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Short Title: Stand By Your Ad.

(Public)

Sponsors:

Referred to:

April 7, 1997

A BILL TO BE ENTITLED
AN ACT TO REQUIRE CERTAIN DISCLOSURES BY THE SPONSORS OF
POLITICAL ADVERTISEMENTS.

The General Assembly of North Carolina enacts:

Section 1. Article 22A of Chapter 163 of the General Statutes is amended by
adding a new Part to read:

**"PART 1A. DISCLOSURE REQUIREMENTS FOR MEDIA
ADVERTISEMENTS.**

**"§ 163-278.39. Basic disclosure requirements for all political campaign
advertisements.**

(a) Basic Requirements. – No advertisement in the print media or on radio or
television whose cost or value constitutes an expenditure or contribution required to be
disclosed under this Article shall be made by a sponsoring candidate, candidate campaign
committee, political party organization, political action committee, referendum
committee, or individual in a State or local campaign unless all the following conditions
are met:

- (1) It bears the legend or includes the statement: 'Paid for by
[Name of candidate, candidate campaign committee, political party

1 organization, political action committee, referendum committee, or
2 individual].' In television advertisements, this disclosure shall be made
3 by visual legend.

4 (2) The name used in the labeling required in subdivision (1) of this
5 subsection is the name that appears on the statement of organization as
6 required in G.S. 163-278.7(b)(1).

7 (3) The sponsor states in the advertisement its position for or against the
8 candidate, provided that this subdivision applies only if the media
9 advertisement supports or opposes a specific candidate or candidates.

10 (4) The sponsor states in the advertisement its position for or against a
11 ballot measure, provided that this subdivision applies only if the media
12 advertisement is made for or against a ballot measure.

13 (5) In a print media advertisement supporting or opposing a specific
14 candidate or candidates, the sponsor states whether it is authorized by a
15 candidate. The visual legend in the advertisement shall state either
16 'Authorized by [name of candidate], candidate for [name of office]' or
17 'Not authorized by a candidate.' This subdivision does not apply if the
18 sponsor of the advertisement is the candidate the advertisement supports
19 or that candidate's campaign committee.

20 (b) Size Requirements. – In a print media advertisement covered by subsection (a)
21 of this section, all disclosure statements required by that subsection shall constitute at
22 least ten percent (10%) of the space of the advertisement. If a single advertisement
23 consists of multiple pages, folds, or faces, the requirement of the previous sentence
24 applies only to one page, fold, or face. In a television advertisement covered by
25 subsection (a) of this section, the visual disclosure legend shall constitute 32 scan lines in
26 size.

27 (c) Misrepresentation of Authorization. – Notwithstanding G.S. 163-278.27(a),
28 any candidate, candidate campaign committee, political party organization, political
29 action committee, referendum committee, or sponsoring individual making an
30 advertisement in the print media or on radio or television bearing any legend required by
31 subsection (a) of this section that misrepresents the sponsorship or authorization of the
32 advertisement is guilty of a Class 1 misdemeanor.

33 **§ 163-278.39A. Disclosure requirements for television and radio advertisements**
34 **supporting or opposing candidates.**

35 (a) Expanded Disclosure Requirements. – In addition to the basic disclosure
36 requirements in G.S. 163-278.39, any political campaign advertisement on radio or
37 television supporting or opposing a specific candidate or candidates shall comply with the
38 expanded disclosure requirements set forth in this section.

39 (b) Disclosure Requirements for Television. –

40 (1) Candidate Advertisements on Television. – Television advertisements
41 purchased by a candidate or by a candidate campaign committee
42 supporting or opposing a specific candidate or candidates shall include a
43 disclosure statement spoken by the candidate and containing at least the

- 1 following words: 'I am (or "This is...") [candidate's name], candidate
2 for [name of office], and I (or "my campaign...") sponsored this ad.'
- 3 (2) Political Party Advertisements on Television. – Television
4 advertisements purchased by a political party organization supporting or
5 opposing a specific candidate or candidates shall include a disclosure
6 statement spoken by the chair, executive director, or treasurer of the
7 political party organization and containing at least the following words:
8 'The [name of political party organization] sponsored this ad
9 opposing/supporting [name of candidate] for [name of office].' The
10 disclosed name of the political party organization shall include the name
11 of the political party as it appears on the ballot.
- 12 (3) Political Action Committee Advertisements on Television. – Television
13 advertisements purchased by a political action committee supporting or
14 opposing a specific candidate or candidates shall include a disclosure
15 statement spoken by the chief executive officer or treasurer of the
16 political action committee and containing at least the following words:
17 'The [name of political action committee] political action committee
18 sponsored this ad opposing/supporting [name of candidate] for [name of
19 office].' The name of the political action committee used in the
20 advertisement shall be the name that appears on the statement of
21 organization as required in G.S. 163-278.7(b)(1).
- 22 (4) Advertisements on Television by an Individual. – Television
23 advertisements purchased by an individual supporting or opposing a
24 specific candidate or candidates shall include a disclosure statement
25 spoken by the individual and containing at least the following words: 'I
26 am [individual's name], and I sponsored this advertisement
27 opposing/sponsoring [name of candidate] for [name of office].'
- 28 (5) All Advertisements on Television. – In any television advertisement
29 described in subdivisions (1) through (4) of this subsection, an
30 unobscured, full-screen picture containing the disclosing person, either
31 in photographic form or through the actual appearance of the disclosing
32 person on camera, shall be featured throughout the duration of the
33 disclosure statement.
- 34 (c) Disclosure Requirements for Radio. –
- 35 (1) Candidate Advertisements on Radio. – Radio advertisements purchased
36 by a candidate or by a candidate campaign committee shall include a
37 disclosure statement spoken by the candidate and containing at least the
38 following words: 'I am (or "This is...") [name of candidate], candidate
39 for [name of office], and this ad was paid for by [name of candidate
40 campaign committee that paid for the advertisement].'
- 41 (2) Political Party Advertisements on Radio. – Radio advertisements
42 purchased by a political party organization supporting or opposing a
43 specific candidate or candidates shall include a disclosure statement

1 spoken by the chair, executive director, or treasurer of the political party
2 organization and containing at least the following words: 'This ad
3 opposing/supporting [name of candidate] for [name of office] was paid
4 for (or "sponsored" or "furnished") by [name of political party].' The
5 disclosed name of the political party organization shall include the name
6 of the political party as it appears on the ballot.

7 (3) Political Action Committee Advertisements on Radio. – Radio
8 advertisements purchased by a political action committee supporting or
9 opposing a specific candidate or candidates shall include a disclosure
10 statement spoken by the chief executive officer or treasurer of the
11 political action committee and containing at least the following words:
12 'This ad opposing/supporting [name of candidate] for [name of office]
13 was paid for (or "sponsored" or "furnished") by [name of political action
14 committee] political action committee.' The name of the political action
15 committee used in the advertisement shall be the name that appears on
16 the statement of organization as required by G.S. 163-278.7(b)(1).

17 (4) Advertisements on Radio by an Individual. – Radio advertisements
18 purchased by an individual supporting or opposing a specific candidate
19 or candidates shall include a disclosure statement spoken by the
20 individual and containing at least the following words: 'I am
21 [individual's name], and this ad opposing/supporting [name of
22 candidate] for [name of office] was paid for (or "sponsored" or
23 "furnished") by me.'

24 (d) Placement of Disclosure Statement in Television and Radio Advertisements. –
25 In advertisements on television, a sponsoring candidate or candidate campaign
26 committee, political party organization, political action committee, or individual may
27 place the disclosure statement required by this section at any point during the
28 advertisement, except if the duration of the advertisement is more than five minutes, the
29 disclosure statement shall be made both at the beginning and end of the advertisement.
30 The sponsor may provide the oral disclosure statement required by this section at the
31 same time as the visual disclosure required under the Federal Communications Act, 47
32 U.S.C. §§ 315 and 317 is shown. But any visual disclosure legend shall be at least 32
33 scan lines in size. For advertisements on radio, the placement of the oral disclosure
34 statement shall follow the requirements under the Federal Communications Act, 47
35 U.S.C. §§ 315 and 317.

36 (e) Choice by Noncandidate Entity of Supporting or Opposing a Candidate. – In
37 its oral disclosure statement, a sponsoring political party organization, political action
38 committee, or individual shall choose either to identify an advertisement as supporting a
39 specific candidate or opposing a specific candidate.

40 (f) Legal Remedy. – Pursuant to the conditions established in subdivisions (1), (2),
41 and (3) of this subsection, a candidate for an elective office who complied with the
42 television and radio disclosure requirements throughout that candidate's entire campaign
43 shall have a monetary remedy in a civil action against (i) an opposing candidate or

1 candidate committee whose television or radio advertisement violates these disclosure
2 requirements and (ii) against any political party organization, political action committee,
3 or individual whose advertisement for that elective office violates these disclosure
4 requirements:

5 (1) Any plaintiff candidate in a statewide race in an action under this
6 section shall complete and file a Notice of Complaint Regarding Failure
7 to Disclose on Television or Radio Campaign Advertising with the State
8 Board of Elections after the airing of the advertisement but no later than
9 the first Friday after the Tuesday on which the election occurred.
10 Candidates in nonstatewide races may file the notice during the same
11 time period with one county board of elections within the electoral area
12 in which they are candidates. The timely filing of this notice preserves
13 the candidate's right to bring an action in superior court any time within
14 90 days after the election. A candidate shall bring the civil action in the
15 county where the candidate filed the notice.

16 (2) Upon receiving a favorable verdict in accordance with existing law, the
17 plaintiff candidate shall receive a monetary award of actual damages.
18 The price of actual damages shall be calculated as the total dollar
19 amount of television and radio advertising time that was aired and that
20 the plaintiff candidate correctly identifies as being in violation of the
21 disclosure requirements of this section.

22 The plaintiff candidate shall also receive an award that trebles the
23 amount of actual damages if:

24 a. The plaintiff candidate can establish having notified or attempted
25 to notify the sponsor of the advertisement properly by return-
26 receipt mail about the failure of a particular advertisement or
27 advertisements to comply with the disclosure requirements of
28 this section, and

29 b. After the notice or attempted notice, the advertisement continued
30 to be aired.

31 The treble damages shall be calculated from the date on which the
32 return-receipt notice was accepted or rejected by a defendant sponsoring
33 candidate or candidate committee, political party organization, political
34 action committee, or individual. The plaintiff candidate or candidate
35 committee shall send a copy of any return-receipt mailing to the relevant
36 board of elections as provided in subdivision (1) of this subsection
37 within five days after the notice is returned to the possession of the
38 candidate or candidate committee.

39 The court shall award reasonable attorneys' fees to a plaintiff
40 candidate who prevails in an action under this section. The plaintiff
41 candidate may bring the civil action personally or authorize his or her
42 candidate campaign committee to bring the civil action.

1 (3) A candidate who violates the disclosure requirements of State law in
2 this section and that candidate's campaign committee shall be jointly
3 and severally liable for the payment of damages and attorneys' fees. If
4 the candidate is held personally liable for any payment of damages or
5 attorneys' fees, the candidate shall not use or be reimbursed by funds
6 from the candidate's campaign committee in paying any amount.

7 (g) Relation to the Federal Communications Act. – Television advertisements by
8 candidates or candidate campaign committees, political party organizations, political
9 action committees, and individuals supporting or opposing a specific candidate or
10 candidates shall comply with the oral disclosure requirements under State law in this
11 section. Those advertisements shall also comply with disclosure requirements under the
12 Federal Communications Act, 47 U.S.C. §§ 315 and 317 by use of visual legends. The
13 content of those visual legends is specified by the Federal Communications Act. 47
14 U.S.C. §§ 315 and 317, and G.S. 163-278.39(a)(1). The size of those visual legends is
15 determined by G.S. 163-278.39(b), which satisfies minimum requirements under the
16 Federal Communications Act, 47 U.S.C. §§ 315 and 317. In the case of radio
17 advertisements, the oral disclosure requirements under State law in this section
18 incorporate the content requirements under the Federal Communications Act, 47 U.S.C.
19 §§ 315 and 317.

20 (h) No Additional Liability of Television or Radio Outlets. – Television or radio
21 outlets shall not be liable under this section for carriage of political advertisements that
22 fails to include the disclosure requirements provided for in this section.

23 (i) No Criminal Liability. – Nothing in this section regarding the disclosure
24 requirements in subsections (b) and (c) of this section shall be relied upon or otherwise
25 interpreted to create criminal liability for any person.

26 **"§ 163-278.39B. Definitions.**

27 As used in this Part:

28 (1) 'Candidate' means any individual who, with respect to a public office
29 listed in G.S. 163-278.6(18), has filed a notice of candidacy or a petition
30 requesting to be a candidate, or has been certified as a nominee of a
31 political party for a vacancy, or has otherwise qualified as a candidate in
32 a manner authorized by law, or has filed a statement of organization
33 under G.S. 163-278.7 and is required to file periodic financial disclosure
34 statements under G.S. 163-278.9.

35 (2) 'Candidate campaign committee' means any political committee
36 organized by or under the direction of a candidate.

37 (3) 'Full-screen' means the only picture appearing on the television screen
38 during the oral disclosure statement contains the disclosing person, that
39 the picture occupies all visible space on the television screen, and that
40 the image of the disclosing person occupies at least fifty percent (50%)
41 of the vertical height of the television screen.

42 (4) 'Print media' means billboards, cards, newspapers, newspaper inserts,
43 magazines, mass mailings, pamphlets, periodicals, and outdoor

1 advertising facilities. A 'mass mailing' is a mailing with more than five
2 hundred (500) pieces.

3 (5) 'Political action committee' has the same meaning as 'political
4 committee' in G.S. 163-278.6(14), except that 'political action
5 committee' does not include any political party or political party
6 organization.

7 (6) 'Political party organization' means any political party executive
8 committee or any political committee that operates under the direction
9 of a political party executive committee or political party chair.

10 (7) 'Radio' means any radio broadcast station that is subject to the
11 provisions of 47 U.S.C. §§ 315 and 317.

12 (8) 'Scan line' means a standard term of measurement used in the electronic
13 media industry calculating a certain area in a television advertisement.

14 (9) 'Supporting or Opposing' means an advertisement that mentions the
15 name of a candidate and whose cost or value constitutes an expenditure
16 or contribution required to be disclosed under this Article.

17 (10) 'Television' means any television broadcast station, cable television
18 system, wireless-cable multipoint distribution system, satellite
19 company, or telephone company transmitting video programming that is
20 subject to the provisions of 47 U.S.C. §§ 315 and 317.

21 (11) 'Unobscured' means the only printed material that may appear on the
22 television screen is a visual disclosure statement required by law, and
23 nothing is blocking the view of the disclosing person's face.

24 **"§ 163-278.39C. Scope of disclosure requirements.**

25 The disclosure requirements of this Part apply to all those candidates or candidate
26 committees, political party organizations, political action committees, and individuals
27 required to file financial disclosure statements in North Carolina pursuant to this Article
28 or pursuant to federal law, except that the disclosure requirements of this Part do not
29 apply to an individual who expends or contributes an aggregate of less than one thousand
30 dollars (\$1,000) in a political campaign."

31 Section 2. G.S. 163-278.16 reads as rewritten:

32 **"§ 163-278.16. Regulations regarding ~~contributions, expenditures and media~~**
33 **advertising. ~~timing of contributions and expenditures.~~**

34 (a) Except as provided in G.S. 163-278.12, no contribution may be received or
35 expenditure made by or on behalf of a candidate, political committee, or referendum
36 committee:

37 (1) Until the candidate, political committee, or referendum committee
38 appoints a treasurer and certifies the name and address of the treasurer
39 to the Board; and

40 (2) Unless the contribution is received or the expenditure made by or
41 through the treasurer of the candidate, political committee, or
42 referendum committee.

43 (b) to (e) Repealed by Session Laws 1975, c. 565, s. 2.

1 (f) ~~No media advertisement of any kind may be made by a treasurer, candidate,~~
2 ~~political committee, referendum committee or individual unless~~

3 (1) ~~It bears the legend or includes the statement: "Paid for by (or Sponsored~~
4 ~~by)..... (Name of candidate, political committee, referendum~~
5 ~~committee, individual)";~~

6 (2) ~~The name used in the labeling required in subdivision (1) of this~~
7 ~~subsection is the name that appears on the statement of organization as~~
8 ~~required in G.S. 163-278.7(b)(1), provided that this subdivision applies~~
9 ~~only if the sponsor is a political committee or referendum committee;~~

10 (3) ~~The sponsor states in the media advertisement its position:~~

11 a. ~~For or against the candidate; or~~

12 b. ~~For or against an opposing candidate~~

13 ~~provided that this subdivision applies only if the media advertisement is~~
14 ~~made for or against a candidate; and~~

15 (4) ~~The sponsor states in the media advertisement its position for or against~~
16 ~~the ballot measure; provided this subdivision applies only if the media~~
17 ~~advertisement is made for or against a ballot measure.~~

18 ~~The requirements of subdivisions (3) and (4) of this subsection do not apply to any~~
19 ~~print advertisement less than two inches by two inches in size, or to any radio or~~
20 ~~television advertisement of less than 20 seconds in length.~~

21 ~~The media shall not publish or broadcast any political advertisement unless it bears~~
22 ~~the legend or includes the statement required herein. For purposes of this subsection,~~
23 ~~"media" means broadcasting stations, carrier current stations, newspapers, magazines,~~
24 ~~periodicals, outdoor advertising facilities, billboards, and newspaper inserts."~~

25 Section 3. G.S. 163-278.27(a) reads as rewritten:

26 "(a) Any individual, candidate, political committee, referendum committee,
27 treasurer, person or media who violates the provisions of G.S. 163-278.7, 163-278.8,
28 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.14, 163-278.16, 163-278.17,
29 163-278.18, 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-
30 278.40E is guilty of a Class 2 misdemeanor."

31 Section 4. The provisions of this act are severable. If any provision is held
32 invalid by a court of competent jurisdiction, the invalidity does not affect other provisions
33 of the act that can be given effect without the invalid provision.

34 Section 5. This act becomes effective January 1, 1998, and applies to all
35 advertisements published on or after that date. Prosecutions for, or sentences based on,
36 offenses occurring before the effective date of this act are not abated or affected by this
37 act, and the statutes that would be applicable to those prosecutions or sentences but for
38 the provisions of this act remain applicable to those prosecutions or sentences.