DIGITAL COPY OF THE CONTENT OF THE COMMUNICATION;

25 (4) AN APPROXIMATE DESCRIPTION OF THE GEOGRAPHIC LOCATIONS
26 TO WHICH THE COMMUNICATION WAS DISSEMINATED;

27 (5) AN APPROXIMATE DESCRIPTION OF THE AUDIENCE THAT
28 RECEIVED OR WAS TARGETED TO RECEIVE THE COMMUNICATION; AND

1 **(6) THE TOTAL NUMBER OF IMPRESSIONS GENERATED BY THE**
2 **COMMUNICATION.**

3 **(D) WITHIN 24 HOURS AFTER RECEIVING A REPORT UNDER SUBSECTION (C)**
4 **OF THIS SECTION, THE STATE BOARD SHALL:**

5 **(1) MAKE THE INFORMATION AVAILABLE ON THE STATE BOARD'S**
6 **WEBSITE; AND**

7 **(2) PROVIDE THE INFORMATION TO MEDIA OUTLETS IN THE STATE.**

8 **(E) (1) THE STATE BOARD MAY REQUIRE AN ONLINE PLATFORM TO**
9 **SUBMIT A REPORT AT ANY TIME TO THE STATE BOARD DESCRIBING THE EFFORTS**
10 **THE ONLINE PLATFORM IS MAKING TO COMPLY WITH SUBSECTION (B) OF THIS**
11 **SECTION.**

12 **(2) AN ONLINE PLATFORM SHALL SUBMIT A REPORT TO THE STATE**
13 **BOARD UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 30 DAYS AFTER THE**
14 **STATE BOARD MAKES THE REQUEST FOR THE REPORT.**

15 **(3) IF THE STATE BOARD CONSIDERS THE EFFORTS DESCRIBED IN A**
16 **REPORT SUBMITTED BY AN ONLINE PLATFORM UNDER PARAGRAPH (1) OF THIS**
17 **SUBSECTION INSUFFICIENT, THE STATE BOARD MAY REQUIRE THE ONLINE**
18 **PLATFORM TO:**

19 **(I) TAKE ADDITIONAL MEASURES TO COMPLY WITH**
20 **SUBSECTION (B) OF THIS SECTION; AND**

21 **(II) SUBMIT A REPORT DESCRIBING THE IMPLEMENTATION OF**
22 **THE ADDITIONAL MEASURES WITHIN 30 DAYS AFTER THE STATE BOARD NOTIFIES**
23 **THE ONLINE PLATFORM OF THE ADDITIONAL MEASURES THAT ARE REQUIRED TO BE**
24 **TAKEN.**

25 **(F) (1) IN ADDITION TO ANY OTHER SANCTION PROVIDED BY LAW, IF AN**
26 **ONLINE PLATFORM FAILS TO FILE A REPORT REQUIRED UNDER THIS SECTION OR**
27 **FAILS TO IMPLEMENT THE MEASURES REQUIRED BY THE STATE BOARD UNDER**
28 **SUBSECTION (E)(3) OF THIS SECTION, THE STATE BOARD MAY ASSESS A CIVIL**
29 **PENALTY AGAINST THE ONLINE PLATFORM IN AN AMOUNT NOT EXCEEDING \$50,000.**

30 **(2) A PENALTY UNDER THIS SUBSECTION SHALL BE:**

31 **(I) ASSESSED IN THE MANNER SPECIFIED IN § 13-604.1 OF THIS**
32 **TITLE;**

1 **(II) DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND**
2 **ESTABLISHED UNDER § 15–103 OF THIS ARTICLE; AND**

3 **(III) THE JOINT AND SEVERAL LIABILITY OF:**

4 **1. THE PERSON WHO OPERATES THE ONLINE PLATFORM;**
5 **AND**

6 **2. ANY PERSON EXERCISING DIRECTION OR CONTROL**
7 **OVER THE ACTIVITIES OF THE PERSON WHO OPERATES THE ONLINE PLATFORM.**

8 13–604.1.

9 (e) The civil penalty is payable to the State Board by the person charged in a
10 citation within 20 calendar days after service of the citation.

11 (h) The citation shall be served on the defendant in accordance with the Maryland
12 Rules.

13 (i) The citation shall contain:

14 (1) the certification by the State Board attesting to the truth of the matter
15 set forth in the citation;

16 (2) the name and address of the person charged;

17 (3) the nature, time, and place of the violation;

18 (4) the manner in which the violation occurred;

19 (5) the amount of the penalty assessed;

20 (6) the manner, time, and location to pay the penalty;

21 (7) a statement that the person receiving the citation has a right to trial in
22 the District Court; and

23 (8) the effect of failing to pay the assessed fine or of failing to demand a
24 trial within the prescribed time.

25 (j) (1) A person charged in a citation may elect to stand trial for the violation
26 by notifying the State Board in writing of the person's intent to stand trial.

27 (2) The written notice shall be given at least 5 days before the date of
28 payment as set forth in the citation.

1 (k) (1) On receipt of the written notice of intent to stand trial, the State Board
2 shall forward to the State Prosecutor a copy of the citation and the written notice.

3 (2) The State Prosecutor shall forward to the District Court having venue
4 a copy of the citation and the written notice.

5 (3) On receipt of the citation and the written notice:

6 (i) the State Prosecutor shall assume responsibility for prosecuting
7 the violation; and

8 (ii) the District Court shall schedule the case for trial, notify the
9 defendant of the trial date, and summon the defendant to appear.

10 (q) In a District Court proceeding relating to a violation under this section:

11 (1) the State Prosecutor has the burden to prove that the defendant has
12 committed the violation by clear and convincing evidence;

13 (2) the District Court shall apply the evidentiary standards as provided by
14 law or rule for the trial of civil causes;

15 (3) the District Court shall ensure that the defendant has received a copy
16 of the charges against the defendant and that the defendant understands those charges;

17 (4) the defendant may cross-examine all witnesses who appear against the
18 defendant, produce evidence or witnesses in the defendant's own behalf, or testify in the
19 defendant's own behalf;

20 (5) the defendant shall be entitled to be represented by counsel of the
21 defendant's own selection and at the defendant's own expense;

22 (6) the defendant may enter a plea of guilty or not guilty of the violation as
23 charged; and

24 (7) the verdict of the District Court shall be guilty of a violation or not
25 guilty of a violation, or the District Court may, before rendering judgment, place the
26 defendant on probation.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2019.