

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

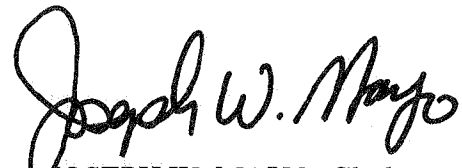
No. 1075

H.P. 787

House of Representatives, February 18, 1997

An Act to Protect the Reputation of Candidates for Public Office.

Reference to the Committee on Legal and Veterans Affairs suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative JOY of Crystal.

Cosponsored by Representatives: BELANGER of Wallagrass, BRAGDON of Bangor, JONES of Pittsfield, LABRECQUE of Gorham, LANE of Enfield, STEDMAN of Hartland, WHEELER of Bridgewater.

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 21-A MRSA c. 13, sub-c. VI is enacted to read:

6 SUBCHAPTER VI

8 FALSE POLITICAL ADVERTISING

10 §1151. Definitions

12 As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

14 1. Actual malice. "Actual malice" means knowledge of the falsity of a statement or reckless disregard of the truth of the statement.

18 2. Political advertising. "Political advertising" means a communication pursuant to section 1014, subsection 1 or 2 that is required to include identification of the person who authorized the communication.

22 3. Sponsor. "Sponsor" means to pay for or to authorize.

24 §1152. Violation

26 It is a violation of this subchapter for a person, with actual malice, to sponsor political advertising that contains a false statement of material fact.

30 §1153. Standard of proof

32 A violation of this subchapter must be proven by clear and convincing evidence.

34 §1154. Civil forfeiture; private actions

36 A person who violates this subchapter commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. A person injured by a false statement made in violation of this subchapter may also bring a private civil action to recover damages resulting from a violation of this subchapter.

44 SUMMARY

46 This bill establishes a civil violation for a person to
48 sponsor political advertising that contains a false statement of
50 material fact. The person must have acted with actual malice and

2 with knowledge that the statement is false or with reckless
3 disregard of whether the statement is false. A forfeiture of
4 \$1,000 may be adjudged against a violation. A person injured by
5 such a violation may also bring a private action to recover
6 damages suffered as a result of the false statement. The
7 requirements that the statement be made with actual malice and be
8 proven with clear and convincing evidence are designed to meet
9 the standard set forth in the United States Supreme Court Case,
10 New York Times v. Sullivan , 376 U.S. 254 (1964) for regulation
of speech regarding public figures.