

# SENATE BILL REPORT

## SB 5727

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As Reported by Senate Committee On:  
Government Operations & Elections, February 19, 2009

**Title:** An act relating to providing false information to voters.

**Brief Description:** Prohibiting the providing of false information to voters.

**Sponsors:** Senators McDermott, Oemig, Fairley, Sheldon, Shin and Roach.

**Brief History:**

**Committee Activity:** Government Operations & Elections: 2/16/09, 2/19/09 [DPS].

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### SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Majority Report:** That Substitute Senate Bill No. 5727 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Oemig, Vice Chair; Roach, Ranking Minority Member; Benton, McDermott and Pridemore.

**Staff:** Sharon Swanson (786-7447)

**Background:** Under current law, a person is guilty of a gross misdemeanor if that person knowingly deceives any voter in recording the voter's vote by providing incorrect or misleading recording information or by providing faulty election equipment or records; records the vote of any voter in a manner other than as designated by the voter; directly or indirectly, by menace or unlawful means, attempts to influence any person in refusing to give the person's vote in any election.

A gross misdemeanor is punishable by imprisonment in the county jail for a maximum term fixed by the court of not more than one year or by a fine in an amount fixed by the court but not more than \$5,000 or by both such imprisonment and fine.

**Summary of Bill (Recommended Substitute):** A person is guilty of a gross misdemeanor who, in the 15 days preceding any special, primary, or general election, knowingly provides false information to a registered voter regarding:

- the date of an election;
- the voter's poll site location; or

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- the date by which an absentee ballot must be mailed in order for the ballot to be validly counted.

Additionally, a person is guilty of a gross misdemeanor if they knowingly provide false information regarding any voter registration requirement.

A person who is injured by a violation may bring a civil action in the superior court in the county in which the person resides to enjoin further violations. In addition, the injured person may seek up to \$1,000 per violation. Upon receipt of false information by any person, damages are presumed and do not need to be proven.

A court has the discretion to increase damages up to ten times if the defendant has engaged in a pattern and practice of providing false information. The court must award costs and reasonable attorney's fees to a prevailing party.

**EFFECT OF CHANGES MADE BY GOVERNMENT OPERATIONS & ELECTIONS COMMITTEE (Recommended Substitute):** The substitute adds a provision addressing knowingly providing false information regarding any voter registration requirement and removes the requirement that a person show actual damages. The substitute states that upon receipt of false information by any person, damages are presumed and do not need to be proven.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: This legislation is an important step towards dealing with the dissemination of false information intended to suppress the vote, but it does not go far enough. We should not tolerate the dissemination of misinformation intended by the disseminator to mislead voters about the date of an election, the location of the voter's polling place, or any other false information intended by the disseminator to interfere with the exercise of the voter's franchise. Perhaps an amendment could be added that will not require the victim to show actual damage and also extending the bill to cover false information about voter registration dates and requirements.

**Persons Testifying:** PRO: Amy Crewdson, citizen; Katie Blinn, Office of the Secretary of State.