

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 708
Judiciary Committee Substitute Adopted 4/22/97

Short Title: Stand By Your Ad.

(Public)

Sponsors:

Referred to:

April 7, 1997

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

4 The General Assembly of North Carolina enacts:

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

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

9 **"§ 163-278.39. Basic disclosure requirements for all political campaign**
10 **advertisements.**

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

16 (1) It bears the legend or includes the statement: 'Paid for by (or Sponsored
17 by or Furnished by)..... [Name of candidate, candidate
18 campaign committee, political party organization, political action
19 committee, referendum committee, or individual].'

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

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

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

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

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

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

30 **"§ 163-278.39A. Disclosure requirements for television and radio advertisements**
31 **supporting or opposing candidates.**

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

36 (b) Disclosure Requirements for Television. –

37 (1) Candidate Advertisements on Television. – Television advertisements
38 purchased by a candidate or by a candidate campaign committee
39 supporting or opposing a specific candidate or candidates shall include a
40 disclosure statement spoken by the candidate and containing at least the
41 following words: 'I am (or "This is...") [candidate's name], candidate
42 for [name of office], and I (or "my campaign...") sponsored this ad.'

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

1 opposing/supporting [name of candidate] for [name of office] was paid
2 for (or "sponsored" or "furnished") by [name of political party].' The
3 disclosed name of the political party organization shall include the name
4 of the political party as it appears on the ballot.

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

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

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

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

37 (f) Legal Remedy. – Pursuant to the conditions established in subdivisions (1), (2),
38 and (3) of this subsection, a candidate for an elective office who complied with the
39 television and radio disclosure requirements throughout that candidate's entire campaign
40 shall have a monetary remedy in a civil action against (i) an opposing candidate or
41 candidate committee whose television or radio advertisement violates these disclosure
42 requirements and (ii) against any political party organization, political action committee,

1 or individual whose advertisement for that elective office violates these disclosure
2 requirements:

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

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

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

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

27 b. After the notice or attempted notice, the advertisement continued
28 to be aired.

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

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

41 (3) A candidate who violates the disclosure requirements of State law in
42 this section and that candidate's campaign committee shall be jointly
43 and severally liable for the payment of damages and attorneys' fees. If

1 the candidate is held personally liable for any payment of damages or
2 attorneys' fees, the candidate shall not use or be reimbursed by funds
3 from the candidate's campaign committee in paying any amount.

4 (g) Relation to Federal Law. – Television advertisements by candidates or
5 candidate campaign committees, political party organizations, political action
6 committees, and individuals supporting or opposing a specific candidate or candidates
7 shall comply with the oral disclosure requirements under State law in this section. Those
8 advertisements shall also comply with federal disclosure requirements by use of visual
9 legends. The content of those visual legends is specified by federal law. The size of those
10 visual legends is determined by State law that satisfies minimum requirements under
11 federal law. In the case of radio advertisements, the oral disclosure requirements under
12 State law in this section incorporate the content requirements of federal law under 47
13 U.S.C. § 317.

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

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

20 **"§ 163-278.39B. Definitions.**

21 As used in this Part:

- 22 (1) 'Candidate' means any individual who, with respect to a public office
23 listed in G.S. 163-278.6(18), has filed a notice of candidacy or a petition
24 requesting to be a candidate, or has been certified as a nominee of a
25 political party for a vacancy, or has otherwise qualified as a candidate in
26 a manner authorized by law, or has filed a statement of organization
27 under G.S. 163-278.7 and is required to file periodic financial disclosure
28 statements under G.S. 163-278.9.
- 29 (2) 'Candidate campaign committee' means any political committee
30 organized by or under the direction of a candidate.
- 31 (3) 'Full-screen' means the only picture appearing on the television screen
32 during the oral disclosure statement contains the disclosing person, that
33 the picture occupies all visible space on the television screen, and that
34 the image of the disclosing person occupies at least fifty percent (50%)
35 of the vertical height of the television screen.
- 36 (4) 'Print media' means billboards, cards, newspapers, newspaper inserts,
37 magazines, mass mailings, pamphlets, periodicals, and outdoor
38 advertising facilities.
- 39 (5) 'Political action committee' has the same meaning as 'political
40 committee' in G.S. 163-278.6(14), except that 'political action
41 committee' does not include any political party or political party
42 organization.

- 1 (6) 'Political party organization' means any political party executive
 2 committee or any political committee that operates under the direction
 3 of a political party executive committee or political party chair.
 4 (7) 'Radio' means any aural programming that is subject to the provisions of
 5 47 U.S.C. §§ 315 and 317.
 6 (8) 'Scan line' means a standard term of measurement used in the electronic
 7 media industry calculating a certain area in a television advertisement.
 8 (9) 'Supporting or Opposing' means an advertisement that mentions the
 9 name of a candidate and whose purchase constitutes an expenditure or
 10 contribution required to be disclosed under this Article.
 11 (10) 'Television' means any television broadcast station, cable television
 12 system, wireless-cable multipoint distribution system, satellite
 13 company, or telephone company transmitting video programming that is
 14 subject to the provisions of 47 U.S.C. §§ 315 and 317.
 15 (11) 'Unobscured' means the only printed material that may appear on the
 16 television screen is a visual disclosure statement required by law, and
 17 nothing is blocking the view of the disclosing person's face.

18 **"§ 163-278.39C. Scope of disclosure requirements.**

19 The disclosure requirements of this Part apply to all those candidates or candidate
 20 committees, political party organizations, political action committees, and individuals
 21 required to file financial disclosure statements in North Carolina pursuant to this Article
 22 or pursuant to federal law."

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

24 **"§ 163-278.16. Regulations regarding ~~contributions, expenditures and media~~**
 25 **~~advertising.~~ timing of contributions and expenditures.**

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

- 29 (1) Until the candidate, political committee, or referendum committee
 30 appoints a treasurer and certifies the name and address of the treasurer
 31 to the Board; and
 32 (2) Unless the contribution is received or the expenditure made by or
 33 through the treasurer of the candidate, political committee, or
 34 referendum committee.

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

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

- 38 ~~(1) It bears the legend or includes the statement: "Paid for by (or Sponsored~~
 39 ~~by)..... (Name of candidate, political committee, referendum~~
 40 ~~committee, individual)";~~
 41 ~~(2) The name used in the labeling required in subdivision (1) of this~~
 42 ~~subsection is the name that appears on the statement of organization as~~

1 required in G.S. 163-278.7(b)(1), provided that this subdivision applies
2 only if the sponsor is a political committee or referendum committee;

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

4 a. For or against the candidate; or

5 b. For or against an opposing candidate

6 provided that this subdivision applies only if the media advertisement is
7 made for or against a candidate; and

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

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

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

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

19 "(a) Any individual, candidate, political committee, referendum committee,
20 treasurer, person or media who violates the provisions of G.S. 163-278.7, 163-278.8,
21 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.14, 163-278.16, 163-278.17,
22 163-278.18, 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-
23 278.40E is guilty of a Class 2 misdemeanor."

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

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