

CHAPTER 305

ELECTIONS

SENATE BILL 05-031

BY SENATOR(S) Keller, Hillman, Bacon, Fitz-Gerald, Gordon, Groff, Grossman, Hanna, Isgar, Shaffer, Takis, Tapia, Teck, Tochtrop, Tupa, Veiga, Williams, and Windels;
also REPRESENTATIVE(S) Merrifield, Buescher, Cloer, McKinley, Berens, Borodkin, Carroll T., Coleman, Frangas, Garcia, Madden, Marshall, McGihon, Paccione, Todd, Vigil, and Romanoff.

AN ACT

CONCERNING THE ELECTION OFFENSE OF MAKING FALSE STATEMENTS DESIGNED TO AFFECT THE VOTE AS PROSCRIBED BY SECTION 1-13-109, COLORADO REVISED STATUTES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 1-13-109, Colorado Revised Statutes, is amended to read:

1-13-109. False statements relating to candidates or questions submitted to electors - penalties - definitions. (1) (a) No person shall knowingly make, publish, BROADCAST, or circulate or cause to be made, published, BROADCASTED, or circulated in any letter, circular, advertisement, or poster or in any other ~~writing~~ COMMUNICATION any false statement designed to affect the vote on any issue submitted to the electors at any election or relating to any candidate for election to public office.

~~(2)~~ (b) Any person who ~~knowingly~~ violates any provision of PARAGRAPH (a) OF this ~~section~~ SUBSECTION (1) commits a ~~class 2~~ CLASS 1 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(2) (a) NO PERSON SHALL RECKLESSLY MAKE, PUBLISH, BROADCAST, OR CIRCULATE OR CAUSE TO BE MADE, PUBLISHED, BROADCASTED, OR CIRCULATED IN ANY LETTER, CIRCULAR, ADVERTISEMENT, OR POSTER OR IN ANY OTHER COMMUNICATION ANY FALSE STATEMENT DESIGNED TO AFFECT THE VOTE ON ANY ISSUE SUBMITTED TO THE ELECTORS AT ANY ELECTION OR RELATING TO ANY CANDIDATE FOR ELECTION TO PUBLIC OFFICE. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR PURPOSES OF THIS SUBSECTION (2), A PERSON ACTS "RECKLESSLY" WHEN HE OR SHE ACTS IN CONSCIOUS DISREGARD OF THE TRUTH OR

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

FALSITY OF THE STATEMENT MADE, PUBLISHED, BROADCASTED, OR CIRCULATED.

(b) ANY PERSON WHO VIOLATES ANY PROVISION OF PARAGRAPH (a) OF THIS SUBSECTION (2) COMMITS A CLASS 2 MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.

(3) FOR PURPOSES OF THIS SECTION, "PERSON" MEANS ANY NATURAL PERSON, PARTNERSHIP, COMMITTEE, ASSOCIATION, CORPORATION, LABOR ORGANIZATION, POLITICAL PARTY, OR OTHER ORGANIZATION OR GROUP OF PERSONS, INCLUDING A GROUP ORGANIZED UNDER SECTION 527 OF THE INTERNAL REVENUE CODE.

SECTION 2. Effective date - applicability. (1) This act shall take effect September 1, 2005.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to offenses committed on or after the applicable effective date of this act.

Approved: June 6, 2005