

SENATE BILL 458

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4lr1642
CF HB 494

By: **Senator Kagan**

Introduced and read first time: January 22, 2024

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 28, 2024

CHAPTER _____

1 AN ACT concerning

2 **Campaign Finance – Political Organizations – Prohibitions and Disclosures**

3 FOR the purpose of ~~prohibiting certain political organizations from fraudulently claiming~~
4 ~~to be acting on behalf of a candidate or political party;~~ prohibiting certain political
5 organizations from making expenditures or disbursements to an entity owned or
6 controlled by certain individuals; prohibiting certain political organizations from
7 employing certain individuals or allowing certain individuals to volunteer on behalf
8 of the political organization; requiring certain political organizations to make certain
9 disclosures; authorizing the State Administrator of Elections to investigate a
10 potential violation of this Act; and generally relating to prohibitions and disclosure
11 requirements for political organizations.

12 BY repealing and reenacting, without amendments,
13 Article – Election Law
14 Section 1–101(ff)
15 Annotated Code of Maryland
16 (2022 Replacement Volume and 2023 Supplement)

17 BY adding to
18 Article – Election Law
19 Section 13–223
20 Annotated Code of Maryland
21 (2022 Replacement Volume and 2023 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Election Law

1–101.

(ff) “Political action committee” means a political committee that is not:

(1) a political party;

(2) a central committee;

(3) a slate;

(4) a legislative party caucus committee;

(5) an authorized candidate campaign committee; or

(6) a ballot issue committee.

13–223.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) “DISBURSEMENT” MEANS:

(I) AN INDEPENDENT EXPENDITURE FOR CAMPAIGN MATERIAL
THAT IS A PUBLIC COMMUNICATION, AS DEFINED IN § 13–306 OF THIS TITLE;

(II) A DISBURSEMENT FOR ELECTIONEERING
COMMUNICATIONS, AS DEFINED IN § 13–307 OF THIS TITLE; OR

(III) A POLITICAL DISBURSEMENT, AS DEFINED IN § 13–309.2 OF
THIS TITLE.

(3) “DONATION” HAS THE MEANING STATED IN § 13–306, § 13–307,
OR § 13–309.2 OF THIS TITLE.

(4) “IMMEDIATE FAMILY MEMBER” MEANS A PARENT,
MOTHER-IN-LAW, FATHER-IN-LAW, GRANDPARENT, CHILD, SON-IN-LAW,
DAUGHTER-IN-LAW, GRANDCHILD, SPOUSE, OR SIBLING.

(5) “SOLICITATION” MEANS A REQUEST FOR CONTRIBUTIONS OR
DONATIONS TO A PERSON DISSEMINATED THROUGH ANY MEDIUM.

(B) THIS SECTION APPLIES ONLY TO:

(1) A PERSON REQUIRED TO FILE REPORTS UNDER § 13-306, § 13-307, OR § 13-309.2 OF THIS TITLE; AND

(2) A POLITICAL ACTION COMMITTEE THAT:

(I) IS NOT AFFILIATED WITH A CORPORATION OR LABOR ORGANIZATION; AND

(II) EXCLUSIVELY MAKES INDEPENDENT EXPENDITURES OR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(C) ~~A PERSON SUBJECT TO THIS SECTION MAY NOT:~~

~~**(1) FRAUDULENTLY CLAIM TO BE SPEAKING, WRITING, OR OTHERWISE ACTING FOR OR ON BEHALF OF A CANDIDATE OR POLITICAL PARTY OR AN EMPLOYEE OR AGENT OF A CANDIDATE OR POLITICAL PARTY FOR THE PURPOSE OF SOLICITING CONTRIBUTIONS OR DONATIONS; OR**~~

~~**(2) WILLFULLY AND KNOWINGLY PARTICIPATE IN OR CONSPIRE TO PARTICIPATE IN ANY SCHEME TO VIOLATE ITEM (1) OF THIS SUBSECTION.**~~

~~**(D)**~~ **(1) A PERSON SUBJECT TO THIS SECTION MAY NOT MAKE EXPENDITURES OR DISBURSEMENTS TO AN ENTITY OWNED OR CONTROLLED IN WHOLE OR IN PART BY AN INDIVIDUAL, OR BY AN IMMEDIATE FAMILY MEMBER OF AN INDIVIDUAL, WHO IS:**

(I) AUTHORIZED TO CARRY OUT EXECUTIVE OR MANAGERIAL AUTHORITY OVER THE OPERATION OF THE PERSON;

(II) AUTHORIZED TO SOLICIT OR DISBURSE FUNDS FOR OR ON BEHALF OF THE PERSON; OR

(III) A PAID OR UNPAID EMPLOYEE OF THE PERSON AND WHO PROVIDES THE PERSON WITH PROFESSIONAL SERVICES, OTHER THAN ACCOUNTING OR LEGAL SERVICES, RELATING TO THE PERSON'S CAMPAIGN OR FUNDRAISING STRATEGY.

(2) A PERSON SUBJECT TO THIS SECTION MAY NOT EMPLOY OR ALLOW TO VOLUNTEER ON BEHALF OF THE PERSON AN INDIVIDUAL WHO OWNS OR CONTROLS AN ENTITY THAT HAS RECEIVED EXPENDITURES OR DISBURSEMENTS IN VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION.

~~(E) A PERSON SUBJECT TO THIS SECTION SHALL INCLUDE ON EACH SOLICITATION DISSEMINATED BY THE PERSON A CLEAR AND CONSPICUOUS STATEMENT THAT CONTRIBUTIONS OR DONATIONS TO THE PERSON:~~

~~(1) ARE NOT NECESSARILY USED FOR CHARITABLE PURPOSES; AND~~

~~(2) ARE NOT TAX DEDUCTIBLE.~~

~~(F)~~ (D) (1) A PERSON SUBJECT TO THIS SECTION THAT SUPPORTS OR OPPOSES A CANDIDATE OR POLITICAL PARTY BUT IS NOT AUTHORIZED BY THE CANDIDATE OR POLITICAL PARTY SHALL INCLUDE ON EACH WEBSITE OPERATED BY THE PERSON FOR PURPOSES OF SOLICITING CONTRIBUTIONS OR DONATIONS THE FOLLOWING STATEMENT IN A CLEAR AND CONSPICUOUS MANNER: "THIS WEBSITE IS NOT THE OFFICIAL WEBSITE OF (NAME OF CANDIDATE OR POLITICAL PARTY).".

(2) THE STATEMENT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE INCLUDED ON:

(I) THE WEBSITE'S HOMEPAGE; AND

(II) EACH WEBPAGE USED FOR SOLICITING CONTRIBUTIONS OR DONATIONS.

~~(G)~~ (E) A PERSON SUBJECT TO THIS SECTION SHALL INCLUDE ON EACH WEBSITE OPERATED BY THE PERSON FOR PURPOSES OF SOLICITING CONTRIBUTIONS OR DONATIONS A CLEAR AND CONSPICUOUS DISCLOSURE OF:

(1) THE NUMBER OF YEARS THE PERSON HAS BEEN IN EXISTENCE;
~~AND~~

(2) THE 10 LARGEST RECIPIENTS OF EXPENDITURES OR DISBURSEMENTS MADE BY THE PERSON ~~IN THE IMMEDIATELY PRECEDING CALENDAR YEAR~~ IN THE MOST RECENTLY COMPLETED CALENDAR QUARTER; AND

(3) THE PERCENTAGE OF EXPENDITURES IN THE MOST RECENTLY COMPLETED CALENDAR QUARTER THAT ARE DISBURSEMENTS MADE IN FURTHERANCE OF THE CANDIDATE OR BALLOT ISSUE THAT THE PERSON SUBJECT TO THIS SECTION SUPPORTS OR OPPOSES.

~~(H) A POLITICAL ACTION COMMITTEE SUBJECT TO THIS SECTION THAT CONDUCTS A RAFFLE IN ACCORDANCE WITH § 12-106(B) OF THE CRIMINAL LAW ARTICLE SHALL INCLUDE IN EACH SOLICITATION FOR THE RAFFLE A CLEAR AND CONSPICUOUS DISCLOSURE OF:~~

~~(1) THE MANUFACTURER'S SUGGESTED RETAIL PRICE OR
COMPARABLE RETAIL PRICE OF EACH PRIZE OFFERED;~~

~~(2) THE CONDITIONS TO BE MET TO RECEIVE A PRIZE;~~

~~(3) THE EXACT NUMBER OF PRIZES OFFERED IN EACH CATEGORY;~~

~~(4) HOW TO OBTAIN A LIST OF WINNERS, IF A PRIZE WITH A RETAIL
PRICE OR MONETARY VALUE OF MORE THAN \$100 IS OFFERED;~~

~~(5) WHETHER EACH PRIZE OFFERED WILL BE AWARDED;~~

~~(6) THE DATE WHEN WINNERS WILL BE DETERMINED; AND~~

~~(7) (I) THE ODDS OF WINNING EACH PRIZE, IF THEY CAN BE
CALCULATED IN ADVANCE; OR~~

~~(II) THE FACT THAT THE ODDS OF WINNING WILL BE
DETERMINED BY THE NUMBER OF ENTRIES, IF THE ODDS CANNOT BE CALCULATED
IN ADVANCE.~~

~~(F)~~ (1) THE STATE ADMINISTRATOR, OR THE STATE
ADMINISTRATOR'S DESIGNEE, MAY INVESTIGATE A POTENTIAL VIOLATION OF THIS
SECTION.

(2) THE STATE ADMINISTRATOR, OR THE STATE ADMINISTRATOR'S
DESIGNEE, SHALL:

(I) NOTIFY A PERSON WHO IS SUBJECT TO AN INVESTIGATION
UNDER THIS SUBSECTION OF THE CIRCUMSTANCES THAT GAVE RISE TO THE
INVESTIGATION; AND

(II) PROVIDE THE PERSON AMPLE OPPORTUNITY TO BE HEARD
AT A PUBLIC MEETING OF THE STATE BOARD.

(3) (I) IN FURTHERANCE OF AN INVESTIGATION UNDER THIS
SUBSECTION, THE STATE ADMINISTRATOR, OR THE STATE ADMINISTRATOR'S
DESIGNEE, MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO
TESTIFY OR THE PRODUCTION OF RECORDS.

(II) A SUBPOENA ISSUED UNDER THIS PARAGRAPH SHALL BE
SERVED IN ACCORDANCE WITH THE MARYLAND RULES.

(III) FOR A SUBPOENA TO BE ISSUED UNDER THIS PARAGRAPH, THE STATE ADMINISTRATOR SHALL MAKE A FINDING THAT THE SUBPOENA IS NECESSARY TO AND IN FURTHERANCE OF AN INVESTIGATION BEING CONDUCTED UNDER THIS SUBSECTION.

(IV) A FILING SUBMITTED TO A COURT WITH RESPECT TO A SUBPOENA UNDER THIS PARAGRAPH SHALL BE SEALED ON FILING.

(V) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS PARAGRAPH, ON PETITION OF THE STATE ADMINISTRATOR, A CIRCUIT COURT OF COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

(4) AT THE CONCLUSION OF THE INVESTIGATION AND FOLLOWING THE HEARING UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION, THE STATE BOARD SHALL ISSUE A PUBLIC REPORT OF ITS FINDINGS AND MAY:

(I) PROHIBIT A PERSON WHO VIOLATED THIS SECTION FROM SOLICITING CONTRIBUTIONS OR DONATIONS FOR A PERIOD OF TIME DETERMINED BY THE STATE BOARD; OR

(II) IMPOSE A CIVIL PENALTY ON A PERSON WHO VIOLATED THIS SECTION AS PROVIDED IN SUBSECTION ~~(J)~~ (G) OF THIS SECTION; ~~OR~~

~~(III) REFER THE MATTER FOR FURTHER INVESTIGATION BY THE STATE PROSECUTOR.~~

~~(J)~~ (G) (1) THE STATE BOARD MAY IMPOSE A CIVIL PENALTY FOR A VIOLATION OF THIS SECTION.

(2) A CIVIL PENALTY:

(I) SHALL BE ASSESSED IN THE MANNER SPECIFIED IN § 13-604.1 OF THIS TITLE; AND

(II) MAY NOT EXCEED \$10,000.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.