

FIRST REGULAR SESSION

# HOUSE BILL NO. 763

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MCGAUGH.

1743H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 115, RSMo, by adding thereto one new section relating to the political accountability in campaigning act.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 115, RSMo, is amended by adding thereto one new section, to be known as section 115.850, to read as follows:

**115.850. 1. This section shall be known and may be cited as the “Political Accountability in Campaigning Act”.**

**2. For purposes of this section, the term “knowingly” shall mean that a candidate knows that a proposition is false and intends to publicize it, and the term “material fact” shall mean a proposition that is verifiable as either true or false with near certainty during de novo review by an appellate court, and that is not embedded within a context where the overall content of the message is a matter of opinion. The use of interjections including name calling or profane language shall not be deemed to be matters of material fact.**

**3. A candidate campaigning for office in this state commits a violation of this section if he or she knowingly publicizes a false statement of material fact in a political advertisement released to the public through any print or broadcast medium that refers to a clearly identified candidate for statewide office or the general assembly that is made after the candidate making the communication has filed for office.**

**4. A violation of this section shall be proven by clear and compelling evidence by a court or jury.**

**5. A violation of this section shall be punishable by damages limited to the lesser of the amount it would cost to adequately inform the public of the false material fact at**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 issue or a damage award of not more than twenty thousand dollars for each violation.  
19 Courts may enforce the provisions of this section by granting injunctive relief to prevent  
20 the future dissemination of false material statements in violation of this section.

21 **6. A candidate who has violated the provisions of this section may avoid the penalty**  
22 **imposed in subsection 5 of this section by retracting his or her false statement of material**  
23 **fact through the same print or broadcast medium used to communicate the false statement**  
24 **of material fact. Such retraction shall be made not later than fourteen days after the false**  
25 **statement of material fact was made and shall be made not later than fourteen days prior**  
26 **to a general or special election for statewide office or the general assembly.**

27 **7. In addition to prosecutors or the office of the attorney general, any eligible voter**  
28 **may bring suit to enforce the provisions of this section. Damages obtained by state officials**  
29 **shall be considered as substantially similar to penalties and shall be payable to the schools**  
30 **in accordance with article IX, section 7 of the Constitution of Missouri, otherwise such**  
31 **damages shall be payable to any eligible voter bringing suit under this section.**

32 **8. This section shall not be held to modify or supercede any cause of action for**  
33 **defamation and the penalties herein shall be in addition to any damages or penalties**  
34 **imposed for defamation by statute or common law.**

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