

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1048

Short Title: Modify Campaign Ad Laws. (Public)

Sponsors: Representatives Faison, Ross, Stam, Moore (Primary Sponsors); Glazier, Harrison, and Parmon.

Referred to: Election Law and Campaign Finance Reform, if favorable, Judiciary I.

April 6, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT REFERENCES TO UNOPPOSED CANDIDATES AND OTHER
3 COMMERCIAL COMMUNICATIONS FROM THE ELECTIONEERING
4 COMMUNICATION LAWS AND CANDIDATE-SPECIFIC COMMUNICATION
5 LAWS; AND TO MAKE TECHNICAL CHANGES TO THE LAWS CONCERNING
6 ELECTIONEERING COMMUNICATIONS AND CANDIDATE-SPECIFIC
7 COMMUNICATIONS.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.(a)** G.S. 163-278.80 is amended by adding a new subdivision to read:

10 "(1a) The term "commercial communication" means a communication to which all
11 of the following apply:

- 12 a. The communication does not mention any election, candidacy,
13 political party, opposing candidate, or voting by the general public.
14 b. The communication does not take a position on any candidate's or
15 officeholder's fitness for office.
16 c. The communication offers a licensed professional service or
17 proposes a commercial transaction, such as purchase of a book,
18 video, or other product or service, or such as attendance (for a fee) at
19 a film exhibition or other event."

20 **SECTION 1.(b)** G.S. 163-278.80(3) reads as rewritten:

21 "(3) The term "electioneering communication" does not include any of the
22 following:

- 23 a. A communication appearing in a news story, commentary, or
24 editorial distributed through the facilities of any broadcasting station,
25 unless those facilities are owned or controlled by any political party,
26 political committee, or candidate.
27 b. A communication that constitutes an expenditure or independent
28 expenditure under Article 22A of this Chapter.
29 c. A communication that constitutes a candidate debate or forum
30 conducted pursuant to rules adopted by the Board or that solely
31 promotes that debate or forum and is made by or on behalf of the
32 person sponsoring the debate or forum.
33 d. A communication made while the General Assembly is in session
34 which, incidental to advocacy for or against a specific piece of
35 legislation pending before the General Assembly, urges the audience



1 to communicate with a member or members of the General Assembly
2 concerning that piece of legislation.

3 e. A communication that refers to a candidate against whom no
4 opposing candidate has timely filed and qualified pursuant to
5 G.S. 163-106 or G.S. 163-323.

6 f. A commercial communication."

7 **SECTION 2.(a)** G.S. 163-278.90 is amended by adding a new subdivision to read:

8 "(2a) The term "commercial communication" means a communication to which all
9 of the following apply:

10 a. The communication does not mention any election, candidacy,
11 political party, opposing candidate, or voting by the general public.

12 b. The communication does not take a position on any candidate's or
13 officeholder's fitness for office.

14 c. The communication offers a licensed professional service or
15 proposes a commercial transaction, such as purchase of a book,
16 video, or other product or service, or such as attendance (for a fee) at
17 a film exhibition or other event."

18 **SECTION 2.(b)** G.S. 163-278.90(3) reads as rewritten:

19 "(3) The term "electioneering communication" does not include any of the
20 following:

21 a. A communication appearing in a news story, commentary, or
22 editorial distributed through any newspaper or periodical, unless that
23 publication is owned or controlled by any political party, political
24 committee, or candidate.

25 b. A communication that constitutes an expenditure or independent
26 expenditure under Article 22A of this Chapter.

27 c. A communication that constitutes a candidate debate or forum
28 conducted pursuant to rules adopted by the Board or that solely
29 promotes that debate or forum and is made by or on behalf of the
30 person sponsoring the debate or forum.

31 d. A communication that is distributed by a corporation solely to its
32 shareholders or employees, or by a labor union or professional
33 association solely to its members.

34 e. A communication made while the General Assembly is in session
35 which, incidental to advocacy for or against a specific piece of
36 legislation pending before the General Assembly, urges the audience
37 to communicate with a member or members of the General Assembly
38 concerning that piece of legislation.

39 f. A communication that refers to a candidate against whom no
40 opposing candidate has timely filed and qualified pursuant to
41 G.S. 163-106 or G.S. 163-323.

42 g. A commercial communication."

43 **SECTION 3.(a)** G.S. 163-278.100 is amended by adding a new subdivision to

44 read:

45 "(2a) The term "commercial communication" means a communication to which all
46 of the following apply:

47 a. The communication does not mention any election, candidacy,
48 political party, opposing candidate, or voting by the general public.

49 b. The communication does not take a position on any candidate's or
50 officeholder's fitness for office.

- 1 c. The communication offers a licensed professional service or
2 proposes a commercial transaction, such as purchase of a book,
3 video, or other product or service, or such as attendance (for a fee) at
4 a film exhibition or other event."

5 **SECTION 3.(b)** G.S. 163-278.100(2) reads as rewritten:

6 "(2) The term "candidate-specific communication" does not include any of the
7 following:

- 8 a. A communication appearing in a news story, commentary, or
9 editorial distributed through the facilities of any broadcasting station,
10 unless those facilities are owned or controlled by any political party,
11 political committee, or candidate.
12 b. A communication that constitutes an expenditure or independent
13 expenditure under Article 22A of this Chapter.
14 c. A communication that constitutes a candidate debate or forum
15 conducted pursuant to rules adopted by the Board or that solely
16 promotes that debate or forum and is made by or on behalf of the
17 person sponsoring the debate or forum.
18 d. A communication made while the General Assembly is in session
19 which, incidental to advocacy for or against a specific piece of
20 legislation pending before the General Assembly, urges the audience
21 to communicate with a member or members of the General Assembly
22 concerning that piece of legislation.
23 e. An electioneering communication as defined in Article 22E of this
24 Chapter.
25 f. A communication that refers to a candidate against whom no
26 opposing candidate has timely filed and qualified pursuant to
27 G.S. 163-106 or G.S. 163-323.
28 g. A commercial communication."

29 **SECTION 4.(a)** G.S. 163-278.110 is amended by adding a new subdivision to

30 read:

31 "(2a) The term "commercial communication" means a communication to which all
32 of the following apply:

- 33 a. The communication does not mention any election, candidacy,
34 political party, opposing candidate, or voting by the general public.
35 b. The communication does not take a position on any candidate's or
36 officeholder's fitness for office.
37 c. The communication offers a licensed professional service or
38 proposes a commercial transaction, such as purchase of a book,
39 video, or other product or service, or such as attendance (for a fee) at
40 a film exhibition or other event."

41 **SECTION 4.(b)** G.S. 163-278.110(2) reads as rewritten:

42 "(2) The term "candidate-specific communication" does not include any of the
43 following:

- 44 a. A communication appearing in a news story, commentary, or
45 editorial distributed through any newspaper or periodical, unless that
46 publication is owned or controlled by any political party, political
47 committee, or candidate.
48 b. A communication that constitutes an expenditure or independent
49 expenditure under Article 22A of this Chapter.
50 c. A communication that constitutes a candidate debate or forum
51 conducted pursuant to rules adopted by the Board or that solely

1 promotes that debate or forum and is made by or on behalf of the
2 person sponsoring the debate or forum.

3 d. A communication that is distributed by a corporation solely to its
4 shareholders or employees or by a labor union or professional
5 association solely to its members.

6 e. A communication made while the General Assembly is in session
7 which, incidental to advocacy for or against a specific piece of
8 legislation pending before the General Assembly, urges the audience
9 to communicate with a member or members of the General Assembly
10 concerning that piece of legislation.

11 f. An electioneering communication as defined in Article 22F of this
12 Chapter.

13 g. A public opinion poll conducted by a newspaper, periodical, or other
14 news gathering organization.

15 h. A communication that refers to a candidate against whom no
16 opposing candidate has timely filed and qualified pursuant to
17 G.S. 163-106 or G.S. 163-323.

18 i. A commercial communication."

19 **SECTION 5.** G.S. 163-278.80(2) reads as rewritten:

20 "(2) The term "electioneering communication" means any broadcast, cable, or
21 satellite communication that has all the following characteristics:

22 a. Refers to a clearly identified candidate for a statewide office or the
23 General Assembly.

24 b. Is ~~made~~ aired within one of the following time periods:

25 1. 60 days before a general or special election for the office
26 sought by the candidate, or

27 2. 30 days before a primary election or a convention of a
28 political party that has authority to nominate a candidate for
29 the office sought by the candidate.

30 c. Is targeted to the relevant electorate."

31 **SECTION 6.** G.S. 163-278.90(2) reads as rewritten:

32 "(2) The term "electioneering communication" means any mass mailing or
33 telephone bank that has all the following characteristics:

34 a. Refers to a clearly identified candidate for a statewide office or the
35 General Assembly.

36 b. Is ~~made~~ transmitted within one of the following time periods:

37 1. 60 days before a general or special an election for the office
38 sought by the candidate, or

39 2. 30 days before a primary election or a convention of a
40 political party that has authority to nominate a candidate for
41 the office sought by the candidate.

42 c. Is targeted to the relevant electorate."

43 **SECTION 7.** G.S. 163-278.100(1) reads as rewritten:

44 "(1) The term "candidate-specific communication" means any broadcast, cable,
45 or satellite communication that has all the following characteristics:

46 a. Refers to a clearly identified candidate for a statewide office or the
47 General Assembly.

48 b. Is ~~made~~ aired in an even-numbered year after the final date on which
49 a Notice of Candidacy can be filed for the office, pursuant to
50 G.S. 163-106(c) or G.S. 163-323, and through the day on which the
51 general election is conducted, excluding the time period set in the

- 1 definition for "electioneering communication" in
- 2 G.S. 163-278.80(2)b.
- 3 c. Is targeted to the relevant electorate."
- 4 **SECTION 8.** G.S. 163-278.110(1) reads as rewritten:
- 5 "(1) The term "candidate-specific communication" means any mass mailing or
- 6 telephone bank that has all the following characteristics:
- 7 a. Refers to a clearly identified candidate for a statewide office or the
- 8 General Assembly.
- 9 b. Is ~~made-transmitted~~ in an even-numbered year after the final date on
- 10 which a Notice of Candidacy can be filed for the office, pursuant to
- 11 G.S. 163-106(c) or G.S. 163-323, and through the day on which the
- 12 general election is conducted, excluding the time period set in the
- 13 definition for "electioneering communication" in
- 14 G.S. 163-278.90(2)b.
- 15 c. Is targeted to the relevant electorate."
- 16 **SECTION 9.** This act becomes effective January 1, 2010.