
SENATE BILL 5401

State of Washington

53rd Legislature

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By Senators Quigley, Haugen, A. Smith, Skratek, Fraser, Prince, Deccio, Drew, Bauer, Talmadge, Spanel, Loveland, Sutherland, Rinehart, Gaspard, Snyder, Jesernig, von Reichbauer, Winsley, Niemi, Vognild, Prentice and Sheldon

Read first time 01/27/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to political telemarketing; and amending RCW
2 42.17.020 and 42.17.510.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 42.17.020 and 1992 c 139 s 1 are each amended to read
5 as follows:

6 (1) "Agency" includes all state agencies and all local agencies.
7 "State agency" includes every state office, department, division,
8 bureau, board, commission, or other state agency. "Local agency"
9 includes every county, city, town, municipal corporation, quasi-
10 municipal corporation, or special purpose district, or any office,
11 department, division, bureau, board, commission, or agency thereof, or
12 other local public agency.

13 (2) "Ballot proposition" means any "measure" as defined by RCW
14 29.01.110, or any initiative, recall, or referendum proposition
15 proposed to be submitted to the voters of the state or any municipal
16 corporation, political subdivision, or other voting constituency from
17 and after the time when the proposition has been initially filed with
18 the appropriate election officer of that constituency prior to its
19 circulation for signatures.

1 (3) "Depository" means a bank designated by a candidate or
2 political committee pursuant to RCW 42.17.050.

3 (4) "Treasurer" and "deputy treasurer" mean the individuals
4 appointed by a candidate or political committee, pursuant to RCW
5 42.17.050, to perform the duties specified in that section.

6 (5) "Candidate" means any individual who seeks election to public
7 office. An individual shall be deemed to seek election when he first:

8 (a) Receives contributions or makes expenditures or reserves space
9 or facilities with intent to promote his candidacy for office; or

10 (b) Announces publicly or files for office.

11 (6) "Commercial advertiser" means any person who sells the service
12 of communicating messages or producing printed material for broadcast
13 or distribution to the general public or segments of the general public
14 whether through the use of newspapers, magazines, television and radio
15 stations, billboard companies, direct mail advertising companies,
16 printing companies, or otherwise.

17 (7) "Commission" means the agency established under RCW 42.17.350.

18 (8) "Compensation" unless the context requires a narrower meaning,
19 includes payment in any form for real or personal property or services
20 of any kind: PROVIDED, That for the purpose of compliance with RCW
21 42.17.241, the term "compensation" shall not include per diem
22 allowances or other payments made by a governmental entity to reimburse
23 a public official for expenses incurred while the official is engaged
24 in the official business of the governmental entity.

25 (9) "Continuing political committee" means a political committee
26 that is an organization of continuing existence not established in
27 anticipation of any particular election campaign.

28 (10) "Contribution" includes a loan, gift, deposit, subscription,
29 forgiveness of indebtedness, donation, advance, pledge, payment,
30 transfer of funds between political committees, or transfer of anything
31 of value, including personal and professional services for less than
32 full consideration, but does not include interest on moneys deposited
33 in a political committee's account, ordinary home hospitality and the
34 rendering of personal services of the sort commonly performed by
35 volunteer campaign workers, or incidental expenses personally incurred
36 by volunteer campaign workers not in excess of fifty dollars personally
37 paid for by the worker. Volunteer services, for the purposes of this
38 chapter, means services or labor for which the individual is not
39 compensated by any person. For the purposes of this chapter,

1 contributions other than money or its equivalents shall be deemed to
2 have a money value equivalent to the fair market value of the
3 contribution. Sums paid for tickets to fund-raising events such as
4 dinners and parties are contributions; however, the amount of any such
5 contribution may be reduced for the purpose of complying with the
6 reporting requirements of this chapter, by the actual cost of
7 consumables furnished in connection with the purchase of the tickets,
8 and only the excess over the actual cost of the consumables shall be
9 deemed a contribution.

10 (11) "Elected official" means any person elected at a general or
11 special election to any public office, and any person appointed to fill
12 a vacancy in any such office.

13 (12) "Election" includes any primary, general, or special election
14 for public office and any election in which a ballot proposition is
15 submitted to the voters: PROVIDED, That an election in which the
16 qualifications for voting include other than those requirements set
17 forth in Article VI, section 1 (Amendment 63) of the Constitution of
18 the state of Washington shall not be considered an election for
19 purposes of this chapter.

20 (13) "Election campaign" means any campaign in support of or in
21 opposition to a candidate for election to public office and any
22 campaign in support of, or in opposition to, a ballot proposition.

23 (14) "Expenditure" includes a payment, contribution, subscription,
24 distribution, loan, advance, deposit, or gift of money or anything of
25 value, and includes a contract, promise, or agreement, whether or not
26 legally enforceable, to make an expenditure. The term "expenditure"
27 also includes a promise to pay, a payment, or a transfer of anything of
28 value in exchange for goods, services, property, facilities, or
29 anything of value for the purpose of assisting, benefiting, or honoring
30 any public official or candidate, or assisting in furthering or
31 opposing any election campaign. For the purposes of this chapter,
32 agreements to make expenditures, contracts, and promises to pay may be
33 reported as estimated obligations until actual payment is made. The
34 term "expenditure" shall not include the partial or complete repayment
35 by a candidate or political committee of the principal of a loan, the
36 receipt of which loan has been properly reported.

37 (15) "Final report" means the report described as a final report in
38 RCW 42.17.080(2).

1 (16) "Gift," for the purposes of RCW 42.17.170 and 42.17.2415,
2 means a rendering of anything of value in return for which reasonable
3 consideration is not given and received and includes a rendering of
4 money, property, services, discount, loan forgiveness, payment of
5 indebtedness, or reimbursements from or payments by persons (other than
6 the federal government, or the state of Washington or any agency or
7 political subdivision thereof) for travel or anything else of value.
8 The term "reasonable consideration" refers to the approximate range of
9 consideration that exists in transactions not involving donative
10 intent. However, the value of the gift of partaking in a single hosted
11 reception shall be determined by dividing the total amount of the cost
12 of conducting the reception by the total number of persons partaking in
13 the reception. "Gift" for the purposes of RCW 42.17.170 and 42.17.2415
14 does not include:

15 (a) A gift, other than a gift of partaking in a hosted reception,
16 with a value of fifty dollars or less;

17 (b) The gift of partaking in a hosted reception if the value of the
18 gift is one hundred dollars or less;

19 (c) A contribution that is required to be reported under RCW
20 42.17.090 or 42.17.243;

21 (d) Informational material that is transferred for the purpose of
22 informing the recipient about matters pertaining to official business
23 of the governmental entity of which the recipient is an official or
24 officer, and that is not intended to confer on that recipient any
25 commercial, proprietary, financial, economic, or monetary advantage, or
26 the avoidance of any commercial, proprietary, financial, economic, or
27 monetary disadvantage;

28 (e) A gift that is not used and that, within thirty days after
29 receipt, is returned to the donor or delivered to a charitable
30 organization. However, this exclusion from the definition does not
31 apply if the recipient of the gift delivers the gift to a charitable
32 organization and claims the delivery as a charitable contribution for
33 tax purposes;

34 (f) A gift given under circumstances where it is clear beyond any
35 doubt that the gift was not made as part of any design to gain or
36 maintain influence in the governmental entity of which the recipient is
37 an officer or official or with respect to any legislative matter or
38 matters of that governmental entity; or

39 (g) A gift given prior to September 29, 1991.

1 (17) "Immediate family" includes the spouse, dependent children,
2 and other dependent relatives, if living in the household.

3 (18) "Legislation" means bills, resolutions, motions, amendments,
4 nominations, and other matters pending or proposed in either house of
5 the state legislature, and includes any other matter that may be the
6 subject of action by either house or any committee of the legislature
7 and all bills and resolutions that, having passed both houses, are
8 pending approval by the governor.

9 (19) "Lobby" and "lobbying" each mean attempting to influence the
10 passage or defeat of any legislation by the legislature of the state of
11 Washington, or the adoption or rejection of any rule, standard, rate,
12 or other legislative enactment of any state agency under the state
13 Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor
14 "lobbying" includes an association's or other organization's act of
15 communicating with the members of that association or organization.

16 (20) "Lobbyist" includes any person who lobbies either in his own
17 or another's behalf.

18 (21) "Lobbyist's employer" means the person or persons by whom a
19 lobbyist is employed and all persons by whom he is compensated for
20 acting as a lobbyist.

21 (22) "Person" includes an individual, partnership, joint venture,
22 public or private corporation, association, federal, state, or local
23 governmental entity or agency however constituted, candidate,
24 committee, political committee, political party, executive committee
25 thereof, or any other organization or group of persons, however
26 organized.

27 (23) "Person in interest" means the person who is the subject of a
28 record or any representative designated by that person, except that if
29 that person is under a legal disability, the term "person in interest"
30 means and includes the parent or duly appointed legal representative.

31 (24) "Political advertising" includes any advertising displays,
32 newspaper ads, billboards, signs, brochures, articles, tabloids,
33 flyers, letters, telemarketing, radio or television presentations, or
34 other means of mass communication, used for the purpose of appealing,
35 directly or indirectly, for votes or for financial or other support in
36 any election campaign.

37 (25) "Political committee" means any person (except a candidate or
38 an individual dealing with his own funds or property) having the

1 expectation of receiving contributions or making expenditures in
2 support of, or opposition to, any candidate or any ballot proposition.

3 (26) "Public office" means any federal, state, county, city, town,
4 school district, port district, special district, or other state
5 political subdivision elective office.

6 (27) "Public record" includes any writing containing information
7 relating to the conduct of government or the performance of any
8 governmental or proprietary function prepared, owned, used, or retained
9 by any state or local agency regardless of physical form or
10 characteristics.

11 (28) "Surplus funds" mean, in the case of a political committee or
12 candidate, the balance of contributions that remain in the possession
13 or control of that committee or candidate subsequent to the election
14 for which the contributions were received, and that are in excess of
15 the amount necessary to pay remaining debts incurred by the committee
16 or candidate prior to that election. In the case of a continuing
17 political committee, "surplus funds" mean those contributions remaining
18 in the possession or control of the committee that are in excess of the
19 amount necessary to pay all remaining debts when it makes its final
20 report under RCW 42.17.065.

21 (29) "Telemarketing" means an organized program of contacting
22 individuals by telephone but does not include polling for which the
23 individuals contacted are selected at random and no representations are
24 made concerning a person's characteristics or positions on issues,
25 other than a person on whose behalf the poll is being conducted.

26 (30) "Writing" means handwriting, typewriting, printing,
27 photostating, photographing, and every other means of recording any
28 form of communication or representation, including, but not limited to,
29 letters, words, pictures, sounds, or symbols, or combination thereof,
30 and all papers, maps, magnetic or paper tapes, photographic films and
31 prints, motion picture, film and video recordings, magnetic or punched
32 cards, discs, drums, diskettes, sound recordings, and other documents
33 including existing data compilations from which information may be
34 obtained or translated.

35 As used in this chapter, the singular shall take the plural and any
36 gender, the other, as the context requires.

37 **Sec. 2.** RCW 42.17.510 and 1993 c 2 s 22 (Initiative Measure No.
38 134, Approved November 3, 1992) are each amended to read as follows:

1 (1) All written political advertising, whether relating to
2 candidates or ballot propositions, shall include the sponsor's name and
3 address. All radio and television political advertising, whether
4 relating to candidates or ballot propositions, shall include the
5 sponsor's name. All telemarketing political advertising, whether
6 relating to candidates or ballot propositions, must include the
7 sponsor's name and a statement indicating the candidate or political
8 committee on whose behalf the advertising is done. The use of an
9 assumed name shall be unlawful. The party with which a candidate files
10 shall be clearly identified in political advertising for partisan
11 office.

12 (2) In addition to the materials required by subsection (1) of this
13 section, all political advertising undertaken as an independent
14 expenditure by a person or entity other than a party organization must
15 include the following statement on the communication "NOTICE TO VOTERS
16 (Required by law): This advertisement is not authorized or approved by
17 any candidate. It is paid for by (name, address, city, state)." If
18 the advertisement is undertaken by a nonindividual, then the following
19 notation must also be included: "Top Five Contributors," followed by
20 a listing of the names of the five persons or entities making the
21 largest contributions reportable under this chapter during the twelve-
22 month period before the date of the advertisement.

23 (3) The statements and listings of contributors required by
24 subsections (1) and (2) of this section shall:

25 (a) Appear on each page or fold of the written communication in at
26 least ten-point type, or in type at least ten percent of the largest
27 size type used in a written communication directed at more than one
28 voter, such as a billboard or poster, whichever is larger;

29 (b) Not be subject to the half-tone or screening process;

30 (c) Be in a printed or drawn box set apart from any other printed
31 matter; and

32 (d) Be clearly spoken on any broadcast advertisement or during a
33 telephone contact.

34 (4) Political yard signs are exempt from the requirement of
35 subsections (1) and (2) of this section that the name and address of
36 the sponsor of political advertising be listed on the advertising. In
37 addition, the public disclosure commission shall, by rule, exempt from
38 the identification requirements of subsections (1) and (2) of this
39 section forms of political advertising such as campaign buttons,

1 balloons, pens, pencils, sky-writing, inscriptions, and other forms of
2 advertising where identification is impractical.

3 (5) For the purposes of this section, "yard sign" means any outdoor
4 sign with dimensions no greater than eight feet by four feet.

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