

SECOND REGULAR SESSION

HOUSE BILL NO. 1829

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGAUGH.

5259H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 115, RSMo, by adding thereto one new section relating to the political accountability in campaigning act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 115, RSMo, is amended by adding thereto one new section, to be known as section 115.850, to read as follows:

115.850. 1. This section shall be known and may be cited as the "Political Accountability in Campaigning Act".

2. As used in this section, the following terms mean:

(1) "Knowingly", a candidate knows that a material fact is false, intends to publicize the material fact, and acts knowingly, as such term is defined in section 562.016, in publicizing the material fact;

(2) "Material fact", a proposition that can be proven with reasonable certainty to be either true or false, and that is not embedded within a context where the overall content of the message is a matter of opinion. The use of interjections including name-calling or profane language shall not be deemed to be matters of material fact.

3. Any candidate campaigning for office in this state who knowingly publicizes a false statement of material fact in a political advertisement released to the public through any print or broadcast medium that refers to a clearly-identified candidate for statewide office or the general assembly that is made after the candidate making the communication has filed for office is guilty of violating this section by publicizing the false statement of material fact. A court or a jury shall determine whether, by clear and convincing evidence, a violation of this section has occurred.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **4. A violation of this section shall be punishable by damages limited to the lesser**
19 **of the amount it would cost to adequately inform the public of the false material fact at**
20 **issue or a damage award of not more than twenty thousand dollars. Courts may enforce**
21 **the provisions of this section by granting injunctive relief to prevent the future**
22 **dissemination of false statements of material fact in violation of this section.**

23 **5. A candidate who has violated the provisions of this section may avoid the penalty**
24 **imposed in this section by retracting the candidate's false statement of material fact**
25 **through the same print or broadcast medium used to communicate the false statement of**
26 **material fact, if such retraction is made not later than fourteen days after the false**
27 **statement of material fact was made and not later than fourteen days before a general or**
28 **special election for statewide office or the general assembly.**

29 **6. In addition to county prosecutors or the office of the attorney general, any**
30 **eligible voter may bring suit to enforce the provisions of this section. Damages obtained**
31 **by county or state officials shall be deemed to be penalties payable to the schools as**
32 **provided in article IX, section 7 of the Constitution of Missouri. Damages obtained by any**
33 **eligible voter bringing suit under this section shall be payable to the eligible voter.**

34 **7. This section shall not be construed to modify or supersede any cause of action**
35 **for defamation, and the penalties in this section shall be in addition to any damages or**
36 **penalties imposed for defamation by statute or common law.**

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