

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

February 24, 2011  
Date

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB11-1065 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. Article 45 of title 1, Colorado Revised Statutes, is  
4 amended BY THE ADDITION OF A NEW SECTION to read:

5 **1-45-117.7. Public service advertising - prohibited**  
6 **expenditures - penalties - definitions.** (1) AS USED IN THIS SECTION,  
7 UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 (a) "ADVERTISEMENT" MEANS ALL REPRESENTATIONS  
9 DISSEMINATED IN ANY MANNER OR BY ANY MEANS THAT ARE  
10 SPECIFICALLY DESIGNED TO REACH A LARGE AUDIENCE FOR THE PURPOSE  
11 OF INDUCING, OR WHICH ARE LIKELY TO INDUCE, THE PURCHASE OF ANY  
12 GOOD OR SERVICE. "ADVERTISEMENT" INCLUDES AN ADVERTISEMENT  
13 PLACED BY THE STATE LOTTERY DIVISION PURSUANT TO PART 2 OF  
14 ARTICLE 35 OF TITLE 24, C.R.S., A BILLBOARD, A BUS BENCH  
15 ADVERTISEMENT, OR ANY SIMILAR TYPE OF PUBLIC COMMUNICATION.

16 (b) "ELECTED STATE OFFICIAL" OR "OFFICIAL" MEANS THE  
17 GOVERNOR, LIEUTENANT GOVERNOR, SECRETARY OF STATE, STATE  
18 TREASURER, ATTORNEY GENERAL, OR A MEMBER OF THE GENERAL  
19 ASSEMBLY.

20 (c) "SOCIAL MEDIA" MEANS ANY ON-LINE TECHNOLOGY TOOL THAT  
21 ENABLES PEOPLE TO COMMUNICATE EASILY BY MEANS OF THE INTERNET  
22 TO SHARE INFORMATION AND RESOURCES. "SOCIAL MEDIA" WEB SITES ARE  
23 DISTINGUISHED BY A HIGH DEGREE OF CONTENT THAT IS USER GENERATED,

1 A HIGH DEGREE OF PARTICIPATION OR INTERACTION BETWEEN OR AMONG  
2 USERS, AND EASY INTEGRATION WITH OTHER WEB SITES. "SOCIAL MEDIA"  
3 INCLUDES TEXT, AUDIO, VIDEO, IMAGES, PODCASTS, AND OTHER FORMS OF  
4 MULTIMEDIA CONTENT.

5 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2),  
6 NO STATE MONEYS MAY BE USED IN WHOLE OR IN PART FOR THE PAYMENT  
7 OF THE COST OF ANY ADVERTISEMENT CONTAINING THE PROPER NAME OR  
8 VISUAL OR AUDIO LIKENESS OF ANY PERSON WHO IS CURRENTLY SERVING  
9 AS AN ELECTED STATE OFFICIAL; EXCEPT THAT THIS PARAGRAPH (a) SHALL  
10 NOT APPLY TO ANY ADVERTISEMENT THAT IS REQUIRED BY LAW IN ORDER  
11 FOR THE OFFICIAL TO UNDERTAKE HIS OR HER OFFICIAL DUTIES OR  
12 FUNCTIONS, INCLUDING A LEGAL NOTICE IN WHICH THE NAME OF THE  
13 OFFICIAL IS REQUIRED TO APPEAR.

14 (b) THE PROHIBITION SPECIFIED IN PARAGRAPH (a) OF THIS  
15 SUBSECTION (2) SHALL NOT APPLY TO THE FOLLOWING FORMS OF PUBLIC  
16 COMMUNICATION:

17 (I) ANY COMMUNICATION THAT IS DISSEMINATED OR DISTRIBUTED  
18 BY MEANS OF A WEB SITE OWNED, OPERATED, OR MAINTAINED BY THE  
19 STATE;

20 (II) AN EMAIL COMMUNICATION DISSEMINATED BY AN ELECTED  
21 STATE OFFICIAL;

22 (III) A TOWN HALL OR OTHER INFORMAL TYPE OF MEETING THAT  
23 DRAWS PEOPLE IN A GIVEN GEOGRAPHIC AREA TOGETHER WITH AN  
24 ELECTED STATE OFFICIAL TO DISCUSS PUBLIC BUSINESS, ANY  
25 ADVERTISEMENT OR SIMILAR FORM OF COMMUNICATION DESIGNED TO  
26 SOLICIT ATTENDANCE AT SUCH AN EVENT, AND ANY COMMUNICATION  
27 SENT BY A PERSON EMPLOYED BY THE OFFICIAL INTENDED TO SOLICIT  
28 ATTENDANCE AT SUCH AN EVENT;

29 (IV) ANY FORM OF MAILING DISTRIBUTED BY THE UNITED STATES  
30 POSTAL SERVICE; AND

31 (V) ANY INTERACTION BY AN ELECTED STATE OFFICIAL ON A  
32 SOCIAL MEDIA WEB SITE.

33 (3) ANY PERSON ALLEGING A VIOLATION OF SUBSECTION (2) OF  
34 THIS SECTION MAY FILE A WRITTEN COMPLAINT PURSUANT TO SECTION  
35 1-45-111.5 (1.5) (a). ANY PERSON WHO COMMITS A WILLFUL AND  
36 INTENTIONAL VIOLATION OF THIS SECTION SHALL BE SUBJECT TO AND  
37 PERSONALLY LIABLE FOR A CIVIL PENALTY EITHER OF AN AMOUNT THAT  
38 IS AT LEAST DOUBLE AND UP TO FIVE TIMES THE TOTAL AMOUNT OF STATE  
39 MONEYS EXPENDED IN VIOLATION OF THIS SECTION OR OF TWENTY  
40 THOUSAND DOLLARS FOR EACH SUCH VIOLATION, WHICHEVER IS GREATER.  
41 NO OFFICIAL ENGAGED IN A SUPERVISORY CAPACITY WITH RESPECT TO

1 ANOTHER PERSON MAY BE SUBJECT TO THE CIVIL PENALTY AS A RESULT OF  
2 A VIOLATION CAUSED BY SUCH OTHER PERSON UNLESS THE OFFICIAL KNEW  
3 OR SHOULD HAVE KNOWN IN THE EXERCISE OF REASONABLE DILIGENCE  
4 THAT THE PERSON WAS COMMITTING A VIOLATION OF THIS SECTION.

5 **SECTION 2. Effective date.** This act shall take effect July 1,  
6 2011.

7 **SECTION 3. Safety clause.** The general assembly hereby finds,  
8 determines, and declares that this act is necessary for the immediate  
9 preservation of the public peace, health, and safety.".

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