

Regular Session, 2008

ACT No. 812

HOUSE BILL NO. 1198

BY REPRESENTATIVES TIM BURNS AND MORRELL

1 AN ACT

2 To enact Part II-A of Chapter 15 of Title 42 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 42:1130.1 through 1130.6, relative to the code of ethics; to
4 provide relative to unethical election practices; to prohibit certain false statements
5 by candidates; to prohibit push polling that contains any false statement or question
6 or contains or conveys any information or insinuation; to prohibit authorizing,
7 approving, or causing calls to be made with certain deceptive caller identification
8 information; to provide for definitions, enforcement, and applicability; to provide for
9 penalties; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part II-A of Chapter 15 of Title 42 of the Louisiana Revised Statutes of
12 1950, comprised of R.S. 42:1130.1 through 1130.6, is hereby enacted to read as follows:

13 PART II-A. UNETHICAL ELECTION PRACTICES

14 §1130.1. Legislative findings and intent

15 The Legislature of Louisiana finds that the state has a compelling interest in
16 taking every necessary step to assure that all elections are held in a fair and ethical
17 manner and finds that an election cannot be held in a fair and ethical manner when
18 any candidate or other person is allowed to make false statements, allegations, or
19 insinuations about a candidate or to use deceptive caller identification information
20 falsely to identify a candidate as the source of calls. The legislature finds that such
21 scurrilous, false, or irresponsible adverse comments about a candidate have no place
22 in effective representative democracy. The legislature, therefore, intends that this
23 Part shall apply to all future elections to further the state's compelling interest in
24 protecting the electoral process and the people's interest in assuring that campaign
25 statements are not knowingly false and deliberately misleading.

1 §1130.2. Definitions

2 For purposes of this Part, the following terms shall have the following
3 meanings, unless the context clearly indicates otherwise:

4 (1) "Candidate" means a person who seeks nomination or election to public
5 office. An individual shall be deemed to seek nomination or election to public office
6 if he has done any of the following:

7 (a) Since prior participation in an election, if any, received and accepted a
8 contribution or made an expenditure, or has given his consent for any other person
9 or committee to receive a contribution or make an expenditure with a view to
10 influencing his nomination or election to public office whether or not the specific
11 public office for which he will be a candidate is known at the time the contribution
12 is received or the expenditure is made.

13 (b) Taken the action necessary under the laws of the state of Louisiana to
14 qualify himself for nomination or election to public office.

15 (2) "Contribution" shall have the meaning provided in R.S. 18:1483(6),
16 except that "public office" as used therein shall have the meaning provided in this
17 Section.

18 (3) "Election" shall have the meaning provided in R.S. 18:1483(8).

19 (4) "Expenditure" shall have the meaning provided in R.S. 18:1483(9),
20 except that "public office" as used therein shall have the meaning provided in this
21 Section.

22 (5) "Public office" shall mean any state, parish, municipal, ward, district, or
23 other office or position, including a federal office, which is filled by election of the
24 voters of the appropriate electorate, except the office of president or vice president
25 of the United States, presidential elector, delegate to a political party convention, or
26 political party office.

27 §1130.3. Enforcement; penalties

28 The provisions of this Part shall be enforced as provided in Part III of this
29 Chapter. Violations of this Part shall be subject to applicable penalties as provided

1 in Part III of this Chapter; however, no fine shall be imposed for any violation
2 occurring prior to January 1, 2009.

3 §1130.4. False statements by candidate

4 No candidate in an election shall, with the intent to mislead the voters,
5 distribute or cause to be distributed any oral, visual, or written material containing
6 any statement which he knows makes a false statement about another candidate in
7 the election.

8 §1130.5. Push polling; false statement, question, or information

9 A. For purposes of this Section, "push poll" means any paid telephone survey
10 or series of telephone surveys that are similar in nature, that do not use an established
11 method of scientific survey research, that reference a candidate or group of
12 candidates other than in a basic preference question, and that ask any question or
13 offer information concerning a candidate or candidates which states, implies, or
14 conveys any negative or derogatory information or insinuation about the candidate
15 or candidates and the primary purpose of which is to support or oppose a candidate
16 in an election and not to measure public opinion.

17 B. No person shall authorize, commission, administer, conduct, or cause to
18 be conducted any push poll which such person knows contains any false statement
19 or question or which such person knows contains, implies, or conveys any false
20 information or insinuation.

21 §1130.6. Deceptive caller identification information; prohibition

22 A. No person, for the purpose of supporting, opposing, or otherwise
23 influencing the nomination or election of a person to public office, shall authorize
24 or approve any call, or cause any call to be made, which the person knows or
25 reasonably should know will include or will be transmitted with deceptive caller
26 identification information.

27 B. For purposes of this Section, the following terms shall have the following
28 meanings:

29 (1) "Caller identification information" means information provided to an end
30 user by a caller identification service regarding the telephone number of, or other

1 information regarding the origination of, a call made using a telecommunications
2 service.

3 (2) "Caller identification service" means any service or device designed to
4 provide the user of the service or device with the telephone number of, or other
5 information regarding the origination of, a call made using a telecommunications
6 service.

7 (3) "Deceptive caller identification information" is caller identification
8 information that falsely indicates that the call originated with a particular candidate
9 or a committee or agent of a particular candidate.

10 (4) "Telecommunications service" shall have the meaning provided in R.S.
11 47:301(29)(x). "Telecommunications service" shall include but not be limited to a
12 Voice over Internet Protocol service.

13 (5) "Voice over Internet Protocol service" means a service that provides real-
14 time voice communications transmitted through end user equipment using TCP/IP
15 protocol or a successor protocol, that is offered to the public or to such classes of
16 users as to be effectively available to the public, and that has the capability to
17 originate traffic to or terminate traffic from the public switched telephone network.

18 Section 2. This Act shall become effective upon signature by the governor or, if not
19 signed by the governor, upon expiration of the time for bills to become law without signature
20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
22 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____