

SB0875/724431/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 875
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “altering” in line 3 down through “material.” in line 24 and substitute “altering the definition of “campaign material” to include certain material that is disseminated and certain qualifying paid digital communications; altering the definition of “public communication” to include certain qualifying paid digital communications for purposes of certain provisions of law that require a person who makes independent expenditures of a certain amount to file a certain report; altering the definition of “electioneering communication” to include certain qualifying paid digital communications for purposes of certain provisions of law that require a person who makes disbursements for electioneering communications of a certain amount to file a certain report; providing that the definition of “electioneering communication” does not include a news story, commentary, or editorial disseminated through certain electronic or print media; providing that, if campaign material is too small to include certain information in a legible manner, the authority line need only contain the information required by the State Board of Elections by regulation, rather than the name and title of a certain person; requiring certain persons making independent expenditures or disbursements for electioneering communications to retain a copy of an item of campaign material for a certain period of time; requiring a person who directly or indirectly requests placement of a certain qualifying paid digital communication on an online platform to provide a certain express notice to the online platform in a certain manner; requiring a purchaser of a qualifying paid digital communication to take certain actions if the online platform does not provide a method to provide a certain notice; requiring an online platform to make available for public inspection on the Internet in a certain format certain records regarding certain qualifying paid digital communications disseminated through the online platform except under certain circumstances; requiring an online platform to allow the public to search certain records in a certain manner; requiring that certain records be available

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for public inspection on the Internet in a certain location for a certain period of time; authorizing an online platform to apply to the State Board for a certain compliance waiver; requiring the State Board to require an applicant for a compliance waiver to provide certain information; prohibiting the State Board from granting more than one compliance waiver to an online platform; prohibiting the State Board from granting a compliance waiver to an online platform within a certain period of time; requiring, under certain circumstances, an online platform to apply for a certain compliance waiver before receiving payment for a qualifying paid digital communication; requiring an online platform to maintain and make available to the State Board on request certain records regarding qualifying paid digital communications disseminated through the online platform; requiring certain records to be available on the request of the State Board for a certain period of time; providing that certain information obtained by the State Board concerning qualifying paid digital communications is not subject to inspection under the Public Information Act; requiring a purchaser of a certain qualifying paid digital communication to provide the online platform that disseminates the qualifying paid digital communication with certain information; providing that an online platform may rely in good faith on information provided by a purchaser of a certain qualifying paid digital communication; requiring an online platform to make reasonable efforts to allow the State Board to obtain certain information and request that a purchaser of a certain qualifying paid digital communication comply with certain provisions of law; requiring an online platform that disseminates certain qualifying paid digital communications to make reasonable efforts in accordance with a certain federal law to comply with any subpoena that is issued in connection with certain investigations concerning certain qualifying paid digital communications; authorizing the State Administrator of Elections to investigate certain potential violations of certain provisions of law and this Act by a purchaser of a certain qualifying paid digital communication; authorizing the State Administrator to issue a subpoena in furtherance of a certain investigation; providing for service of a certain subpoena; authorizing a circuit court to compel compliance with a subpoena on petition of the State Administrator; authorizing the State Board to request that the Attorney General seek injunctive relief in a circuit court to require a purchaser of a certain qualifying paid digital communication to comply with certain provisions of law and this Act, or require

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an online platform to remove a qualifying paid digital communication that does not comply with certain provisions of law and this Act; requiring the State Board to provide a certain notice and hold a public meeting before requesting that the Attorney General seek an injunction; authorizing a circuit court to grant injunctive relief only if the Attorney General shows clear and convincing evidence of a violation of certain provisions of law or this Act; providing that a person who violates an injunction is subject to certain penalties; prohibiting a person from purchasing campaign material or an electioneering communication using any currency other than United States currency; prohibiting a person from willfully and knowingly selling campaign material or an electioneering communication to a person who uses any currency other than United States currency to make the purchase; making conforming and technical changes; defining certain terms; and generally relating to the disclosure of qualifying paid digital communications and campaign material.”.

On pages 1 and 2, strike in their entirety the lines beginning with line 25 on page 1 through line 10 on page 2, inclusive, and substitute:

“BY repealing and reenacting, without amendments,

Article – Election Law

Section 1–101(a), 13–306(b) through (e), and 13–307(b) through (d)

Annotated Code of Maryland

(2017 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – Election Law

Section 1–101(k), 13–306(a), 13–307(a) and (e), 13–401, and 13–403

Annotated Code of Maryland

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BY adding to

Article – Election Law

Section 1–101(dd–1) and (ll–1), 13–405, 13–405.1, and 13–405.2

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Annotated Code of Maryland
(2017 Replacement Volume and 2017 Supplement)”.

AMENDMENT NO. 2

On pages 2 through 11, strike in their entirety the lines beginning with line 14 on page 2 through line 13 on page 11, inclusive, and substitute:

“1-101.

(a) In this article the following words have the meanings indicated unless a different meaning is clearly intended from the context.

(k) (1) “Campaign material” means any material that:

(i) contains text, graphics, or other images;

(ii) relates to a candidate, a prospective candidate, or the approval or rejection of a question or prospective question; and

(iii) is published [or], distributed, OR DISSEMINATED.

(2) “Campaign material” includes:

(I) A QUALIFYING PAID DIGITAL COMMUNICATION;

[(i)] (II) ANY OTHER material transmitted by or appearing on the Internet or other electronic medium; and

[(ii)] (III) an oral commercial campaign advertisement.

(DD-1) “ONLINE PLATFORM” MEANS ANY PUBLIC-FACING WEBSITE,

WEB APPLICATION, OR DIGITAL APPLICATION, INCLUDING A SOCIAL NETWORK,
AD NETWORK, OR SEARCH ENGINE, THAT:

(1) HAS 100,000 OR MORE UNIQUE MONTHLY UNITED STATES VISITORS OR USERS FOR A MAJORITY OF MONTHS DURING THE IMMEDIATELY PRECEDING 12 MONTHS; AND

(2) RECEIVES PAYMENT FOR QUALIFYING PAID DIGITAL COMMUNICATIONS.

(LL-1) “QUALIFYING PAID DIGITAL COMMUNICATION” MEANS ANY ELECTRONIC COMMUNICATION THAT:

(1) IS CAMPAIGN MATERIAL;

(2) IS PLACED OR PROMOTED FOR A FEE ON AN ONLINE PLATFORM;

(3) IS DISSEMINATED TO 500 OR MORE INDIVIDUALS; AND

(4) DOES NOT PROPOSE A COMMERCIAL TRANSACTION.

13-306.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Donation” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person who makes independent expenditures.

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(ii) “Donation” does not include any amount of money or any other thing of value:

1. received by a person in the ordinary course of any trade or business conducted by the person, whether for profit or not for profit, or in the form of investments in the person’s business; or

2. A. that the donor and the person receiving the money or thing of value expressly agree in writing may not be used for independent expenditures; and

B. in the case of a monetary donation, is deposited in a separate bank account that is never used for independent expenditures.

(3) “E-mail blast” means a transmission of electronic mail messages of an identical or substantially similar nature to 5,000 or more e-mail accounts simultaneously.

(4) “Mass mailing” means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

(5) (i) “Person” includes an individual, a partnership, a committee, an association, a corporation, a labor organization, or any other organization or group of persons.

(ii) “Person” does not include a campaign finance entity organized under Subtitle 2, Part II of this title.

(6) (i) “Public communication” means a communication by means of any broadcast television or radio communication, cable television communication, satellite television or radio communication, newspaper, magazine, outdoor advertising

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facility, mass mailing, e-mail blast, text blast, QUALIFYING PAID DIGITAL COMMUNICATION, or telephone bank to the general public, or any other form of general public political advertising.

(ii) “Public communication” does not include:

1. a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, satellite television or radio provider, Web site, newspaper, magazine, or other periodical publication, including any Internet or electronic publication, that is not controlled by a candidate or political party;

2. an internal membership communication by a business or other entity to its stockholders or members and executive and administrative personnel and their immediate families, or by a membership entity, as defined under § 13-243 of this title, to its members, executive and administrative personnel and their immediate families; or

3. a candidate debate or forum.

(7) “Telephone bank” means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.

(8) “Text blast” means a transmission of text messages of an identical or substantially similar nature to 5,000 or more telephone numbers simultaneously.

(b) Within 48 hours after a person makes aggregate independent expenditures of \$5,000 or more in an election cycle for campaign material that is a public communication, the person shall file a registration form with the State Board.

(c) Within 48 hours after a day on which a person makes aggregate independent expenditures of \$10,000 or more in an election cycle for campaign material

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that is a public communication, the person shall file an independent expenditure report with the State Board.

(d) A person who files an independent expenditure report under subsection (c) of this section shall file an additional independent expenditure report with the State Board within 48 hours after a day on which the person makes aggregate independent expenditures of \$10,000 or more for campaign material that is a public communication following the closing date of the person's previous independent expenditure report.

(e) An independent expenditure report shall include the following information:

(1) the identity of the person making the independent expenditures and of the person exercising direction or control over the activities of the person making the independent expenditures;

(2) the business address of the person making the independent expenditures;

(3) the amount and date of each independent expenditure during the period covered by the report and the person to whom the expenditure was made;

(4) the candidate or ballot issue to which the independent expenditure relates and whether the independent expenditure supports or opposes that candidate or ballot issue; and

(5) the identity of each person who made cumulative donations of \$6,000 or more to the person making the independent expenditures during the period covered by the report.

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(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Donation” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person that makes disbursements for electioneering communications.

(ii) “Donation” does not include any amount of money or any other thing of value:

1. received by a person in the ordinary course of any trade or business conducted by the person, whether for profit or not for profit, or in the form of investments in the person’s business; or

2. A. that the donor and the person receiving the money or thing of value expressly agree in writing may not be used for electioneering communications; and

B. in the case of a monetary donation, is deposited in a separate bank account that is never used for electioneering communications.

(3) (i) “Electioneering communication” means a broadcast television or radio communication, a cable television communication, a satellite television or radio communication, a mass mailing, an e-mail blast, a text blast, a telephone bank, A QUALIFYING PAID DIGITAL COMMUNICATION, or an advertisement in a print publication that:

1. refers to a clearly identified candidate or ballot issue;

2. is made within 60 days of an election day on which the candidate or ballot issue is on the ballot;

3. is capable of being received by:

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A. 50,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot, if the communication is transmitted by television or radio; or

B. 5,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot, if the communication is a mass mailing, an e-mail blast, a text blast, a telephone bank, **A QUALIFYING PAID DIGITAL COMMUNICATION**, or an advertisement in a print publication; and

4. is not made in coordination with, or at the request or suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a candidate, or a ballot issue committee.

(ii) "Electioneering communication" does not include:

1. an independent expenditure;

2. a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, or satellite television or radio provider, **WEBSITE, NEWSPAPER, MAGAZINE, OR OTHER PERIODICAL PUBLICATION, INCLUDING ANY INTERNET OR ELECTRONIC PUBLICATION**, that is not controlled by a candidate or political party;

3. a candidate debate or forum;

4. an internal membership communication by a business or other entity to its stockholders or members and executive and administrative personnel and their immediate families, or by a membership entity, as defined under § 13-243 of this title, to its members, executive and administrative personnel and their immediate families; or

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5. a communication that proposes a commercial transaction.

(iii) For purposes of this paragraph, “clearly identified” means:

1. the name of a candidate appears;
2. a photograph or drawing of a candidate appears; or
3. the identity of a candidate or ballot issue is apparent by unambiguous reference.

(4) “E-mail blast” means a transmission of electronic mail messages of an identical or substantially similar nature to 5,000 or more e-mail accounts simultaneously.

(5) “Mass mailing” means a mailing by United States mail or facsimile of more than 5,000 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

(6) (i) “Person” includes an individual, a partnership, a committee, an association, a corporation, a labor organization, or any other organization or group of persons.

(ii) “Person” does not include a campaign finance entity organized under Subtitle 2, Part II of this title.

(7) “Telephone bank” means more than 5,000 telephone calls of an identical or substantially similar nature within any 30-day period.

(8) “Text blast” means a transmission of text messages of an identical

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or substantially similar nature to 5,000 or more telephone numbers simultaneously.

(b) Within 48 hours after a person makes aggregate disbursements of \$5,000 or more in an election cycle for electioneering communications, the person shall file a registration form with the State Board.

(c) Within 48 hours after a day on which a person makes aggregate disbursements of \$10,000 or more in an election cycle for electioneering communications, the person shall file an electioneering communication report with the State Board.

(d) A person who files an electioneering communication report under subsection (c) of this section shall file an additional electioneering communication report with the State Board within 48 hours after a day on which the person makes aggregate disbursements of \$10,000 or more for electioneering communications following the closing date of the person's previous electioneering communication report.

(e) An electioneering communication report shall include the following information:

(1) the identity of the person making disbursements for electioneering communications and of the person exercising direction or control over the activities of the person making the disbursements for electioneering communications;

(2) the business address of the person making the disbursements for electioneering communications;

(3) the amount and date of each disbursement for electioneering communications during the period covered by the report and the person to whom the disbursement was made;

(4) the candidate or ballot issue to which the electioneering

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communications relate; AND

(5) the identity of each person who made cumulative donations of \$6,000 or more to the person making the disbursements for electioneering communications during the period covered by the report.

13-401.

(a) (1) Except as otherwise provided in this section, each item of campaign material shall contain, set apart from any other message, an authority line that states:

(i) as to campaign material published [or], distributed, OR DISSEMINATED by a campaign finance entity:

1. the name and address of the treasurer of each campaign finance entity responsible for the campaign material; and

2. as to each treasurer named under item 1 of this item, the name of each campaign finance entity for which the treasurer is acting; and

(ii) as to campaign material published [or], distributed, OR DISSEMINATED by any other person, the name and address of the person responsible for the campaign material.

(2) The authority line may omit an address that is on file with the State Board or a local board.

(3) If the campaign material is too small to include all the information specified in paragraph (1) of this subsection in a legible manner, the authority line need only contain the [name and title of the treasurer or other person responsible for it] INFORMATION REQUIRED BY REGULATIONS ADOPTED BY THE STATE BOARD.

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(4) The authority line for campaign material that is a commercial advertisement need only contain the information specified in paragraphs (1) and (2) of this subsection for one campaign finance entity or other person responsible for the advertisement.

(b) Campaign material that is published or distributed in support of or in opposition to a candidate, but is not authorized by the candidate, shall include the following statement:

“This message has been authorized and paid for by (name of payor or any organization affiliated with the payor), (name and title of treasurer or president). This message has not been authorized or approved by any candidate.”

13-403.

(a) (1) Subject to paragraph (2) of this subsection, each campaign finance entity, **EACH PERSON REQUIRED TO REGISTER UNDER § 13-306(B) OF THIS TITLE, AND EACH PERSON REQUIRED TO REGISTER UNDER § 13-307(B) OF THIS TITLE** THAT IS responsible for, publisher of, and distributor of, an item of campaign material shall keep a sample copy of the item for at least 1 year after the general election next following the date when the item was published or distributed.

(2) For each item of campaign material disseminated through the Internet, the sample copy shall be:

(i) a paper facsimile; or

(ii) a copy on an electronic medium that can be produced as a paper facsimile on request.

(b) Subsection (a) of this section does not apply to a billboard or a sign.

13-405.

(A) (1) A PERSON WHO DIRECTLY OR INDIRECTLY REQUESTS PLACEMENT OF A QUALIFYING PAID DIGITAL COMMUNICATION ON AN ONLINE PLATFORM SHALL EXPRESSLY NOTIFY THE ONLINE PLATFORM AT THE TIME THE REQUEST FOR PLACEMENT OF A QUALIFYING PAID DIGITAL COMMUNICATION IS MADE THAT THE COMMUNICATION IS A QUALIFYING PAID DIGITAL COMMUNICATION.

(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION:

(I) SHALL BE PROVIDED USING THE METHOD PRESCRIBED BY THE ONLINE PLATFORM; AND

(II) MAY NOT BE PROVIDED THROUGH THE INCLUSION OF THE AUTHORITY LINE REQUIRED UNDER § 13-401 OF THIS SUBTITLE ON THE QUALIFYING PAID DIGITAL COMMUNICATION.

(3) IF AN ONLINE PLATFORM DOES NOT PROVIDE A METHOD FOR A REQUESTER OF A QUALIFYING PAID DIGITAL COMMUNICATION TO GIVE NOTICE AS REQUIRED BY PARAGRAPH (2)(I) OF THIS SUBSECTION, THE REQUESTER SHALL:

(I) NOTIFY THE STATE BOARD THAT THE ONLINE PLATFORM IS NOT IN COMPLIANCE WITH PARAGRAPH (2)(I) OF THIS SUBSECTION; AND

(II) PROVIDE THE INFORMATION REQUIRED UNDER

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SUBSECTION (B)(6) OF THIS SECTION TO THE STATE BOARD.

(B) (1) AN ONLINE PLATFORM SHALL MAKE AVAILABLE FOR PUBLIC INSPECTION ON THE INTERNET IN A MACHINE-READABLE FORMAT THE RECORDS DESCRIBED IN PARAGRAPH (6) OF THIS SUBSECTION REGARDING QUALIFYING PAID DIGITAL COMMUNICATIONS DISSEMINATED THROUGH THE ONLINE PLATFORM FOR WHICH THE ONLINE PLATFORM HAS RECEIVED NOTICE IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(2) AN ONLINE PLATFORM SHALL ALLOW THE PUBLIC TO SEARCH THE RECORDS DESCRIBED IN PARAGRAPH (6) OF THIS SUBSECTION BY PURCHASER.

(3) EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, THE RECORDS DESCRIBED IN PARAGRAPH (6) OF THIS SUBSECTION SHALL BE AVAILABLE FOR PUBLIC INSPECTION ON THE INTERNET IN A CLEARLY IDENTIFIABLE LOCATION ON THE ONLINE PLATFORM'S HOMEPAGE:

(I) WITHIN 48 HOURS AFTER A QUALIFYING PAID DIGITAL COMMUNICATION IS PURCHASED; AND

(II) FOR AT LEAST 1 YEAR AFTER THE GENERAL ELECTION FOLLOWING THE DATE WHEN THE ONLINE PLATFORM DISSEMINATED THE QUALIFYING PAID DIGITAL COMMUNICATION TO WHICH THE RECORDS RELATE.

(4) FOR PURPOSES OF PARAGRAPH (3) OF THIS SUBSECTION, A PERSON SHALL BE CONSIDERED TO HAVE PURCHASED A QUALIFYING PAID DIGITAL COMMUNICATION IF THE PERSON HAS EXECUTED A CONTRACT TO PURCHASE A QUALIFYING PAID DIGITAL COMMUNICATION.

(5) (I) AN ONLINE PLATFORM MAY APPLY TO THE STATE BOARD FOR A COMPLIANCE WAIVER TO ALLOW THE ONLINE PLATFORM TO MAKE THE RECORDS DESCRIBED IN PARAGRAPH (6) OF THIS SUBSECTION AVAILABLE FOR PUBLIC INSPECTION ON THE INTERNET WITHIN UP TO 7 DAYS AFTER A QUALIFYING PAID DIGITAL COMMUNICATION IS PURCHASED.

(II) THE STATE BOARD SHALL REQUIRE AN APPLICANT FOR A COMPLIANCE WAIVER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO:

1. DESCRIBE WHY COMPLYING WITH THE REQUIREMENTS UNDER PARAGRAPH (3) OF THIS SUBSECTION PRESENTS AN UNREASONABLE BURDEN ON THE APPLICANT; AND

2. PRESENT MEASURES THE APPLICANT WILL TAKE TO MEET THE REQUIREMENTS UNDER PARAGRAPH (3) OF THIS SUBSECTION WITHIN 6 MONTHS AFTER THE DATE THE COMPLIANCE WAIVER IS GRANTED.

(III) THE STATE BOARD MAY NOT GRANT:

1. MORE THAN ONE COMPLIANCE WAIVER TO AN ONLINE PLATFORM; AND

2. A COMPLIANCE WAIVER TO AN ONLINE PLATFORM WITHIN 30 DAYS BEFORE AN ELECTION.

(IV) IF AN ONLINE PLATFORM WILL APPLY FOR A COMPLIANCE WAIVER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE ONLINE PLATFORM SHALL APPLY FOR A COMPLIANCE WAIVER BEFORE

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RECEIVING PAYMENT FOR A QUALIFYING PAID DIGITAL COMMUNICATION.

(6) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION A PURCHASER REQUESTS TO DISSEMINATE THROUGH AN ONLINE PLATFORM AND FOR WHICH THE PURCHASER HAS PROVIDED NOTICE IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, THE ONLINE PLATFORM SHALL MAINTAIN THE FOLLOWING RECORDS:

(I) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION PURCHASED BY A POLITICAL COMMITTEE:

1. THE NAME OF THE PERSON AND ANY CONTACT INFORMATION FOR THE PERSON REQUIRED BY THE STATE BOARD, OF THE POLITICAL COMMITTEE;

2. THE TREASURER OF THE POLITICAL COMMITTEE;

AND

3. THE TOTAL AMOUNT PAID BY THE PURCHASER TO THE ONLINE PLATFORM FOR THE PLACEMENT OF THE QUALIFYING PAID DIGITAL COMMUNICATION;

(II) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION PURCHASED BY A PERSON OTHER THAN A POLITICAL COMMITTEE OR AN AD NETWORK:

1. THE NAME OF THE PERSON AND ANY CONTACT INFORMATION FOR THE PERSON REQUIRED BY THE STATE BOARD, OF THE PERSON;

2. THE IDENTITY OF THE INDIVIDUALS EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF THE PERSON, INCLUDING THE CHIEF EXECUTIVE OFFICER OR BOARD OF DIRECTORS, IF APPLICABLE; AND

3. THE TOTAL AMOUNT PAID BY THE PURCHASER TO THE ONLINE PLATFORM FOR THE PLACEMENT OF THE QUALIFYING PAID DIGITAL COMMUNICATION; AND

(III) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION PURCHASED BY AN AD NETWORK:

1. THE CONTACT INFORMATION FOR THE AD NETWORK; OR

2. A HYPERLINK TO THE AD NETWORK'S WEBSITE WHERE THE CONTACT INFORMATION IS LOCATED.

(C) (1) AN ONLINE PLATFORM SHALL MAINTAIN AND MAKE AVAILABLE TO THE STATE BOARD ON REQUEST THE RECORDS DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION REGARDING QUALIFYING PAID DIGITAL COMMUNICATIONS DISSEMINATED THROUGH THE ONLINE PLATFORM FOR WHICH THE ONLINE PLATFORM HAS RECEIVED NOTICE IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.

(2) THE RECORDS DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION SHALL BE AVAILABLE ON THE REQUEST OF THE STATE BOARD:

(I) WITHIN 48 HOURS AFTER A QUALIFYING PAID DIGITAL

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COMMUNICATION IS FIRST DISSEMINATED ON THE ONLINE PLATFORM; AND

(II) FOR AT LEAST 1 YEAR AFTER THE GENERAL ELECTION FOLLOWING THE DATE WHEN THE ONLINE PLATFORM DISSEMINATED THE QUALIFYING PAID DIGITAL COMMUNICATION TO WHICH THE RECORDS RELATE.

(3) FOR EACH QUALIFYING PAID DIGITAL COMMUNICATION A PURCHASER REQUESTS TO DISSEMINATE THROUGH AN ONLINE PLATFORM AND FOR WHICH THE PURCHASER HAS PROVIDED NOTICE IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION, THE ONLINE PLATFORM SHALL MAINTAIN THE FOLLOWING RECORDS:

(I) THE CANDIDATE OR BALLOT ISSUE TO WHICH THE QUALIFYING PAID DIGITAL COMMUNICATION RELATES AND WHETHER THE QUALIFYING PAID DIGITAL COMMUNICATION SUPPORTS OR OPPOSES THAT CANDIDATE OR BALLOT ISSUE;

(II) THE DATES AND TIMES THAT THE QUALIFYING PAID DIGITAL COMMUNICATION WAS FIRST DISSEMINATED AND LAST DISSEMINATED;

(III) A DIGITAL COPY OF THE CONTENT OF THE QUALIFYING PAID DIGITAL COMMUNICATION;

(IV) AN APPROXIMATE DESCRIPTION OF THE GEOGRAPHIC LOCATIONS WHERE THE QUALIFYING PAID DIGITAL COMMUNICATION WAS DISSEMINATED;

(V) AN APPROXIMATE DESCRIPTION OF THE AUDIENCE THAT RECEIVED OR WAS TARGETED TO RECEIVE THE QUALIFYING PAID DIGITAL

COMMUNICATION; AND

(VI) THE TOTAL NUMBER OF IMPRESSIONS GENERATED BY THE QUALIFYING PAID DIGITAL COMMUNICATION.

(4) INFORMATION OBTAINED BY THE STATE BOARD UNDER THIS SUBSECTION IS NOT SUBJECT TO INSPECTION UNDER THE PUBLIC INFORMATION ACT.

(D) (1) A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION SHALL PROVIDE THE ONLINE PLATFORM THAT DISSEMINATES THE QUALIFYING PAID DIGITAL COMMUNICATION WITH THE INFORMATION NECESSARY FOR THE ONLINE PLATFORM TO COMPLY WITH SUBSECTIONS (B) AND (C) OF THIS SECTION.

(2) AN ONLINE PLATFORM MAY RELY IN GOOD FAITH ON THE INFORMATION PROVIDED BY A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION TO COMPLY WITH SUBSECTIONS (B) AND (C) OF THIS SECTION.

(E) AN ONLINE PLATFORM SHALL MAKE REASONABLE EFFORTS TO ALLOW THE STATE BOARD TO:

(1) OBTAIN THE INFORMATION REQUIRED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION;

(2) OBTAIN THE INFORMATION THAT A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION PROVIDED TO THE ONLINE PLATFORM IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION; AND

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(3) OTHERWISE REQUEST THAT A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION COMPLY WITH THIS SECTION OR § 13-401 OF THIS SUBTITLE.

(F) AN ONLINE PLATFORM THAT DISSEMINATES QUALIFYING PAID DIGITAL COMMUNICATIONS SHALL MAKE REASONABLE EFFORTS, IN ACCORDANCE WITH THE FEDERAL STORED COMMUNICATIONS ACT, TO COMPLY WITH ANY SUBPOENA THAT IS ISSUED IN CONNECTION WITH AN INVESTIGATION CONCERNING THE COMPLIANCE OF A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION WITH THIS SECTION OR § 13-401 OF THIS SUBTITLE.

13-405.1.

(A) (1) THE STATE ADMINISTRATOR MAY INVESTIGATE A POTENTIAL VIOLATION OF § 13-401 OR § 13-405 OF THIS SUBTITLE BY A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION.

(2) IN FURTHERANCE OF AN INVESTIGATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE STATE ADMINISTRATOR MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS TO TESTIFY OR THE PRODUCTION OF RECORDS.

(3) A SUBPOENA ISSUED UNDER THIS SUBSECTION SHALL BE SERVED IN ACCORDANCE WITH THE MARYLAND RULES.

(4) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SUBSECTION, ON PETITION OF THE STATE ADMINISTRATOR, A CIRCUIT COURT OF COMPETENT JURISDICTION MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

(B) (1) AT THE CONCLUSION OF AN INVESTIGATION UNDER SUBSECTION (A)(1) OF THIS SECTION, SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE STATE BOARD MAY REQUEST THAT THE ATTORNEY GENERAL INSTITUTE AN ACTION IN A CIRCUIT COURT FOR INJUNCTIVE RELIEF IN ACCORDANCE WITH THE MARYLAND RULES TO:

(I) REQUIRE A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION TO COMPLY WITH § 13-401 OR § 13-405 OF THIS SUBTITLE; OR

(II) REQUIRE AN ONLINE PLATFORM TO REMOVE A QUALIFIED PAID DIGITAL COMMUNICATION THAT DOES NOT COMPLY WITH § 13-401 OF THIS SUBTITLE OR IF THE PURCHASER OF THE COMMUNICATION DOES NOT COMPLY WITH § 13-405 OF THIS SUBTITLE.

(2) BEFORE REQUESTING THAT THE ATTORNEY GENERAL SEEK AN INJUNCTION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE STATE BOARD SHALL:

(I) NOTIFY A PURCHASER OF A QUALIFYING PAID DIGITAL COMMUNICATION WHO IS THE SUBJECT OF AN INVESTIGATION OF THE CIRCUMSTANCES THAT GAVE RISE TO THE INVESTIGATION; AND

(II) PROVIDE THE PERSON REASONABLE OPPORTUNITY TO BE HEARD AT A PUBLIC MEETING OF THE STATE BOARD.

(3) A CIRCUIT COURT MAY GRANT INJUNCTIVE RELIEF UNDER THIS SUBSECTION ONLY IF THE ATTORNEY GENERAL SHOWS BY CLEAR AND CONVINCING EVIDENCE THAT A VIOLATION OF § 13-401 OR § 13-405 OF THIS

SUBTITLE IS BEING COMMITTED.

(4) A PERSON WHO VIOLATES AN INJUNCTION ISSUED UNDER THIS SUBSECTION IS SUBJECT TO THE PENALTIES PROVIDED IN § 13-605(B) OF THIS TITLE.

13-405.2.

(A) IN THIS SECTION, “ELECTIONEERING COMMUNICATION” HAS THE MEANING STATED IN § 13-307(A) OF THIS TITLE.

(B) A PERSON MAY NOT PURCHASE CAMPAIGN MATERIAL OR AN ELECTIONEERING COMMUNICATION USING ANY CURRENCY OTHER THAN UNITED STATES CURRENCY.

(C) A PERSON MAY NOT WILLFULLY AND KNOWINGLY SELL CAMPAIGN MATERIAL OR AN ELECTIONEERING COMMUNICATION TO A PERSON WHO USES ANY CURRENCY OTHER THAN UNITED STATES CURRENCY TO PAY FOR THE CAMPAIGN MATERIAL OR ELECTIONEERING COMMUNICATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.”.