

21-A §1014-B. PUSH POLLING

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1. Push poll defined. For purposes of this section, "push poll" means any paid telephone survey or series of telephone surveys that are similar in nature that reference a candidate or group of candidates other than in a basic preference question, and when:

- A. A list or directory is used, exclusively or in part, to select respondents belonging to a particular subset or combination of subsets of the population, based on demographic or political characteristics such as race, sex, age, ethnicity, party affiliation or like characteristics; [2001, c. 416, §1 (NEW).]
- B. The survey fails to make demographic inquiries on factors such as age, household income or status as a likely voter sufficient to allow for the tabulation of results based on a relevant subset of the population consistent with standard polling industry practices; [2001, c. 416, §1 (NEW).]
- C. The pollster or polling organization does not collect or tabulate survey results; [2001, c. 416, §1 (NEW).]
- D. The survey prefaces a question regarding support for a candidate on the basis of an untrue statement; and [2001, c. 416, §1 (NEW).]
- E. The survey is primarily for the purpose of suppressing or changing the voting position of the call recipient. [2001, c. 416, §1 (NEW).]

"Push poll" does not include any survey supporting a particular candidate that fails to reference another candidate or candidates other than in a basic preference question.

[2001, c. 416, §1 (NEW) .]

2. Push polls; political telephone solicitations; requirements. Push polling must be conducted in accordance with this subsection.

- A. A person may not authorize, commission, conduct or administer a push poll by telephone or telephonic device unless, during each call, the caller identifies the person or organization sponsoring or authorizing the call by stating "This is a paid political advertisement by (name of persons or organizations)," and identifies the organization making the call, if different from the sponsor, by stating "This call is conducted by (name of organization)." [2001, c. 416, §1 (NEW).]
- B. If any person identified as either sponsoring or authorizing the call is not required to file any document with election officials pursuant to this Title, a valid, current, publicly listed telephone number and address for the person or organization must be disclosed during each call. [2001, c. 416, §1 (NEW) .]
- C. If any person sponsoring or authorizing the call is affiliated with a candidate, the candidate's name and the office sought by that candidate must be disclosed during each call. [2001, c. 416, §1 (NEW) .]
- D. If the call is an independent expenditure, as defined in section 1019-B, that a candidate has not approved the call must be disclosed during each call. [2003, c. 448, §1 (AMD).]

It is not a violation of this subsection if the respondent voluntarily terminates the call or asks to be called back before the required disclosures are made, unless the respondent is in any way encouraged to do so by the person initiating the call.

A person may not state or imply false or fictitious names or telephone numbers when providing the disclosures required under this subsection.

All oral disclosures required by this subsection must be made in a clear and intelligible manner and must be repeated in that fashion upon request of the call respondent. Disclosures made by any telephonic device must offer respondents a procedure to have the disclosures repeated.

This subsection does not apply to a push poll or political telephone solicitation or contact if the individuals participating in the call know each other prior to the call.

A person who violates this subsection may be assessed a forfeiture of \$500 by the commission.

[2003, c. 448, §1 (AMD) .]

3. Registered agents; requirements; registration. Persons conducting push polling shall register and comply with the requirements of this subsection.

A. A person who conducts a paid push poll or political telephone solicitation or contact, prior to conducting that poll, solicitation or contact, must have and continuously maintain for at least 180 days following the cessation of business activities in this State a designated agent for the purpose of service of process, notice or demand required or permitted by law, and shall file with the commission identification of that designated agent. Conducting business in this State includes both placing telephone calls from a location in this State and calls from other states or nations to individuals located within this State. The designated agent must be an individual resident of this State, a domestic corporation or a foreign corporation authorized to do business in this State. This paragraph does not apply to any entity already lawfully registered to conduct business in this State. [2001, c. 416, §1 (NEW) .]

B. The commission shall create and maintain forms for the designation of agents required pursuant to paragraph A and require, at a minimum, the following information:

(1) The name, address and telephone number of the designated agent; and

(2) The name, address and telephone number of the person conducting business in this State.

[2001, c. 416, §1 (NEW) .]

C. The person conducting push polling shall notify the commission of any changes in the designated agent and the information required by paragraph B. [2001, c. 416, §1 (NEW) .]

D. A person who violates this subsection may be assessed a forfeiture of \$500 by the commission.

[2001, c. 416, §1 (NEW) .]

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4. Permitted practices. This section does not prohibit legitimate election practices, including but not limited to:

A. Voter identification; [2001, c. 416, §1 (NEW) .]

B. Voter facilitation activities; or [2001, c. 416, §1 (NEW) .]

C. Generally accepted scientific polling research. [2001, c. 416, §1 (NEW) .]

[2001, c. 416, §1 (NEW) .]

SECTION HISTORY

2001, c. 416, §1 (NEW). 2003, c. 448, §1 (AMD).

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