

SENATE BILL 875

G1

(8lr2624)

ENROLLED BILL

— *Education, Health, and Environmental Affairs/Ways and Means* —

Introduced by **Senator Zucker**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Online Electioneering Transparency and Accountability Act**

3 FOR the purpose of ~~altering the definition of "public communication" to include online~~
~~political advertisements for the purposes of certain provisions of law that require a~~
~~person who makes independent expenditures of a certain amount to file a certain~~
~~report; altering the definition of "electioneering communication" to include online~~
~~political advertisements for the purposes of certain provisions of law that require a~~
~~person who makes disbursements for electioneering communications of a certain~~
~~amount to file a certain report; prohibiting a foreign principal from making a~~
~~donation to certain persons or entities; prohibiting a foreign influenced corporation~~
~~from making a contribution or donation to certain persons or entities; requiring~~
~~certain persons making independent expenditures or disbursements for~~
~~electioneering communications to retain a copy of an item of campaign material for~~
~~a certain period of time; requiring an online platform to retain a digital copy of each~~
~~online political advertisement that the online platform distributes or transmits for a~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 certain period of time; requiring an online platform to maintain account books and
2 records that include certain information relating to online political advertisements
3 for a certain period of time; requiring an online platform to make certain records
4 available for public inspection and provide certain records to the State Board of
5 Elections on request; requiring an online platform to provide certain information to
6 the State Board within a certain period of time if certain persons purchase an online
7 political advertisement; defining certain terms; making a technical correction; and
8 generally relating to disclosure of online political advertisements and campaign
9 material; altering the definition of "campaign material" to include certain material
10 that is disseminated and certain qualifying paid digital communications; altering
11 the definition of "public communication" to include certain qualifying paid digital
12 communications for purposes of certain provisions of law that require a person who
13 makes independent expenditures of a certain amount to file a certain report; altering
14 the definition of "electioneering communication" to include certain qualifying paid
15 digital communications for purposes of certain provisions of law that require a
16 person who makes disbursements for electioneering communications of a certain
17 amount to file a certain report; providing that the definition of "electioneering
18 communication" does not include a news story, commentary, or editorial
19 disseminated through certain electronic or print media; providing that, if campaign
20 material is too small to include certain information in a legible manner, the authority
21 line need only contain the information required by the State Board of Elections by
22 regulation, rather than the name and title of a certain person; requiring certain
23 persons making independent expenditures or disbursements for electioneering
24 communications to retain a copy of an item of campaign material for a certain period
25 of time; requiring a person who directly or indirectly requests placement of a certain
26 qualifying paid digital communication on an online platform to provide a certain
27 express notice to the online platform in a certain manner; requiring a purchaser of a
28 qualifying paid digital communication to take certain actions if the online platform
29 does not provide a method to provide a certain notice; requiring an online platform
30 to make available for public inspection on the Internet in a certain format certain
31 records regarding certain qualifying paid digital communications disseminated
32 through the online platform except under certain circumstances; requiring an online
33 platform to allow the public to search certain records in a certain manner; requiring
34 that certain records be available for public inspection on the Internet in a certain
35 location for a certain period of time; authorizing an online platform to apply to the
36 State Board for a certain compliance waiver; requiring the State Board to require an
37 applicant for a compliance waiver to provide certain information; prohibiting the
38 State Board from granting more than one compliance waiver to an online platform;
39 prohibiting the State Board from granting a compliance waiver to an online platform
40 within a certain period of time; providing that a certain compliance waiver is not
41 effective during a certain period of time; requiring, under certain circumstances, an
42 online platform to apply for a certain compliance waiver before receiving payment
43 for a qualifying paid digital communication; requiring an online platform to maintain
44 and make available to the State Board on request certain records regarding
45 qualifying paid digital communications disseminated through the online platform;
46 requiring certain records to be available on the request of the State Board for a
47 certain period of time; providing that certain information obtained by the State

1 Board concerning qualifying paid digital communications is not subject to inspection
2 under the Public Information Act; requiring a purchaser of a certain qualifying paid
3 digital communication to provide the online platform that disseminates the
4 qualifying paid digital communication with certain information; providing that an
5 online platform may rely in good faith on information provided by a purchaser of a
6 certain qualifying paid digital communication; requiring an online platform to make
7 reasonable efforts to allow the State Board to obtain certain information and request
8 that a purchaser of a certain qualifying paid digital communication comply with
9 certain provisions of law; requiring an online platform that disseminates certain
10 qualifying paid digital communications to make reasonable efforts in accordance
11 with a certain federal law to comply with any subpoena that is issued in connection
12 with certain investigations concerning certain qualifying paid digital
13 communications; authorizing the State Administrator of Elections to investigate
14 certain potential violations of certain provisions of law and this Act by a purchaser
15 of a certain qualifying paid digital communication; authorizing the State
16 Administrator to issue a subpoena in furtherance of a certain investigation;
17 providing for service of a certain subpoena; authorizing a circuit court to compel
18 compliance with a subpoena on petition of the State Administrator; authorizing the
19 State Board to request that the Attorney General seek injunctive relief in a circuit
20 court to require a purchaser of a certain qualifying paid digital communication to
21 comply with certain provisions of law and this Act, or require an online platform to
22 remove a qualifying paid digital communication that does not comply with certain
23 provisions of law and this Act; requiring the State Board to provide a certain notice
24 and hold a public meeting before requesting that the Attorney General seek an
25 injunction; authorizing a circuit court to grant injunctive relief only if the Attorney
26 General shows clear and convincing evidence of a violation of certain provisions of
27 law or this Act; providing that a person who violates an injunction is subject to
28 certain penalties; prohibiting a person from purchasing campaign material or an
29 electioneering communication using any currency other than United States
30 currency; prohibiting a person from willfully and knowingly selling campaign
31 material or an electioneering communication to a person who uses any currency
32 other than United States currency to make the purchase; making conforming and
33 technical changes; defining certain terms; and generally relating to the disclosure of
34 qualifying paid digital communications and campaign material.

35 ~~BY repealing and reenacting, with amendments,~~
36 ~~Article Election Law~~
37 ~~Section 1-101(k), 13-236.1, 13-306(a), 13-307(a) and (e), and 13-403~~
38 ~~Annotated Code of Maryland~~
39 ~~(2017 Replacement Volume and 2017 Supplement)~~

40 ~~BY adding to~~
41 ~~Article Election Law~~
42 ~~Section 1-101(dd-1) and (dd-2) and 13-403.1~~
43 ~~Annotated Code of Maryland~~
44 ~~(2017 Replacement Volume and 2017 Supplement)~~

1 ~~BY repealing and reenacting, without amendments,~~
2 ~~Article – Election Law~~
3 ~~Section 13–306(b) through (e), 13–307(b) through (d), and 13–401~~
4 ~~Annotated Code of Maryland~~
5 ~~(2017 Replacement Volume and 2017 Supplement)~~

6 BY repealing and reenacting, without amendments,
7 Article – Election Law
8 Section 1–101(a), 13–306(b) through (e), and 13–307(b) through (d)
9 Annotated Code of Maryland
10 (2017 Replacement Volume and 2017 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Election Law
13 Section 1–101(k), 13–306(a), 13–307(a) and (e), 13–401, and 13–403
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2017 Supplement)

16 BY adding to
17 Article – Election Law
18 Section 1–101(dd–1) and (ll–1), 13–405, 13–405.1, and 13–405.2
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2017 Supplement)

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

23 **Article – Election Law**

24 ~~1–101.~~

25 ~~(1)~~ ~~(1)~~ ~~“Campaign material” means any material that:~~
26 ~~(i)~~ ~~contains text, graphics, or other images;~~
27 ~~(ii)~~ ~~relates to a candidate, a prospective candidate, or the approval~~
28 ~~or rejection of a question or prospective question; and~~
29 ~~(iii)~~ ~~is published or distributed.~~
30 ~~(2)~~ ~~“Campaign material” includes:~~
31 ~~(i)~~ ~~**AN ONLINE POLITICAL ADVERTISEMENT;**~~
32 ~~(ii)~~ ~~**ANY OTHER** material transmitted by or appearing on the~~
33 ~~Internet or other electronic medium; and~~

1 ~~(ii)] (iii)~~ ~~an oral commercial campaign advertisement.~~

2 ~~(DD 1) “ONLINE PLATFORM” MEANS ANY PUBLIC FACING WEBSITE, WEB~~
3 ~~APPLICATION, OR DIGITAL APPLICATION, INCLUDING A SOCIAL NETWORK OR~~
4 ~~SEARCH ENGINE, THAT HAS 100,000 OR MORE UNIQUE MONTHLY UNITED STATES~~
5 ~~VISITORS OR USERS FOR A MAJORITY OF MONTHS DURING THE IMMEDIATELY~~
6 ~~PRECEDING 12 MONTHS.~~

7 ~~(DD 2) (1) “ONLINE POLITICAL ADVERTISEMENT” MEANS ANY~~
8 ~~ELECTRONIC COMMUNICATION THAT:~~

9 ~~(I) IS PLACED OR PROMOTED FOR A FEE ON AN ONLINE~~
10 ~~PLATFORM;~~

11 ~~(II) IS DISTRIBUTED OR TRANSMITTED TO 5,000 OR MORE~~
12 ~~INDIVIDUALS;~~

13 ~~(III) REFERS TO A CLEARLY IDENTIFIED CANDIDATE OR BALLOT~~
14 ~~ISSUE; AND~~

15 ~~(IV) DOES NOT PROPOSE A COMMERCIAL TRANSACTION.~~

16 ~~(2) FOR PURPOSES OF THIS SUBSECTION, “CLEARLY IDENTIFIED”~~
17 ~~MEANS:~~

18 ~~(I) THE NAME OF A CANDIDATE APPEARS;~~

19 ~~(II) A PHOTOGRAPH OR DRAWING OF A CANDIDATE APPEARS;~~
20 ~~OR~~

21 ~~(III) THE IDENTITY OF A CANDIDATE OR BALLOT ISSUE IS~~
22 ~~APPARENT BY UNAMBIGUOUS REFERENCE.~~

23 ~~13-236.1.~~

24 ~~(a) (1) In this section, “foreign principal”] THE FOLLOWING WORDS HAVE~~
25 ~~THE MEANINGS INDICATED.~~

26 ~~(2) “FOREIGN INFLUENCED CORPORATION” MEANS A CORPORATION~~
27 ~~AT LEAST 5% OF WHICH IS OWNED BY FOREIGN NATIONALS.~~

28 ~~(3) “FOREIGN NATIONAL” HAS THE MEANING STATED IN 52 U.S.C. §~~
29 ~~30121(b).~~

(4) "FOREIGN PRINCIPAL" has the meaning stated in 22 U.S.C. § 611(b).

(b) A foreign principal OR FOREIGN INFLUENCED CORPORATION may not:

(1) make a contribution to a ballot issue committee; or

(2) make a donation to [a person that makes independent expenditures or
ng communications relating to a ballot issue];

**(II) A PERSON REQUIRED TO FILE AN INDEPENDENT
URE REPORT UNDER § 13-306 OF THIS TITLE;**

**(II) A PERSON REQUIRED TO FILE AN ELECTIONEERING
ATION REPORT UNDER § 13-307 OF THIS TITLE;**

**(III) A POLITICAL ACTION COMMITTEE REQUIRED TO FILE A
THE REPORT UNDER § 13-309.1 OF THIS TITLE; OR**

**(IV) A PARTICIPATING ORGANIZATION REQUIRED TO FILE A
TING ORGANIZATION REPORT UNDER § 13-309.2 OF THIS TITLE.**

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Donation" means the gift or transfer, or promise of gift or money or other thing of value to a person who makes independent expenditures.

(ii) "Donation" does not include any amount of money or any other

+. received by a person in the ordinary course of any trade or
conducted by the person, whether for profit or not for profit, or in the form of
in the person's business; or

2. A. that the donor and the person receiving the money
value expressly agree in writing may not be used for independent expenditures;

~~B. in the case of a monetary donation, is deposited in a bank account that is never used for independent expenditures.~~

(2) "E-mail blast" means a transmission of electronic mail messages of an substantially similar nature to 5,000 or more e-mail accounts simultaneously.

7 (ii) "Person" does not include a campaign finance entity organized
8 under Subtitle 2, Part II of this title.

14 (ii) ~~“Public communication” does not include:~~

15 4. a news story, a commentary, or an editorial disseminated
16 by a broadcasting station, including a cable television operator, programmer, or producer,
17 satellite television or radio provider, Web site, newspaper, magazine, or other periodical
18 publication, including any Internet or electronic publication, that is not controlled by a
19 candidate or political party;

26 (7) "Telephone bank" means more than 500 telephone calls of an identical
27 or substantially similar nature within any 30 day period.

28 (8) "Text blast" means a transmission of text messages of an identical or
29 substantially similar nature to 5,000 or more telephone numbers simultaneously.

30 (b) Within 48 hours after a person makes aggregate independent expenditures of
31 \$5,000 or more in an election cycle for campaign material that is a public communication,
32 the person shall file a registration form with the State Board.

33 (e) Within 48 hours after a day on which a person makes aggregate independent
34 expenditures of \$10,000 or more in an election cycle for campaign material that is a public
35 communication, the person shall file an independent expenditure report with the State
36 Board.

1 (d) A person who files an independent expenditure report under subsection (c) of
2 this section shall file an additional independent expenditure report with the State Board
3 within 48 hours after a day on which the person makes aggregate independent
4 expenditures of \$10,000 or more for campaign material that is a public communication
5 following the closing date of the person's previous independent expenditure report.

6 (e) An independent expenditure report shall include the following information:

7 (1) the identity of the person making the independent expenditures and of
8 the person exercising direction or control over the activities of the person making the
9 independent expenditures;

10 (2) the business address of the person making the independent
11 expenditures;

12 (3) the amount and date of each independent expenditure during the period
13 covered by the report and the person to whom the expenditure was made;

14 (4) the candidate or ballot issue to which the independent expenditure
15 relates and whether the independent expenditure supports or opposes that candidate or
16 ballot issue; and

17 (5) the identity of each person who made cumulative donations of \$6,000
18 or more to the person making the independent expenditures during the period covered by
19 the report.

20 13-307.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) (i) "Donation" means the gift or transfer, or promise of gift or
23 transfer, of money or other thing of value to a person that makes disbursements for
24 electioneering communications.

25 (ii) "Donation" does not include any amount of money or any other
26 thing of value:

27 1. received by a person in the ordinary course of any trade or
28 business conducted by the person, whether for profit or not for profit, or in the form of
29 investments in the person's business; or

30 2. A. that the donor and the person receiving the money
31 or thing of value expressly agree in writing may not be used for electioneering
32 communications; and

~~B. in the case of a monetary donation, is deposited in a separate bank account that is never used for electioneering communications.~~

7 1. refers to a clearly identified candidate or ballot issue;

20 (ii) "Electioneering communication" does not include:

22 2. a news story, a commentary, or an editorial disseminated
23 by a broadcasting station, including a cable television operator, programmer, or producer,
24 or satellite television or radio provider that is not controlled by a candidate or political
25 party;

26 ~~2. a candidate debate or forum;~~

27 4. an internal membership communication by a business or
28 other entity to its stockholders or members and executive and administrative personnel
29 and their immediate families, or by a membership entity, as defined under § 13-243 of this
30 title, to its members, executive and administrative personnel and their immediate families;
31 or

5. a communication that proposes a commercial transaction.

33 (iii) For purposes of this paragraph, "clearly identified" means:

- 1 1. ~~the name of a candidate appears;~~
- 2 2. ~~a photograph or drawing of a candidate appears; or~~
- 3 3. ~~the identity of a candidate or ballot issue is apparent by~~
- 4 ~~unambiguous reference.~~

5 (4) ~~“E-mail blast” means a transmission of electronic mail messages of an~~
6 ~~identical or substantially similar nature to 5,000 or more e-mail accounts simultaneously.~~

7 (5) ~~“Mass mailing” means a mailing by United States mail or facsimile of~~
8 ~~more than 5,000 pieces of mail matter of an identical or substantially similar nature within~~
9 ~~any 30-day period.~~

10 (6) (i) ~~“Person” includes an individual, a partnership, a committee, an~~
11 ~~association, a corporation, a labor organization, or any other organization or group of~~
12 ~~persons.~~

13 (ii) ~~“Person” does not include a campaign finance entity organized~~
14 ~~under Subtitle 2, Part II of this title.~~

15 (7) ~~“Telephone bank” means more than 5,000 telephone calls of an identical~~
16 ~~or substantially similar nature within any 30-day period.~~

17 (8) ~~“Text blast” means a transmission of text messages of an identical or~~
18 ~~substantially similar nature to 5,000 or more telephone numbers simultaneously.~~

19 (b) ~~Within 48 hours after a person makes aggregate disbursements of \$5,000 or~~
20 ~~more in an election cycle for electioneering communications, the person shall file a~~
21 ~~registration form with the State Board.~~

22 (c) ~~Within 48 hours after a day on which a person makes aggregate~~
23 ~~disbursements of \$10,000 or more in an election cycle for electioneering communications,~~
24 ~~the person shall file an electioneering communication report with the State Board.~~

25 (d) ~~A person who files an electioneering communication report under subsection~~
26 ~~(c) of this section shall file an additional electioneering communication report with the~~
27 ~~State Board within 48 hours after a day on which the person makes aggregate~~
28 ~~disbursements of \$10,000 or more for electioneering communications following the closing~~
29 ~~date of the person’s previous electioneering communication report.~~

30 (e) ~~An electioneering communication report shall include the following~~
31 ~~information:~~

(1) the identity of the person making disbursements for electioneering communications and of the person exercising direction or control over the activities of the person making the disbursements for electioneering communications;

4 (2) the business address of the person making the disbursements for
5 electioneering communications;

9 (4) the candidate or ballot issue to which the electioneering
10 communications relate; AND

14 ~~13~~ 401.

15 (a) (1) Except as otherwise provided in this section, each item of campaign
16 material shall contain, set apart from any other message, an authority line that states:

17 (i) as to campaign material published or distributed by a campaign
18 finance entity:

23 (ii) as to campaign material published or distributed by any other
24 person, the name and address of the person responsible for the campaign material.

1 (b) Campaign material that is published or distributed in support of or in
2 opposition to a candidate, but is not authorized by the candidate, shall include the following
3 statement:

4 "This message has been authorized and paid for by (name of payor or any
5 organization affiliated with the payor), (name and title of treasurer or president). This
6 message has not been authorized or approved by any candidate."

7 ~~13-403.~~

8 (a) (1) Subject to paragraph (2) of this subsection, each campaign finance
9 entity, ~~EACH PERSON REQUIRED TO FILE AN INDEPENDENT EXPENDITURE REPORT~~
10 ~~UNDER § 13-306 OF THIS TITLE, AND EACH PERSON REQUIRED TO FILE AN~~
11 ~~ELECTIONEERING COMMUNICATION REPORT UNDER § 13-307 OF THIS TITLE THAT~~
12 ~~IS~~ responsible for, publisher of, and distributor of, an item of campaign material shall keep
13 a sample copy of the item for at least 1 year after the general election next following the
14 date when the item was published or distributed.

15 (2) For each item of campaign material disseminated through the Internet,
16 the sample copy shall be:

17 (i) a paper facsimile; or

18 (ii) a copy on an electronic medium that can be produced as a paper
19 facsimile on request.

20 (b) Subsection (a) of this section does not apply to a billboard or a sign.

21 ~~13-403.1.~~

22 (a) (1) ~~AN ONLINE PLATFORM SHALL:~~

23 (i) ~~RETAIN A DIGITAL COPY OF EACH ONLINE POLITICAL~~
24 ~~ADVERTISEMENT THAT THE ONLINE PLATFORM DISTRIBUTES OR TRANSMITS; AND~~

25 (ii) ~~MAINTAIN ACCOUNT BOOKS AND RECORDS THAT INCLUDE:~~

26 1. ~~THE NAME AND ADDRESS OF EACH PERSON WHO~~
27 ~~PURCHASES AN ONLINE POLITICAL ADVERTISEMENT FROM THE ONLINE PLATFORM;~~
28 ~~AND~~

29 2. ~~THE COST AND METHOD OF PAYMENT FOR THE~~
30 ~~ONLINE POLITICAL ADVERTISEMENT.~~

6 (3) THE RECORDS REQUIRED UNDER PARAGRAPH (1) OF THIS
7 SUBSECTION SHALL BE:

8 (II) AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICES OF
9 THE ONLINE PLATFORM DURING NORMAL BUSINESS HOURS; AND

10 (II) ~~PROVIDED TO THE STATE BOARD ON REQUEST.~~

11 (B) (1) ~~IN THIS SUBSECTION, "FOREIGN PRINCIPAL" HAS THE MEANING~~
12 ~~STATED IN 22 U.S.C. § 611(B).~~

19 (i) A DIGITAL COPY OF THE ONLINE POLITICAL
20 ADVERTISEMENT; AND

21 (ii) THE AMOUNT PAID TO THE ONLINE PLATFORM TO
22 DISTRIBUTE OR TRANSMIT THE ONLINE POLITICAL ADVERTISEMENT.

23 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July~~
24 ~~1, 2018.~~

25 1-101.

26 (a) In this article the following words have the meanings indicated unless a
27 different meaning is clearly intended from the context.

29 (i) contains text, graphics, or other images;

30 (ii) relates to a candidate, a prospective candidate, or the approval
31 or rejection of a question or prospective question; and

(iii) is published [or], distributed, OR DISSEMINATED.

(2) "Campaign material" includes:

(I) A QUALIFYING PAID DIGITAL COMMUNICATION;

[(i)] (II) ANY OTHER material transmitted by or appearing on the electronic medium; and

[(ii)] (III) an oral commercial campaign advertisement.

**(DD-1) "ONLINE PLATFORM" MEANS ANY PUBLIC-FACING WEBSITE, WEB
APPLICATION, OR DIGITAL APPLICATION, INCLUDING A SOCIAL NETWORK, AD-
WORK, OR SEARCH ENGINE, THAT:**

10 **(1) HAS 100,000 OR MORE UNIQUE MONTHLY UNITED STATES**
11 **VISITORS OR USERS FOR A MAJORITY OF MONTHS DURING THE IMMEDIATELY**
12 **PRECEDING 12 MONTHS; AND**

13 (2) RECEIVES PAYMENT FOR QUALIFYING PAID DIGITAL
14 COMMUNICATIONS.

15 **(LL-1) "QUALIFYING PAID DIGITAL COMMUNICATION" MEANS ANY**
16 ELECTRONIC COMMUNICATION THAT:

(1) IS CAMPAIGN MATERIAL;

(2) IS PLACED OR PROMOTED FOR A FEE ON AN ONLINE PLATFORM;

(3) IS DISSEMINATED TO 500 OR MORE INDIVIDUALS; AND

(4) DOES NOT PROPOSE A COMMERCIAL TRANSACTION.

21 13-306.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Donation” means the gift or transfer, or promise of gift or offer, of money or other thing of value to a person who makes independent expenditures.

25 (ii) “Donation” does not include any amount of money or any other
26 thing of value:

1 1. received by a person in the ordinary course of any trade or
2 business conducted by the person, whether for profit or not for profit, or in the form of
3 investments in the person's business; or

4 2. A. that the donor and the person receiving the money
5 or thing of value expressly agree in writing may not be used for independent expenditures;
6 and

7 B. in the case of a monetary donation, is deposited in a
8 separate bank account that is never used for independent expenditures.

9 (3) "E-mail blast" means a transmission of electronic mail messages of an
10 identical or substantially similar nature to 5,000 or more e-mail accounts simultaneously.

11 (4) "Mass mailing" means a mailing by United States mail or facsimile of
12 more than 500 pieces of mail matter of an identical or substantially similar nature within
13 any 30-day period.

14 (5) (i) "Person" includes an individual, a partnership, a committee, an
15 association, a corporation, a labor organization, or any other organization or group of
16 persons.

17 (ii) "Person" does not include a campaign finance entity organized
18 under Subtitle 2, Part II of this title.

19 (6) (i) "Public communication" means a communication by means of
20 any broadcast television or radio communication, cable television communication, satellite
21 television or radio communication, newspaper, magazine, outdoor advertising facility, mass
22 mailing, e-mail blast, text blast, **QUALIFYING PAID DIGITAL COMMUNICATION**, or
23 telephone bank to the general public, or any other form of general public political
24 advertising.

25 (ii) "Public communication" does not include:

26 1. a news story, a commentary, or an editorial disseminated
27 by a broadcasting station, including a cable television operator, programmer, or producer,
28 satellite television or radio provider, Web site, newspaper, magazine, or other periodical
29 publication, including any Internet or electronic publication, that is not controlled by a
30 candidate or political party;

31 2. an internal membership communication by a business or
32 other entity to its stockholders or members and executive and administrative personnel
33 and their immediate families, or by a membership entity, as defined under § 13–243 of this
34 title, to its members, executive and administrative personnel and their immediate families;
35 or

36 3. a candidate debate or forum.

(7) "Telephone bank" means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.

(8) “Text blast” means a transmission of text messages of an identical or substantially similar nature to 5,000 or more telephone numbers simultaneously.

5 (b) Within 48 hours after a person makes aggregate independent expenditures of
6 \$5,000 or more in an election cycle for campaign material that is a public communication,
7 the person shall file a registration form with the State Board.

8 (c) Within 48 hours after a day on which a person makes aggregate independent
9 expenditures of \$10,000 or more in an election cycle for campaign material that is a public
10 communication, the person shall file an independent expenditure report with the State
11 Board.

(d) A person who files an independent expenditure report under subsection (c) of this section shall file an additional independent expenditure report with the State Board within 48 hours after a day on which the person makes aggregate independent expenditures of \$10,000 or more for campaign material that is a public communication following the closing date of the person's previous independent expenditure report.

17 (e) An independent expenditure report shall include the following information:

18 (1) the identity of the person making the independent expenditures and of
19 the person exercising direction or control over the activities of the person making the
20 independent expenditures;

28 (5) the identity of each person who made cumulative donations of \$6,000
29 or more to the person making the independent expenditures during the period covered by
30 the report.

31 13-307.

32 (a) (1) In this section the following words have the meanings indicated.

(2) (i) "Donation" means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person that makes disbursements for electioneering communications.

6 1. received by a person in the ordinary course of any trade or
7 business conducted by the person, whether for profit or not for profit, or in the form of
8 investments in the person's business; or

19 1. refers to a clearly identified candidate or ballot issue;

33 (ii) "Electioneering communication" does not include:

1 1. an independent expenditure;

2 2. a news story, a commentary, or an editorial disseminated
3 by a broadcasting station, including a cable television operator, programmer, or producer,
4 or satellite television or radio provider, WEBSITE, NEWSPAPER, MAGAZINE, OR OTHER
5 PERIODICAL PUBLICATION, INCLUDING ANY INTERNET OR ELECTRONIC
6 PUBLICATION, that is not controlled by a candidate or political party;

7 3. a candidate debate or forum;

8 4. an internal membership communication by a business or
9 other entity to its stockholders or members and executive and administrative personnel
10 and their immediate families, or by a membership entity, as defined under § 13–243 of this
11 title, to its members, executive and administrative personnel and their immediate families;
12 or

13 5. a communication that proposes a commercial transaction.

14 (iii) For purposes of this paragraph, “clearly identified” means:

15 1. the name of a candidate appears;

16 2. a photograph or drawing of a candidate appears; or

17 3. the identity of a candidate or ballot issue is apparent by
18 unambiguous reference.

19 (4) “E-mail blast” means a transmission of electronic mail messages of an
20 identical or substantially similar nature to 5,000 or more e-mail accounts simultaneously.

21 (5) “Mass mailing” means a mailing by United States mail or facsimile of
22 more than 5,000 pieces of mail matter of an identical or substantially similar nature within
23 any 30–day period.

24 (6) (i) “Person” includes an individual, a partnership, a committee, an
25 association, a corporation, a labor organization, or any other organization or group of
26 persons.

27 (ii) “Person” does not include a campaign finance entity organized
28 under Subtitle 2, Part II of this title.

29 (7) “Telephone bank” means more than 5,000 telephone calls of an identical
30 or substantially similar nature within any 30–day period.

31 (8) “Text blast” means a transmission of text messages of an identical or
32 substantially similar nature to 5,000 or more telephone numbers simultaneously.

1 (b) Within 48 hours after a person makes aggregate disbursements of \$5,000 or
2 more in an election cycle for electioneering communications, the person shall file a
3 registration form with the State Board.

4 (c) Within 48 hours after a day on which a person makes aggregate
5 disbursements of \$10,000 or more in an election cycle for electioneering communications,
6 the person shall file an electioneering communication report with the State Board.

7 (d) A person who files an electioneering communication report under subsection
8 (c) of this section shall file an additional electioneering communication report with the
9 State Board within 48 hours after a day on which the person makes aggregate
10 disbursements of \$10,000 or more for electioneering communications following the closing
11 date of the person's previous electioneering communication report.

12 (e) An electioneering communication report shall include the following
13 information:

14 (1) the identity of the person making disbursements for electioneering
15 communications and of the person exercising direction or control over the activities of the
16 person making the disbursements for electioneering communications;

17 (2) the business address of the person making the disbursements for
18 electioneering communications;

19 (3) the amount and date of each disbursement for electioneering
20 communications during the period covered by the report and the person to whom the
21 disbursement was made;

22 (4) the candidate or ballot issue to which the electioneering
23 communications relate; AND

24 (5) the identity of each person who made cumulative donations of \$6,000
25 or more to the person making the disbursements for electioneering communications during
26 the period covered by the report.

27 13–401.

28 (a) (1) Except as otherwise provided in this section, each item of campaign
29 material shall contain, set apart from any other message, an authority line that states:

30 (i) as to campaign material published [or], distributed, OR
31 DISSEMINATED by a campaign finance entity:

32 1. the name and address of the treasurer of each campaign
33 finance entity responsible for the campaign material; and

2. as to each treasurer named under item 1 of this item, the name of each campaign finance entity for which the treasurer is acting; and

(ii) as to campaign material published [or], distributed, OR DISSEMINATED by any other person, the name and address of the person responsible for the campaign material.

(2) The authority line may omit an address that is on file with the State Board or a local board.

(3) If the campaign material is too small to include all the information specified in paragraph (1) of this subsection in a legible manner, the authority line need only contain the [name and title of the treasurer or other person responsible for it]

(4) The authority line for campaign material that is a commercial advertisement need only contain the information specified in paragraphs (1) and (2) of this subsection for one campaign finance entity or other person responsible for the advertisement.

(b) Campaign material that is published or distributed in support of or in opposition to a candidate, but is not authorized by the candidate, shall include the following statement:

"This message has been authorized and paid for by (name of payor or any organization affiliated with the payor), (name and title of treasurer or president). This message has not been authorized or approved by any candidate."

13-403.

(a) (1) Subject to paragraph (2) of this subsection, each campaign finance entity, **EACH PERSON REQUIRED TO REGISTER UNDER § 13-306(B) OF THIS TITLE, AND EACH PERSON REQUIRED TO REGISTER UNDER § 13-307(B) OF THIS TITLE THAT IS** responsible for, publisher of, and distributor of, an item of campaign material shall keep a sample copy of the item for at least 1 year after the general election next following the date when the item was published or distributed.

(2) For each item of campaign material disseminated through the Internet,
the sample copy shall be:

(i) a paper facsimile; or

(ii) a copy on an electronic medium that can be produced as a paper
st.

1 (b) Subsection (a) of this section does not apply to a billboard or a sign.

2 13-405.

3 (A) (1) A PERSON WHO DIRECTLY OR INDIRECTLY REQUESTS
4 PLACEMENT OF A QUALIFYING PAID DIGITAL COMMUNICATION ON AN ONLINE
5 PLATFORM SHALL EXPRESSLY NOTIFY THE ONLINE PLATFORM AT THE TIME THE
6 REQUEST FOR PLACEMENT OF A QUALIFYING PAID DIGITAL COMMUNICATION IS
7 MADE THAT THE COMMUNICATION IS A QUALIFYING PAID DIGITAL
8 COMMUNICATION.

9 (2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS
10 SUBSECTION:

11 (I) SHALL BE PROVIDED USING THE METHOD PRESCRIBED BY
12 THE ONLINE PLATFORM; AND

13 (II) MAY NOT BE PROVIDED THROUGH THE INCLUSION OF THE
14 AUTHORITY LINE REQUIRED UNDER § 13-401 OF THIS SUBTITLE ON THE
15 QUALIFYING PAID DIGITAL COMMUNICATION.

16 (3) IF AN ONLINE PLATFORM DOES NOT PROVIDE A METHOD FOR A
17 REQUESTER OF A QUALIFYING PAID DIGITAL COMMUNICATION TO GIVE NOTICE AS
18 REQUIRED BY PARAGRAPH (2)(I) OF THIS SUBSECTION, THE REQUESTER SHALL:

19 (I) NOTIFY THE STATE BOARD THAT THE ONLINE PLATFORM IS
20 NOT IN COMPLIANCE WITH PARAGRAPH (2)(I) OF THIS SUBSECTION; AND

21 (II) PROVIDE THE INFORMATION REQUIRED UNDER
22 SUBSECTION (B)(6) OF THIS SECTION TO THE STATE BOARD.

23 (B) (1) AN ONLINE PLATFORM SHALL MAKE AVAILABLE FOR PUBLIC
24 INSPECTION ON THE INTERNET IN A MACHINE-READABLE FORMAT THE RECORDS
25 DESCRIBED IN PARAGRAPH (6) OF THIS SUBSECTION REGARDING QUALIFYING PAID
26 DIGITAL COMMUNICATIONS DISSEMINATED THROUGH THE ONLINE PLATFORM FOR
27 WHICH THE ONLINE PLATFORM HAS RECEIVED NOTICE IN ACCORDANCE WITH
28 SUBSECTION (A) OF THIS SECTION.

29 (2) AN ONLINE PLATFORM SHALL ALLOW THE PUBLIC TO SEARCH
30 THE RECORDS DESCRIBED IN PARAGRAPH (6) OF THIS SUBSECTION BY PURCHASER.

31 (3) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION,
32 THE RECORDS DESCRIBED IN PARAGRAPH (6) OF THIS SUBSECTION SHALL BE

1 AVAILABLE FOR PUBLIC INSPECTION ON THE INTERNET IN A CLEARLY
2 IDENTIFIABLE LOCATION ON THE ONLINE PLATFORM'S ~~HOME~~ PAGE WEBSITE:

3 (I) WITHIN 48 HOURS AFTER A QUALIFYING PAID DIGITAL
4 COMMUNICATION IS PURCHASED; AND

5 (II) FOR AT LEAST 1 YEAR AFTER THE GENERAL ELECTION
6 FOLLOWING THE DATE WHEN THE ONLINE PLATFORM DISSEMINATED THE
7 QUALIFYING PAID DIGITAL COMMUNICATION TO WHICH THE RECORDS RELATE.

8 (4) FOR PURPOSES OF PARAGRAPH (3) OF THIS SUBSECTION, A
9 PERSON SHALL BE CONSIDERED TO HAVE PURCHASED A QUALIFYING PAID DIGITAL
10 COMMUNICATION IF THE PERSON HAS EXECUTED A CONTRACT TO PURCHASE A
11 QUALIFYING PAID DIGITAL COMMUNICATION.

12 (5) (I) AN ONLINE PLATFORM MAY APPLY TO THE STATE BOARD
13 FOR A COMPLIANCE WAIVER TO ALLOW THE ONLINE PLATFORM TO MAKE THE
14 RECORDS DESCRIBED IN PARAGRAPH (6) OF THIS SUBSECTION AVAILABLE FOR
15 PUBLIC INSPECTION ON THE INTERNET WITHIN UP TO 7 DAYS AFTER A QUALIFYING
16 PAID DIGITAL COMMUNICATION IS PURCHASED.

17 (II) THE STATE BOARD SHALL REQUIRE AN APPLICANT FOR A
18 COMPLIANCE WAIVER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO:

19 1. DESCRIBE WHY COMPLYING WITH THE
20 REQUIREMENTS UNDER PARAGRAPH (3) OF THIS SUBSECTION PRESENTS AN
21 UNREASONABLE BURDEN ON THE APPLICANT; AND

22 2. PRESENT MEASURES THE APPLICANT WILL TAKE TO
23 MEET THE REQUIREMENTS UNDER PARAGRAPH (3) OF THIS SUBSECTION WITHIN 6
24 MONTHS AFTER THE DATE THE COMPLIANCE WAIVER IS GRANTED.

25 (III) THE STATE BOARD MAY NOT GRANT:

26 1. MORE THAN ONE COMPLIANCE WAIVER TO AN ONLINE
27 PLATFORM; AND

28 2. A COMPLIANCE WAIVER TO AN ONLINE PLATFORM
29 WITHIN 30 DAYS BEFORE AN ELECTION.

30 (IV) A COMPLIANCE WAIVER IS NOT EFFECTIVE DURING THE 30
31 DAYS IMMEDIATELY PRECEDING AN ELECTION.

(iv) (v) IF AN ONLINE PLATFORM WILL APPLY FOR A COMPLIANCE WAIVER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE ONLINE PLATFORM SHALL APPLY FOR A COMPLIANCE WAIVER BEFORE RECEIVING PAYMENT FOR A QUALIFYING PAID DIGITAL COMMUNICATION.

(6) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION A PURCHASER REQUESTS TO DISSEMINATE THROUGH AN ONLINE PLATFORM AND FOR WHICH THE PURCHASER HAS PROVIDED NOTICE IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, THE ONLINE PLATFORM SHALL MAINTAIN THE FOLLOWING RECORDS:

(I) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION PURCHASED BY A POLITICAL COMMITTEE:

1. THE NAME OF THE PERSON AND ANY CONTACT INFORMATION FOR THE PERSON REQUIRED BY THE STATE BOARD, OF THE POLITICAL COMMITTEE:

2. THE TREASURER OF THE POLITICAL COMMITTEE; AND

**3. THE TOTAL AMOUNT PAID BY THE PURCHASER TO THE
OR THE PLACEMENT OF THE QUALIFYING PAID DIGITAL**

(II) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION PURCHASED BY A PERSON OTHER THAN A POLITICAL COMMITTEE OR AN AD NETWORK:

1. THE NAME OF THE PERSON AND ANY CONTACT INFORMATION FOR THE PERSON REQUIRED BY THE STATE BOARD, OF THE PERSON:

**2. THE IDENTITY OF THE INDIVIDUALS EXERCISING
CONTROL OVER THE ACTIVITIES OF THE PERSON, INCLUDING THE
MANAGER OR BOARD OF DIRECTORS, IF APPLICABLE; AND**

**3. THE TOTAL AMOUNT PAID BY THE PURCHASER TO THE
OR THE PLACEMENT OF THE QUALIFYING PAID DIGITAL**

(III) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION PURCHASED BY AN AD NETWORK:

1. THE CONTACT INFORMATION FOR THE AD NETWORK;

2. A HYPERLINK TO THE AD NETWORK'S WEBSITE WHERE THE CONTACT INFORMATION IS LOCATED.

3 (C) (1) AN ONLINE PLATFORM SHALL MAINTAIN AND MAKE AVAILABLE
4 TO THE STATE BOARD ON REQUEST THE RECORDS DESCRIBED IN PARAGRAPH (3)
5 OF THIS SUBSECTION REGARDING QUALIFYING PAID DIGITAL COMMUNICATIONS
6 DISSEMINATED THROUGH THE ONLINE PLATFORM FOR WHICH THE ONLINE
7 PLATFORM HAS RECEIVED NOTICE IN ACCORDANCE WITH SUBSECTION (A) OF THIS
8 SECTION.

27 **(III) A DIGITAL COPY OF THE CONTENT OF THE QUALIFYING PAID**
28 **DIGITAL COMMUNICATION:**

(v) AN APPROXIMATE DESCRIPTION OF THE AUDIENCE THAT RECEIVED OR WAS TARGETED TO RECEIVE THE QUALIFYING PAID DIGITAL COMMUNICATION; AND

(VI) THE TOTAL NUMBER OF IMPRESSIONS GENERATED BY THE QUALIFYING PAID DIGITAL COMMUNICATION.

(4) INFORMATION OBTAINED BY THE STATE BOARD UNDER THIS SUBSECTION IS NOT SUBJECT TO INSPECTION UNDER THE PUBLIC INFORMATION ACT.

(D) (1) A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION SHALL PROVIDE THE ONLINE PLATFORM THAT DISSEMINATES THE QUALIFYING PAID DIGITAL COMMUNICATION WITH THE INFORMATION NECESSARY FOR THE ONLINE PLATFORM TO COMPLY WITH SUBSECTIONS (B) AND (C) OF THIS SECTION.

(2) AN ONLINE PLATFORM MAY RELY IN GOOD FAITH ON THE INFORMATION PROVIDED BY A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION TO COMPLY WITH SUBSECTIONS (B) AND (C) OF THIS SECTION.

(E) AN ONLINE PLATFORM SHALL MAKE REASONABLE EFFORTS TO ALLOW THE STATE BOARD TO:

(1) OBTAIN THE INFORMATION REQUIRED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION:

(2) OBTAIN THE INFORMATION THAT A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION PROVIDED TO THE ONLINE PLATFORM IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION; AND

**(3) OTHERWISE REQUEST THAT A PURCHASER OF A QUALIFYING PAID
DIGITAL COMMUNICATION COMPLY WITH THIS SECTION OR § 13-401 OF THIS
SUBTITLE**

(F) AN ONLINE PLATFORM THAT DISSEMINATES QUALIFYING PAID DIGITAL COMMUNICATIONS SHALL MAKE REASONABLE EFFORTS, IN ACCORDANCE WITH THE FEDERAL STORED COMMUNICATIONS ACT, TO COMPLY WITH ANY SUBPOENA THAT IS ISSUED IN CONNECTION WITH AN INVESTIGATION CONCERNING THE COMPLIANCE OF A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION WITH THIS SECTION OR § 13-401 OF THIS SUBTITLE.

13-405.1.

1 (A) (1) THE STATE ADMINISTRATOR MAY INVESTIGATE A POTENTIAL
2 VIOLATION OF § 13-401 OR § 13-405 OF THIS SUBTITLE BY A PURCHASER OF A
3 QUALIFYING PAID DIGITAL COMMUNICATION.

4 (2) IN FURTHERANCE OF AN INVESTIGATION UNDER PARAGRAPH (1)
5 OF THIS SUBSECTION, THE STATE ADMINISTRATOR MAY ISSUE A SUBPOENA FOR
6 THE ATTENDANCE OF A WITNESS TO TESTIFY OR THE PRODUCTION OF RECORDS.

7 (3) A SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED
8 IN ACCORDANCE WITH THE MARYLAND RULES.

9 (4) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER
10 THIS SUBSECTION, ON PETITION OF THE STATE ADMINISTRATOR, A CIRCUIT COURT
11 OF COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

12 (B) (1) AT THE CONCLUSION OF AN INVESTIGATION UNDER SUBSECTION
13 (A)(1) OF THIS SECTION, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE
14 STATE BOARD MAY REQUEST THAT THE ATTORNEY GENERAL INSTITUTE AN ACTION
15 IN A CIRCUIT COURT FOR INJUNCTIVE RELIEF IN ACCORDANCE WITH THE
16 MARYLAND RULES TO:

17 (I) REQUIRE A PURCHASER OF A QUALIFYING PAID DIGITAL
18 COMMUNICATION TO COMPLY WITH § 13-401 OR § 13-405 OF THIS SUBTITLE; OR

19 (II) REQUIRE AN ONLINE PLATFORM TO REMOVE A QUALIFIED
20 PAID DIGITAL COMMUNICATION THAT DOES NOT COMPLY WITH § 13-401 OF THIS
21 SUBTITLE OR IF THE PURCHASER OF THE COMMUNICATION DOES NOT COMPLY WITH
22 § 13-405 OF THIS SUBTITLE.

23 (2) BEFORE REQUESTING THAT THE ATTORNEY GENERAL SEEK AN
24 INJUNCTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE STATE BOARD
25 SHALL:

26 (I) NOTIFY A PURCHASER OF A QUALIFYING PAID DIGITAL
27 COMMUNICATION WHO IS THE SUBJECT OF AN INVESTIGATION OF THE
28 CIRCUMSTANCES THAT GAVE RISE TO THE INVESTIGATION; AND

29 (II) PROVIDE THE PERSON REASONABLE OPPORTUNITY TO BE
30 HEARD AT A PUBLIC MEETING OF THE STATE BOARD.

31 (3) A CIRCUIT COURT MAY GRANT INJUNCTIVE RELIEF UNDER THIS
32 SUBSECTION ONLY IF THE ATTORNEY GENERAL SHOWS BY CLEAR AND CONVINCING
33 EVIDENCE THAT A VIOLATION OF § 13-401 OR § 13-405 OF THIS SUBTITLE IS BEING
34 COMMITTED.

1 **(4) A PERSON WHO VIOLATES AN INJUNCTION ISSUED UNDER THIS**
2 **SUBSECTION IS SUBJECT TO THE PENALTIES PROVIDED IN § 13-605(B) OF THIS**
3 **TITLE.**

4 **13-405.2.**

5 **(A) IN THIS SECTION, “ELECTIONEERING COMMUNICATION” HAS THE**
6 **MEANING STATED IN § 13-307(A) OF THIS TITLE.**

7 **(B) A PERSON MAY NOT PURCHASE CAMPAIGN MATERIAL OR AN**
8 **ELECTIONEERING COMMUNICATION USING ANY CURRENCY OTHER THAN UNITED**
9 **STATES CURRENCY.**

10 **(C) A PERSON MAY NOT WILLFULLY AND KNOWINGLY SELL CAMPAIGN**
11 **MATERIAL OR AN ELECTIONEERING COMMUNICATION TO A PERSON WHO USES ANY**
12 **CURRENCY OTHER THAN UNITED STATES CURRENCY TO PAY FOR THE CAMPAIGN**
13 **MATERIAL OR ELECTIONEERING COMMUNICATION.**

14 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
15 **1, 2018.**

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.