

A Bill for an Act Relating to Election Frauds.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that in recent elections, attempts may have been made in several states to prevent registered voters from lawfully voting through the provision of false information regarding the time and place voting was to occur. For example, in Virginia, Indiana, and Florida, there were reports of elderly voters receiving phone calls telling them they did not have to go to the polls to vote, but could tell the caller their vote instead. In Delaware and Pennsylvania, voters were reportedly told photo identification was required to vote when Delaware has no such law and litigation has postponed Pennsylvania's law from taking effect until 2013. In addition, a mass mailing of fake letters questioning voters' citizenship was investigated. The letter purportedly written on the falsified letterhead of a local county's supervisor of elections told recipients to fill out a "voter eligibility form," including their social security and driver's license number, and return the form within fifteen days or be purged from voter rolls.

The legislature further finds that such efforts discourage electoral participation and undermine the democratic process. Therefore, the purpose of this Act is to:

- (1) Deem any person who knowingly broadcasts, televises, circulates, publishes, distributes, or otherwise communicates false information about the time, date, place, or means of voting, guilty of an election fraud; and
- (2) Make conforming amendments to clarify that advertisements shall not contain false information about the time, date, place, or means of voting.

SECTION 2. Section 11-391, Hawaii Revised Statutes, is amended to read as follows:

**"[§11-391] Advertisements.** (a) Any advertisement that is broadcast, televised, circulated, published, distributed, or otherwise communicated, including by electronic means, shall [contain]:

- (1) [The] Contain the name and address of the candidate, candidate committee, noncandidate committee, or other person paying for the advertisement; [and]
  - (2) [A] Contain a notice in a prominent location stating either that:
    - (A) The advertisement [is published, broadcast, televised, or circulated with] has the approval and authority of the candidate; provided that an advertisement paid for by a candidate, candidate committee, or ballot issue committee does not need to include the notice; or
    - (B) The advertisement [is published, broadcast, televised, or circulated without the approval and authority of] has not been approved by the candidate[-]; and
  - (3) Not contain false information about the time, date, place, or means of voting.
- (b) The fine for violation of this section, if assessed by the commission, shall not exceed \$25 for each advertisement that lacks the information required

by this section or provides prohibited information, and shall not exceed an aggregate amount of \$5,000.”

SECTION 3. Section 19-3, Hawaii Revised Statutes, is amended to read as follows:

“§19-3 Election frauds. The following persons shall be deemed guilty of an election fraud:

- (1) Every person who, directly or indirectly, personally or through another, gives, procures, or lends, or agrees or offers to give, procure, or lend, or who endeavors to procure, any money or office or place of employment or valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who does any such act on account of any person having voted or refrained from voting for any particular person at any election;
- (2) Every person who advances or pays, or causes to be paid, any money to, or to the use of, any other person, with the intent that the money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election; or who knowingly pays or causes to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election;
- (3) Every elector who, before, during, or after any election, directly or indirectly, personally or through another, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment for oneself or any other person for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or party;
- (4) Every person who, directly or indirectly, personally or through another, makes use of, or threatens to make use of, any force, violence, or restraint; or inflicts or threatens to inflict any injury, damage, or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who by abduction, distress, or any device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the elective franchise;
- (5) Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same office at one time of voting;
- (6) Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at the election;
- (7) Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift or valuable consideration; or of any threat; and every candidate

who withdraws from being a candidate in pursuance of such inducement or procurement;

- (8) Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections who wilfully fails, neglects, or refuses to do or perform the same, or who is guilty of any wilful violation of any of the provisions thereof;
- (9) Any person wilfully tampering or attempting to tamper with, disarrange, deface, or impair in any manner whatsoever, or destroy any voting machine while the same is in use at any election, or who, after the machine is locked in order to preserve the registration or record of any election made by the same, tampers or attempts to tamper with any voting machine;
- (10) Every person who, directly or indirectly, personally or through another, wilfully designs, alters, accesses, or programs any electronic voting system to cause the system to inaccurately record, tally, or report votes cast on the electronic voting system; [and]
- (11) Every person who assists a voter in the completion of a ballot in violation of section 11-139[-]; and
- (12) Every person who knowingly broadcasts, televises, circulates, publishes, distributes, or otherwise communicates, including by electronic means or advertisement, false information about the time, date, place, or means of voting with the purpose of impeding, preventing, or otherwise interfering with the free exercise of the elective franchise."

SECTION 4. Act 112, Session Laws of Hawaii 2013, is amended by repealing section 10.

[~~"SECTION 10. Section 11-391, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:~~

~~"(a) Any advertisement that is broadcast, televised, circulated, or published, including by electronic means, shall contain:~~

- ~~(1) The name and address of the candidate, candidate committee, non-candidate committee, or other person paying for the advertisement; and~~
- ~~(2) A notice in a prominent location stating either that:~~
  - ~~(A) The advertisement has the approval and authority of the candidate; provided that an advertisement paid for by a candidate, candidate committee, or ballot issue committee does not need to include the notice; or~~
  - ~~(B) The advertisement has not been approved by the candidate."~~

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 24, 2014.)