

109TH CONGRESS
2^D SESSION

S. 4069

To prohibit deceptive practices in Federal elections.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2006

Mr. OBAMA introduced the following bill; which was read twice and referred
to the Committee on Rules and Administration

A BILL

To prohibit deceptive practices in Federal elections.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deceptive Practices
5 and Voter Intimidation Prevention Act of 2006”.

6 **SEC. 2. DECEPTIVE PRACTICES IN ELECTIONS.**

7 (a) CIVIL ACTION.—

8 (1) IN GENERAL.—Subsection (b) of section
9 2004 of the Revised Statutes (42 U.S.C. 1971(b)) is
10 amended—

11 (A) by striking “No person” and inserting
12 the following:

1 “(1) No person”; and

2 (B) by inserting at the end the following
3 new paragraph:

4 “(2) No person, whether acting under color of
5 law or otherwise, shall knowingly deceive any other
6 person regarding—

7 “(A) the time, place, or manner of con-
8 ducting a general, primary, run-off, or special
9 election for the office of President, Vice Presi-
10 dent, presidential elector, Member of the Sen-
11 ate, Member of the House of Representatives,
12 or Delegate or Commissioner from a territory
13 or possession;

14 “(B) the qualifications for or restrictions
15 on voter eligibility for any election described in
16 subparagraph (A);

17 “(C) the political party affiliation of any
18 candidate running in any election described in
19 subparagraph (A); or

20 “(D) the sponsor, endorser, or originator
21 of any electronic, written, or telephonic commu-
22 nication, or any other public communication (as
23 defined under section 301(22) of the Federal
24 Election Campaign Act of 1971 (2 U.S.C.
25 431(22))), that promotes, supports, attacks, or

1 opposes a clearly identified candidate in any
2 election described in subparagraph (A).”.

3 (2) PRIVATE RIGHT OF ACTION.—

4 (A) IN GENERAL.—Subsection (c) of sec-
5 tion 2004 of the Revised Statutes (42 U.S.C.
6 1971(c)) is amended—

7 (i) by striking “Whenever any person”
8 and inserting the following:

9 “(1) Whenever any person”; and

10 (ii) by adding at the end the following
11 new paragraph:

12 “(2) Any person aggrieved by a violation of
13 subsection (b)(2) may institute a civil action or other
14 proper proceeding for preventive relief, including an
15 application in a United States district court for a
16 permanent or temporary injunction, restraining
17 order, or other order.”.

18 (B) CONFORMING AMENDMENTS.—

19 (i) Subsection (e) of section 2004 of
20 the Revised Statutes (42 U.S.C. 1971(e))
21 is amended by striking “subsection (c)”
22 and inserting “subsection (c)(1)”.

23 (ii) Subsection (g) of section 2004 of
24 the Revised Statutes (42 U.S.C. 1971(g))

1 is amended by striking “subsection (c)”
2 and inserting “subsection (c)(1)”.

3 (b) CRIMINAL PENALTY.—Section 594 of title 18,
4 United States Code, is amended—

5 (1) by striking “Whoever” and inserting the fol-
6 lowing:

7 “(a) INTIMIDATION.—Whoever”;

8 (2) by inserting “by any means, including by
9 means of written, electronic, or telephonic commu-
10 nications,” after “any other person”; and

11 (3) by adding at the end the following:

12 “(b) DECEPTIVE ACTS.—

13 “(1) PROHIBITION.—

14 “(A) IN GENERAL.—It shall be unlawful
15 for any person to knowingly deceive another
16 person regarding—

17 “(i) the time, place, or manner of an
18 election described in subparagraph (B), or
19 the qualifications for or restrictions on
20 voter eligibility for any such election, with
21 the intent to prevent such person from ex-
22 ercising the right to vote in such election;

23 “(ii) the political party affiliation of
24 any candidate running in any election de-
25 scribed in subparagraph (B);

1 “(iii) the sponsor, endorser, or origi-
2 nator of any electronic, written, or tele-
3 phonic communication, or any other public
4 communication (as defined under section
5 301(22) of the Federal Election Campaign
6 Act of 1971 (2 U.S.C. 431(22))), that pro-
7 motes, supports, attacks, or opposes a
8 clearly identified candidate in any election
9 described in subparagraph (B).

10 “(B) ELECTION.—An election described in
11 this subparagraph is any general, primary, run-
12 off, or special election for the office of Presi-
13 dent, Vice President, presidential elector, Mem-
14 ber of the Senate, Member of the House of
15 Representatives, Delegate of the District of Co-
16 lumbia, or Resident Commissioner.

17 “(2) PENALTY.—Any person who violates para-
18 graph (1) shall be fined not more than \$100,000,
19 imprisoned not more than 1 year, or both.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on the date of the enactment
22 of this Act.

23 **SEC. 3. REPORTING FALSE ELECTION INFORMATION.**

24 (a) IN GENERAL.—Any person may report to the As-
25 sistant Attorney General of the Civil Rights Division of

1 the Department of Justice, or the designee of such Assist-
2 ant Attorney General, any act of deception regarding—

3 (1) the time, place, or manner of conducting a
4 general, primary, run-off, or special election for Fed-
5 eral office;

6 (2) the qualifications for or restrictions on voter
7 eligibility for any general, primary, run-off, or spe-
8 cial election for Federal office;

9 (3) the political party affiliation of any can-
10 didate in any general, primary, run-off, or special
11 election for Federal office; or

12 (4) the sponsor, endorser, or originator of any
13 electronic, written, or telephonic communication, or
14 any other public communication (as defined under
15 section 301(22) of the Federal Election Campaign
16 Act of 1971 (2 U.S.C. 431(22))), that promotes,
17 supports, attacks, or opposes a clearly identified can-
18 didate in any general, primary, run-off, or special
19 election for Federal office.

20 (b) CORRECTIVE ACTION.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), not later than 48 hours after receiving a
23 report under subsection (a), the Assistant Attorney
24 General shall investigate such report and, if the As-
25 sistant Attorney General determines that an act of

1 deception described in subsection (a) occurred,
2 shall—

3 (A) undertake all effective measures nec-
4 essary to provide correct information to voters
5 affected by the deception, and

6 (B) refer the matter to the appropriate
7 Federal and State authorities for criminal pros-
8 ecution.

9 (2) REPORTS WITHIN 72 HOURS OF AN ELEC-
10 TION.—If a report under subsection (a) is received
11 within 72 hours before the election described in such
12 subsection, the Assistant Attorney General shall im-
13 mediately investigate such report and, if the Assist-
14 ant Attorney General determines that an act of de-
15 ception described in subsection (a) occurred, shall
16 immediately undertake all effective measures nec-
17 essary to provide correct information to voters af-
18 fected by the deception.

19 (3) REGULATIONS.—

20 (A) IN GENERAL.—The Attorney General
21 shall promulgate regulations regarding the
22 methods and means of corrective actions to be
23 taken under paragraphs (1) and (2). Such regu-
24 lations shall be developed in consultation with
25 the Election Assistance Commission, civil rights

1 organizations, voting rights groups, State elec-
2 tion officials, voter protection groups, and other
3 interested community organizations.

4 (B) STUDY.—

5 (i) IN GENERAL.—The Attorney Gen-
6 eral, in consultation with the Federal Com-
7 munications Commission and the Election
8 Assistance Commission, shall conduct a
9 study on the feasibility of providing the
10 corrective information under paragraphs
11 (1) and (2) through public service an-
12 nouncements, the emergency alert system,
13 or other forms of public broadcast.

14 (ii) REPORT.—Not later than 180
15 days after the date of the enactment of
16 this Act, the Attorney General shall submit
17 to Congress a report detailing the results
18 of the study conducted under clause (i).

19 (c) REPORTS TO CONGRESS.—

20 (1) IN GENERAL.—Not later than 90 days after
21 any primary, general, or run-off election for Federal
22 office, the Attorney General shall submit to the ap-
23 propriate committees of Congress a report compiling
24 and detailing any allegations of deceptive practices

1 submitted pursuant to subsection (a) and relating to
2 such election.

3 (2) CONTENTS.—

4 (A) IN GENERAL.—Each report submitted
5 under paragraph (1) shall include—

6 (i) detailed information on specific al-
7 legations of deceptive tactics;

8 (ii) any corrective actions taken in re-
9 sponse to such allegations;

10 (iii) the effectiveness of any such cor-
11 rective actions;

12 (iv) any suit instituted under section
13 2004(b)(2) of the Revised Statutes (42
14 U.S.C. 1971(b)(2)) in connection with such
15 allegations;

16 (v) statistical compilations of how
17 many allegations were made and of what
18 type;

19 (vi) the geographic locations of and
20 the populations affected by the alleged de-
21 ceptive information; and

22 (vii) the status of the investigations of
23 such allegations.

24 (B) EXCEPTION.—The Attorney General
25 may withhold any information that the Attorney

1 General determines would unduly interfere with
2 an on-going investigation.

3 (3) REPORT MADE PUBLIC.—The Attorney
4 General shall make the report required under para-
5 graph (1) publicly available through the Internet
6 and other appropriate means.

7 (d) FEDERAL OFFICE.—For purposes of this section,
8 the term “Federal office” means the office of President,
9 Vice President, presidential elector, Member of the Senate,
10 Member of the House of Representatives, or Delegate or
11 Commissioner from a territory or possession of the United
12 States.

13 (e) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Attorney General
15 such sums as may be necessary to carry out this section.

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