

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 12-0756.01 Kate Meyer x4348

SENATE BILL 12-147

SENATE SPONSORSHIP

Aguilar,

HOUSE SPONSORSHIP

Williams A.,

Senate Committees
State, Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE INTENT TO PREVENT A PERSON FROM VOTING IN AN**
102 **ELECTION BY INTENTIONALLY COMMUNICATING FALSE**
103 **INFORMATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill prohibits a person from intentionally communicating information that the person knows to be false regarding election procedures or voter eligibility, if the communication is made within 90 days before the election and with the intent to deter or prevent another

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unam ended
February 23, 2012

SENATE
2nd Reading Unam ended
February 22, 2012

person from voting. Violation of this prohibition is a class 5 felony.

The attorney general is directed to promulgate rules to develop means by which the dissemination of such false information may be countered. After each general election, the attorney general must submit a report to the general assembly describing allegations of any such offenses in the prior 2 years.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds, determines, and declares that:

4 (a) Persons disseminate false or misleading information about the
5 voting process with the intent of preventing eligible voters from casting
6 ballots in order to suppress voting and skew election results;

7 (b) New technology, including telephonic robocalls, email, and
8 other social media, makes these false information campaigns particularly
9 widespread and egregious;

10 (c) This type of voter suppression often goes unaddressed by
11 authorities, and perpetrators are rarely caught;

12 (d) The right to vote is a fundamental right, and the unimpeded
13 exercise of this right is essential to the functioning of our democracy;

14 (e) Colorado must take a proactive role to correct such false
15 information, assist voters in exercising their right to vote without
16 confusion, and preserve the integrity of the electoral process; and

17 (f) Those responsible for these types of tactics and similar efforts
18 must be held accountable and criminal penalties must be available to deter
19 or punish anyone who intentionally communicates such false information
20 to keep voters away from the polls.

21 **SECTION 2.** In Colorado Revised Statutes, **add** 1-13-109.5 as
22 follows:

1 **1-13-109.5. Intentional false statements relating to voting**
2 **process or voter eligibility - penalties - attorney general to**
3 **promulgate rules - biennial report - definitions. (1) AS USED IN THIS**

4 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

5 (a) "COMMUNICATE" MEANS TO MAKE, CONVEY, PUBLISH,
6 BROADCAST, OR CIRCULATE OR CAUSE TO BE MADE, CONVEYED,
7 PUBLISHED, BROADCASTED, OR CIRCULATED BY ANY MEANS, INCLUDING
8 ANY WRITTEN, ORAL, ELECTRONIC, OR TELEPHONIC MEANS.

9 (b) "CORRECTIVE ACTIONS" MEANS ANY EFFECTIVE AND
10 APPROPRIATE MEANS THAT MAY BE UTILIZED BY ANY APPROPRIATE ENTITY
11 TO APPRISE VOTERS OF THE DISSEMINATION OF FALSE INFORMATION AND
12 TO PROVIDE CORRECT INFORMATION TO VOTERS AFFECTED BY THE
13 MISINFORMATION. "CORRECTIVE ACTIONS" INCLUDES, WHERE AVAILABLE,
14 PUBLIC SERVICE ANNOUNCEMENTS, EMERGENCY ALERT SYSTEMS, AND
15 OTHER FORMS OF PUBLIC BROADCAST.

16 (c) "CREDIBLE REPORT" MEANS A REPORT OF ACTIVITY OR OTHER
17 SPECIFIC INFORMATION THAT WOULD CAUSE A REASONABLE PERSON TO
18 BELIEVE THAT FALSE INFORMATION RELATING TO AN ELECTION IS BEING
19 DISSEMINATED.

20 (d) "VOTER ELIGIBILITY" MEANS ANY QUALIFICATIONS FOR OR
21 RESTRICTIONS ON VOTING, INCLUDING ANY CRIMINAL PENALTIES
22 ASSOCIATED WITH VOTING, VOTER REGISTRATION STATUS, OR OTHER
23 PREREQUISITES FOR OR BARRIERS TO EXERCISING THE RIGHT TO VOTE.

24 (2) (a) NO PERSON SHALL, WITHIN NINETY DAYS PRIOR TO THE
25 DATE OF AN ELECTION, INTENTIONALLY COMMUNICATE A MATERIALLY
26 FALSE STATEMENT RELATING TO THE TIME, PLACE, OR MANNER OF THE
27 ELECTION OR RELATING TO VOTER ELIGIBILITY IF THE PERSON KNOWS THE

1 INFORMATION IN THE STATEMENT IS FALSE AND THE PERSON MAKES THE
2 STATEMENT IN ORDER TO DETER OR PREVENT A PERSON FROM VOTING AT
3 THE ELECTION.

4 (b) A PERSON WHO VIOLATES PARAGRAPH (a) OF THIS SUBSECTION
5 (2) COMMITS A CLASS 5 FELONY AND, UPON CONVICTION THEREOF, SHALL
6 BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401, C.R.S.

7 (3) IMMEDIATELY AFTER RECEIVING A CREDIBLE REPORT
8 CONCERNING A VIOLATION OF SUBSECTION (2) OF THIS SECTION, THE
9 DISTRICT ATTORNEY OR ATTORNEY GENERAL SHALL INVESTIGATE THE
10 CLAIM, UNDERTAKE ANY NECESSARY CORRECTIVE ACTIONS, AND
11 PROSECUTE THE MATTER AS NECESSARY.

12 (4) (a) THE ATTORNEY GENERAL SHALL PROMULGATE RULES, IN
13 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., SETTING FORTH THE
14 CORRECTIVE ACTIONS THAT MAY BE UNDERTAKEN IN ORDER TO MITIGATE
15 THE EFFECTS OF FALSE INFORMATION DISSEMINATED IN VIOLATION OF THIS
16 SECTION.

17 (b) (I) NOT LATER THAN NINETY DAYS AFTER EACH GENERAL
18 ELECTION, THE ATTORNEY GENERAL SHALL SUBMIT A REPORT TO THE
19 STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE SENATE
20 AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES,
21 COMPILING ALLEGATIONS OF VIOLATIONS OF THIS SECTION DURING THE
22 PREVIOUS TWO YEARS.

23 (II) FOR EACH ALLEGATION INCLUDED IN THE REPORT, THE
24 ATTORNEY GENERAL SHALL DESCRIBE:

25 (A) THE DATE, TIME, PLACE, AND TYPE OF THE ALLEGED
26 VIOLATION, THE ELECTION WITH WHICH THE ALLEGED VIOLATION WAS
27 CONCERNED, THE GEOGRAPHIC SOURCE OF THE ALLEGED VIOLATION, AND,

1 IF APPLICABLE, THE RACIAL OR ETHNIC COMPOSITION OR LANGUAGE
2 MINORITY GROUP MEMBERSHIP OF THE PERSONS TOWARD WHOM THE
3 ALLEGED VIOLATION WAS DIRECTED;

4 (B) EACH CORRECTIVE ACTION TAKEN IN RESPONSE TO A
5 SUBSTANTIATED ALLEGATION;

6 (C) EACH REFERRAL OF AN ALLEGED VIOLATION TO OTHER
7 FEDERAL, STATE, OR LOCAL AGENCIES; AND

8 (D) WHETHER A CRIMINAL PROSECUTION WAS INSTITUTED IN
9 CONNECTION WITH AN ALLEGED VIOLATION AND THE OUTCOME OF ANY
10 SUCH ACTION.

11 (III) THE REPORT REQUIRED BY THIS PARAGRAPH (b) MAY BE
12 SUBMITTED ELECTRONICALLY.

13 (IV) ON THE DATE THAT THE REPORT IS SUBMITTED PURSUANT TO
14 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE ATTORNEY GENERAL
15 SHALL MAKE THE SAME PUBLICLY AVAILABLE THROUGH THE DEPARTMENT
16 OF LAW'S OFFICIAL WEB SITE AND ANY OTHER APPROPRIATE MEANS.

17 **SECTION 3. Applicability.** The provisions of this act apply to
18 offenses committed on or after the effective date of this act.

19 **SECTION 4. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.