

HOUSE BILL 1125

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2lr3221

By: **Delegates Adams and Ghrist**

Introduced and read first time: February 11, 2022

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Push Polls – Requirements and Prohibitions**

3 FOR the purpose of prohibiting a person from authorizing or conducting a push poll unless
4 during each call the caller provides certain identifying information; requiring certain
5 persons conducting push polls to have a designated agent in the State; and generally
6 relating to push polls.

7 BY repealing and reenacting, without amendments,
8 Article – Election Law
9 Section 1–101(a) and 13–604.1(d)(1)
10 Annotated Code of Maryland
11 (2017 Replacement Volume and 2021 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Election Law
14 Section 1–101(k) and 13–604.1(b)(8) and (9)
15 Annotated Code of Maryland
16 (2017 Replacement Volume and 2021 Supplement)

17 BY adding to
18 Article – Election Law
19 Section 13–602.1 and 13–604.1(b)(10)
20 Annotated Code of Maryland
21 (2017 Replacement Volume and 2021 Supplement)

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

24 **Article – Election Law**

25 1–101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (k) (1) “Campaign material” means any material that:

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

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

7 (iii) is published, distributed, or disseminated.

8 (2) “Campaign material” includes:

9 (i) a qualifying paid digital communication;

10 (ii) any other material transmitted by or appearing on the Internet
11 or other electronic medium;

12 (iii) an oral commercial campaign advertisement; [and]

13 (iv) an automated or prerecorded oral communication; AND

14 (v) **A PUSH POLL, AS DEFINED IN § 13-602.1 OF THIS ARTICLE.**

15 **13-602.1.**

16 (A) (1) **IN THIS SECTION, “PUSH POLL” MEANS A PAID TELEPHONE**
17 **SURVEY THAT REFERENCES A CANDIDATE OTHER THAN IN A BASIC PREFERENCE**
18 **QUESTION AND IN WHICH:**

19 (I) **A LIST OR DIRECTORY IS USED, EXCLUSIVELY OR IN PART,**
20 **TO SELECT RESPONDENTS BELONGING TO A PARTICULAR SUBSET OR COMBINATION**
21 **OF SUBSETS OF THE POPULATION, BASED ON DEMOGRAPHIC OR POLITICAL**
22 **CHARACTERISTICS, INCLUDING RACE, SEX, AGE, ETHNICITY, OR PARTY**
23 **AFFILIATION;**

24 (II) **THE SURVEY FAILS TO MAKE DEMOGRAPHIC INQUIRIES ON**
25 **FACTORS SUCH AS AGE, HOUSEHOLD INCOME, OR STATUS AS A LIKELY VOTER IN A**
26 **MANNER SUFFICIENT TO ALLOW FOR THE TABULATION OF RESULTS BASED ON A**
27 **RELEVANT SUBSET OF THE POPULATION CONSISTENT WITH STANDARD POLLING**
28 **INDUSTRY PRACTICES;**

1 **(III) THE POLLSTER OR POLLING ORGANIZATION DOES NOT**
2 **COLLECT OR TABULATE SURVEY RESULTS;**

3 **(IV) THE SURVEY PREFACES A QUESTION REGARDING SUPPORT**
4 **FOR A CANDIDATE WITH AN UNTRUE STATEMENT; AND**

5 **(V) THE SURVEY IS PRIMARILY FOR THE PURPOSE OF**
6 **SUPPRESSING OR CHANGING THE VOTING POSITION OF THE CALL RECIPIENT.**

7 **(2) “PUSH POLL” INCLUDES:**

8 **(I) A CALL PLACED FROM LOCATIONS IN THE STATE; AND**

9 **(II) A CALL PLACED FROM ANOTHER STATE OR COUNTRY TO AN**
10 **INDIVIDUAL IN THE STATE.**

11 **(3) “PUSH POLL” DOES NOT INCLUDE A SURVEY SUPPORTING A**
12 **PARTICULAR CANDIDATE THAT FAILS TO REFERENCE ANOTHER CANDIDATE OTHER**
13 **THAN IN A BASIC PREFERENCE QUESTION.**

14 **(B) THIS SECTION DOES NOT APPLY TO A PUSH POLL OR POLITICAL**
15 **TELEPHONE SOLICITATION OR CONTACT IF THE INDIVIDUALS PARTICIPATING IN**
16 **THE CALL KNEW EACH OTHER BEFORE THE CALL WAS MADE.**

17 **(C) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT LEGITIMATE**
18 **ELECTION PRACTICES, INCLUDING:**

19 **(1) VOTER IDENTIFICATION;**

20 **(2) VOTER FACILITATION ACTIVITIES; OR**

21 **(3) SCIENTIFIC POLLING RESEARCH.**

22 **(D) A PERSON MAY NOT AUTHORIZE OR CONDUCT A PUSH POL UNLESS,**
23 **DURING EACH CALL, THE CALLER:**

24 **(1) IDENTIFIES THE PERSON RESPONSIBLE FOR THE CALL IN**
25 **ACCORDANCE WITH § 13-401 OF THIS TITLE; AND**

26 **(2) IF THE PERSON MAKING THE CALL IS DIFFERENT FROM THE**
27 **PERSON RESPONSIBLE FOR THE CALL, IDENTIFIES THE PERSON MAKING THE CALL.**

1 **(E) IF A PERSON RESPONSIBLE FOR A PUSH POLL IS NOT REQUIRED TO FILE**
2 **A STATEMENT OF ORGANIZATION OR A REGISTRATION FORM WITH THE STATE**
3 **BOARD UNDER THIS TITLE, A VALID, CURRENT, AND PUBLICLY LISTED TELEPHONE**
4 **NUMBER AND ADDRESS FOR THE PERSON SHALL BE DISCLOSED DURING EACH CALL.**

5 **(F) IF A PERSON RESPONSIBLE FOR A PUSH POLL IS AFFILIATED WITH A**
6 **CANDIDATE, THE CANDIDATE'S NAME AND THE OFFICE SOUGHT BY THE CANDIDATE**
7 **SHALL BE DISCLOSED DURING EACH CALL.**

8 **(G) IF A PUSH POLL IS AN INDEPENDENT EXPENDITURE OR AN**
9 **ELECTIONEERING COMMUNICATION AS DEFINED IN § 13-307 OF THIS TITLE, THE**
10 **CALLER SHALL DISCLOSE THAT A CANDIDATE HAS NOT APPROVED THE CALL, IN**
11 **ACCORDANCE WITH § 13-401(B) OF THIS TITLE.**

12 **(H) IT IS NOT A VIOLATION OF THIS SECTION IF THE RESPONDENT**
13 **VOLUNTARILY TERMINATES THE CALL OR ASKS TO BE CALLED BACK BEFORE ALL**
14 **DISCLOSURES REQUIRED UNDER THIS SECTION ARE MADE, UNLESS THE CALLER IN**
15 **ANY WAY ENCOURAGES THE RESPONDENT TO TERMINATE THE CALL BEFORE THE**
16 **DISCLOSURES ARE MADE.**

17 **(I) A PERSON MAY NOT STATE OR IMPLY FALSE OR FICTITIOUS NAMES OR**
18 **TELEPHONE NUMBERS WHEN PROVIDING ANY OF THE DISCLOSURES REQUIRED**
19 **UNDER THIS SECTION.**

20 **(J) ALL DISCLOSURES REQUIRED UNDER THIS SECTION SHALL BE:**

21 **(1) MADE IN A CLEAR AND INTELLIGIBLE MANNER; AND**

22 **(2) REPEATED IN A CLEAR AND INTELLIGIBLE MANNER AT THE**
23 **REQUEST OF THE RESPONDENT.**

24 **(K) (1) THIS SUBSECTION DOES NOT APPLY TO AN ENTITY ALREADY**
25 **LAWFULLY REGISTERED TO CONDUCT BUSINESS IN THE STATE.**

26 **(2) BEFORE CONDUCTING A PUSH POLL, A PERSON SHALL:**

27 **(I) HAVE A DESIGNATED AGENT FOR THE PURPOSE OF SERVICE**
28 **OF PROCESS, NOTICE, OR DEMAND; AND**

29 **(II) CONTINUOUSLY MAINTAIN THAT DESIGNATED AGENT FOR**
30 **AT LEAST 180 DAYS FOLLOWING THE PERSON'S CESSATION OF BUSINESS ACTIVITIES**
31 **IN THE STATE.**

1 **(3) A PERSON SHALL FILE VALID IDENTIFICATION OF A DESIGNATED**
2 **AGENT UNDER PARAGRAPH (2) OF THIS SUBSECTION WITH THE STATE BOARD.**

3 **(4) A DESIGNATED AGENT UNDER PARAGRAPH (2) OF THIS**
4 **SUBSECTION MUST BE:**

5 **(I) AN INDIVIDUAL RESIDING IN THE STATE;**

6 **(II) A DOMESTIC CORPORATION; OR**

7 **(III) A FOREIGN CORPORATION AUTHORIZED TO DO BUSINESS IN**
8 **THE STATE.**

9 **(5) THE STATE BOARD SHALL CREATE AND MAINTAIN FORMS FOR**
10 **THE DESIGNATION OF AGENTS UNDER PARAGRAPH (2) OF THIS SUBSECTION THAT**
11 **INCLUDE:**

12 **(I) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE**
13 **DESIGNATED AGENT; AND**

14 **(II) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE**
15 **PERSON CONDUCTING BUSINESS IN THE STATE.**

16 13–604.1.

17 (b) The State Board may impose a civil penalty in accordance with this section for
18 the following violations:

19 (8) failure to retain a copy of campaign material as required in § 13–403 of
20 this title; [and]

21 (9) failure to include a disclosure on online campaign material as required
22 in § 13–401.1(b) of this title; AND

23 **(10) A VIOLATION OF § 13–602.1 OF THIS SUBTITLE.**

24 (d) (1) Except as otherwise provided in this title or as provided in paragraph
25 (2) of this subsection, the amount of a civil penalty imposed under this section may not
26 exceed \$500 for each violation.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
28 1, 2022.