

# MAINE STATE LEGISLATURE

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R.O.S.

L.D. 1055

DATE: 6-8-01

(Filing No. H-708)

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
FIRST REGULAR SESSION

HOUSE AMENDMENT "G" to S.P. 308, L.D. 1055, Bill, "An Act to Regulate Push Polling"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 21-A MRSA §1014-B is enacted to read:

§1014-B. Push polling

1. Push poll defined. For purposes of this section, "push poll" means any paid telephone survey or series of telephone surveys that are similar in nature that reference a candidate or group of candidates other than in a basic preference question, and when:

A. A list or directory is used, exclusively or in part, to select respondents belonging to a particular subset or combination of subsets of the population, based on demographic or political characteristics such as race, sex, age, ethnicity, party affiliation or like characteristics;

B. The survey fails to make demographic inquiries on factors such as age, household income or status as a likely voter sufficient to allow for the tabulation of results based on a relevant subset of the population consistent with standard polling industry practices;

C. The pollster or polling organization does not collect or tabulate survey results;

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2           D. The survey prefaces a question regarding support for a  
4           candidate on the basis of an untrue statement; and

6           E. The survey is primarily for the purpose of suppressing  
8           or changing the voting position of the call recipient.

10          "Push poll" does not include any survey supporting a particular  
12          candidate that fails to reference another candidate or candidates  
14          other than in a basic preference question.

16           2. Push polls; political telephone solicitations;  
18           requirements. Push polling must be conducted in accordance with  
20           this subsection.

22           A. A person may not authorize, commission, conduct or  
24           administer a push poll by telephone or telephonic device  
26           unless, during each call, the caller identifies the person  
28           or organization sponsoring or authorizing the call by  
30           stating "This is a paid political advertisement by (name of  
32           persons or organizations)," and identifies the organization  
34           making the call, if different from the sponsor, by stating  
36           "This call is conducted by (name of organization)."

38           B. If any person identified as either sponsoring or  
40           authorizing the call is not required to file any document  
42           with election officials pursuant to this Title, a valid,  
44           current, publicly listed telephone number and address for  
46           the person or organization must be disclosed during each  
48           call.

C. If any person sponsoring or authorizing the call is  
          affiliated with a candidate, the candidate's name and the  
          office sought by that candidate must be disclosed during  
          each call.

D. If the call is an independent expenditure, as defined in  
          section 1019, that a candidate has not approved the call  
          must be disclosed during each call.

It is not a violation of this subsection if the respondent  
          voluntarily terminates the call or asks to be called back before  
          the required disclosures are made, unless the respondent is in  
          any way encouraged to do so by the person initiating the call.

A person may not state or imply false or fictitious names or  
          telephone numbers when providing the disclosures required under  
          this subsection.

# HOUSE AMENDMENT

1 All oral disclosures required by this subsection must be made in  
2 a clear and intelligible manner and must be repeated in that  
3 fashion upon request of the call respondent. Disclosures made by  
4 any telephonic device must offer respondents a procedure to have  
5 the disclosures repeated.

6  
7 This subsection does not apply to a push poll or political  
8 telephone solicitation or contact if the individuals  
9 participating in the call know each other prior to the call.

10  
11 A person who violates this subsection may be assessed a  
12 forfeiture of \$500 by the commission.

13  
14 3. Registered agents; requirements; registration. Persons  
15 conducting push polling shall register and comply with the  
16 requirements of this subsection.

17  
18 A. A person who conducts a paid push poll or political  
19 telephone solicitation or contact, prior to conducting that  
20 poll, solicitation or contact, must have and continuously  
21 maintain for at least 180 days following the cessation of  
22 business activities in this State a designated agent for the  
23 purpose of service of process, notice or demand required or  
24 permitted by law, and shall file with the commission  
25 identification of that designated agent. Conducting  
26 business in this State includes both placing telephone calls  
27 from a location in this State and calls from other states or  
28 nations to individuals located within this State. The  
29 designated agent must be an individual resident of this  
30 State, a domestic corporation or a foreign corporation  
31 authorized to do business in this State. This paragraph  
32 does not apply to any entity already lawfully registered to  
33 conduct business in this State.

34  
35 B. The commission shall create and maintain forms for the  
36 designation of agents required pursuant to paragraph A and  
37 require, at a minimum, the following information:

38  
39 (1) The name, address and telephone number of the  
40 designated agent; and

41  
42 (2) The name, address and telephone number of the  
43 person conducting business in this State.

44  
45 C. The person conducting push polling shall notify the  
46 commission of any changes in the designated agent and the  
47 information required by paragraph B.

48  
49 D. A person who violates this subsection may be assessed a  
50 forfeiture of \$500 by the commission.

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4. Permitted practices. This section does not prohibit legitimate election practices, including but not limited to:

- A. Voter identification;
- B. Voter facilitation activities; or
- C. Generally accepted scientific polling research.'

**FISCAL NOTE**

The Commission on Governmental Ethics and Election Practices will incur some minor additional costs to create and maintain forms for the designation of agents. These costs can be absorbed within the commission's existing budgeted resources.

Failing to register the identity of a designated agent with the Commission on Governmental Ethics and Election Practices will result in insignificant increases of dedicated revenue to the commission from a \$500 penalty which may be assessed for each violation.

**SUMMARY**

This amendment replaces the bill. The amendment defines push polling as a nonscientific survey that among other requirements prefaces a question regarding support for a candidate on the basis of an untrue statement and is done primarily for the purpose of suppressing or changing the voting position of the call recipient. The amendment allows a person to conduct push polling as long as the person identifies the person sponsoring the call and states that the call is a paid political advertisement. The amendment requires the person conducting the poll to designate an agent for the purpose of service of process, notice or demand and to register that agent with the Commission on Governmental Ethics and Election Practices and provides a civil forfeiture of up to \$500 for a violation of these provisions.

SPONSORED BY:   
(Representative TRAHAN)

TOWN: Waldoboro