

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 1065  
Committee Substitute Favorable 6/12/18

Short Title: Digital Communications in Elections.

(Public)

Sponsors:

Referred to:

June 1, 2018

1 A BILL TO BE ENTITLED  
2 AN ACT TO DEFINE AND REGULATE DIGITAL COMMUNICATION IN  
3 ELECTIONEERING COMMUNICATIONS AND ADVERTISING DISCLOSURES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 163A-1411 is amended by adding a new subdivision to read:

6 "(29) The term "qualified digital communication" means any communication, for a  
7 fee, placed or promoted on a Web site or online platform if that Web site or  
8 online platform meets all of the following characteristics:

- 9 a. Is a public-facing Web site, Web application, or digital application,  
10 including a social network, advertising network, or search engine.  
11 b. Sells political advertisements, including search engine marketing,  
12 display advertisements, video advertisements, native advertisements,  
13 and sponsorships.  
14 c. Has 100,000 or more unique monthly United States visitors or users  
15 for a majority of the months during the immediately preceding 12  
16 months."

17 **SECTION 2.** G.S. 163A-1411(41) reads as rewritten:

18 "(41) The term "electioneering communication" means any broadcast, cable, or  
19 satellite communication, or mass mailing, or telephone bankbank, or qualified  
20 digital communication that has all the following characteristics:

- 21 a. Refers to a clearly identified candidate for elected office.  
22 b. In the case of the general election in November of the even-numbered  
23 year is aired or transmitted after September 7 of that year, and in the  
24 case of any other election is aired or transmitted within 60 days of the  
25 time set for absentee voting to begin pursuant to G.S. 163A-1300,  
26 163A-1301, 163A-1302, 163A-1303, and 163A-1304 in an election  
27 for that office.  
28 c. May be received by ~~either~~ the following:  
29 1. 50,000 or more individuals in the State in an election for  
30 statewide office or 7,500 or more individuals in any other  
31 election if in the form of broadcast, cable, or satellite  
32 communication.  
33 2. 20,000 or more households, cumulative per election, in a  
34 statewide election or 2,500 households, cumulative per  
35 election, in any other election if in the form of mass mailing or  
36 telephone bank.



- 1                                   3.     5,000 or more individuals in the State in an election for  
2   statewide office or 750 or more individuals in any other  
3   election if in the form of a qualified digital communication."

4     **SECTION 3.** G.S. 163A-1475(1) reads as rewritten:

5     "(1) "Advertisement" means any message appearing in the print media, on  
6     ~~television, or on radio~~television or radio, or through a qualified digital  
7     communication that constitutes a contribution or expenditure under this  
8     Article."

9     **SECTION 4.** G.S. 163A-1476 reads as rewritten:

10  **"§ 163A-1476. Basic disclosure requirements for all political advertisements.**

11     (a) Basic Requirements. – It shall be unlawful for any sponsor to sponsor an  
12     advertisement in the print ~~media or~~media, on radio or ~~television~~television, or through a qualified  
13     digital communication that constitutes an expenditure, independent expenditure, electioneering  
14     communication, or contribution required to be disclosed under this Article unless all the  
15     following conditions are met:

16             (1) It bears the legend or includes the statement: "Paid for by \_\_\_\_ [Name of  
17             candidate, candidate campaign committee, political party organization,  
18             political action committee, referendum committee, individual, or other  
19             sponsor]." In television or qualified digital communication advertisements,  
20             this disclosure shall be made by visual legend.

21             ...

22     (b) Size Requirements. –

23             (1) In a print media advertisement covered by subsection (a) of this section, the  
24             height of all disclosure statements required by that subsection shall constitute  
25             at least five percent (5%) of the height of the printed space of the  
26             advertisement, provided that the type shall in no event be less than 12 points  
27             in size. In an advertisement in a newspaper or a newspaper insert, the total  
28             height of the disclosure statement need not constitute five percent of the  
29             printed space of the advertisement if the type of the disclosure statement is  
30             at least 28 points in size. If a single advertisement consists of multiple pages,  
31             folds, or faces, the disclosure requirement of this section applies only to one  
32             page, fold, or face.

33             (2) In a television advertisement covered by subsection (a) of this section, the  
34             visual disclosure legend shall constitute four percent (4%) of vertical picture  
35             height in size, and where the television advertisement that appears is paid for  
36             by a candidate or candidate campaign committee, the visual disclosure legend  
37             shall appear simultaneously with an easily identifiable photograph of the  
38             candidate for at least two seconds.

39             (3) In a radio advertisement covered by subsection (a) of this section, the  
40             disclosure statement shall last at least two seconds, provided the statement is  
41             spoken so that its contents may be easily understood.

42             (4) In a qualified digital communication advertisement covered by subsection (a)  
43             of this section, the disclosure statement shall appear (i) in letters at least as  
44             large as the smallest text in the qualified digital communication or (ii) in a  
45             heading or similar section of text displayed above or within the qualified  
46             digital communication that is visually distinct from the text of the qualified  
47             digital communication and shall have a reasonable degree of color contrast  
48             between the background and the disclosure statement. If the qualified digital  
49             communication is disseminated through a medium in which the provision of  
50             the disclosure statement is not possible, the qualified digital communication  
51             shall, in a clear and conspicuous manner, include the following:

- 1                   a.     The name of the person who paid for the qualified digital  
2                             communication.
- 3                   b.     A means for the recipient of the qualified digital communication to  
4                             obtain the remainder of the information required by this section with  
5                             minimal effort and without receiving or viewing any additional  
6                             material other than the disclosure statement.
- 7           (c)     Misrepresentation of Authorization. – Notwithstanding G.S. 163A-1445(a), any  
8 candidate, candidate campaign committee, political party organization, political action  
9 committee, referendum committee, individual, or other sponsor making an advertisement in the  
10 print ~~media or~~media, on radio or ~~television~~television, or through a qualified digital  
11 communication bearing any legend required by subsection (a) of this section that misrepresents  
12 the sponsorship or authorization of the advertisement is guilty of a Class 1 misdemeanor."

13                   **SECTION 5.** G.S. 163A-1477 reads as rewritten:

14     "**§ 163A-1477. Scope of disclosure requirements.**

15           The disclosure requirements of this Part apply to any sponsor of an advertisement in the print  
16 ~~media or~~media, on radio or ~~television~~television, or through a qualified digital communication  
17 the cost or value of which constitutes an expenditure or contribution required to be disclosed  
18 under this Article, except that the disclosure requirements of this Part:

- 19           (1)     Do not apply to an individual who makes uncoordinated independent  
20                   expenditures aggregating less than one thousand dollars (\$1,000) in a political  
21                   campaign; and
- 22           (2)     Do not apply to an individual who incurs expenses with respect to a  
23                   referendum.

24           The disclosure requirements of this Part do not apply to any advertisement the expenditure  
25 for which is required to be disclosed by G.S. 163-278.12A alone and by no other law."

26                   **SECTION 6.** This act becomes effective September 1, 2018, and applies to elections  
27 conducted on or after that date.