

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2364

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LYNCH AND FRICH

[Introduced February 13, 2017; Referred

to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-37 of the Code of West Virginia, 1931, as amended and to
2 amend and reenact §3-9-9 of said Code, relating to restrictions on presence and conduct
3 at or within 100 feet of polls, defining electioneering, prohibiting electioneering in or within
4 100 feet of a polling place, prohibiting electioneering in or within 100 feet of early voting
5 polling places during early voting periods, providing exceptions to electioneering
6 prohibitions for persons upon private property, and making stylistic changes to outdated
7 language.

Be it enacted by the Legislature of West Virginia:

1 That §3-1-37 of the Code of West Virginia, 1931, as amended, be amended and reenacted
2 and that §3-9-9 of said Code be amended and reenacted; all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-37. Restrictions on presence and conduct at polls.

1 (a) Except as otherwise provided in this section, no person, other than the election officers
2 and voters going to the election room to vote and returning therefrom, may be or remain within
3 ~~three~~ one hundred feet of the outside entrance to the building housing the polling place while the
4 polls are open. This subsection does not apply to persons who reside or conduct business within
5 such distance of the entrance to the building housing the polling place, while in the discharge of
6 their legitimate business, or to persons whose business requires them to pass and repass within
7 ~~three~~ one hundred feet of such entrance.

8 (b) A person who is delivering a voter to a polling place by motor vehicle may drive such
9 vehicle to a convenient and accessible location to discharge the voter, notwithstanding that the
10 location is within ~~three~~ one hundred feet of the outside entrance to the building housing the polling
11 place. Upon discharging such voter from the vehicle, the person shall remove the vehicle from
12 within ~~three~~ one hundred feet of the entrance until such time as the voter is to be transported from
13 the polling place or another voter delivered: *Provided*, That vehicles delivering voters who require
14 assistance by reason of blindness, disability or advanced age may remain within ~~three~~ one

15 hundred feet of the entrance until such time as the voter is to be transported from the polling
16 place.

17 (c) The election commissions shall limit the number of voters in the election room so as to
18 preserve order. No person may approach nearer than five feet to any booth or compartment while
19 the election is being held, except the voters to prepare their ballots, or the poll clerks when called
20 on by a voter to assist in the preparation of his or her ballot, and no person, other than election
21 officers and voters engaged in receiving, preparing and depositing their ballots, may be permitted
22 to be within five feet of any ballot box, except by authority of the board of election commissioners,
23 and then only for the purpose of keeping order and enforcing the law.

24 (d) Not more than one person may be permitted to occupy any booth or compartment at
25 one time. No person may remain in or occupy a booth or compartment longer than may be
26 necessary to prepare his or her ballot, and in no event longer than five minutes, except that any
27 person who claims a disability pursuant to section thirty-four of this article shall have additional
28 time up to ten additional minutes to prepare his or her ballot. No voter, or person offering to vote,
29 may hold any conversation or communication with any person other than the poll clerks or
30 commissioners of election, while in the election room.

31 (e) The provisions of this section do not apply to persons rendering assistance to blind
32 voters as provided in section thirty-four of this article or to any child fourteen years of age or
33 younger who accompanies a parent, grandparent or legal guardian who is voting. Any dispute
34 concerning the age of a child accompanying a parent, grandparent or legal guardian who is voting
35 shall be determined by the election commissioners.

ARTICLE 9. OFFENSES AND PENALTIES.

§3-9-9. Electioneering defined; ~~Other unlawful acts at polling places~~; exceptions; penalties.

1 (a) As used in this section "electioneering" means the displaying of signs or other
2 campaign paraphernalia, the distribution of campaign literature, cards, or handbills, the soliciting
3 of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or

4 ballot question in a manner which expressly advocates the election or defeat of the candidate or
5 expressly advocates the passage or defeat of the ballot question, but shall not include exit polling.
6 or bumper stickers or signs affixed to a person's vehicle which is parked within or passing through
7 a distance of one hundred feet of the entrance to a polling place while such person is voting or
8 transporting any voter to the polls.

9 (b) No officer of election may disclose to any person the name of any candidate for whom
10 a voter has voted. No officer of election may do any electioneering on election day.

11 (c) No person may do any electioneering on election day within any polling place, or within
12 ~~three~~ one hundred feet of the outside entrance to the building housing the polling place. Nor, may
13 any person do any electioneering in the polling place or within one hundred feet of the outside
14 entrance of any polling place where early voting may be conducted, during the period in which
15 early voting is offered while such early voting is actually taking place: *Provided*, that the provisions
16 of this subsection do not encompass barring any citizen from political speech conducted upon his
17 or her own private property regardless of distance from the polling place; so long as this speech
18 conforms to other existing laws.

19 (d) No person may apply for or receive any ballot in any polling place, other than that in
20 which ~~he~~ the person is entitled to vote, nor may any person examine a ballot which any voter has
21 prepared for voting, or solicit the voter to show the same, nor ask, nor make any arrangement,
22 directly or indirectly, with any voter, to vote an open ballot. No person, except a commissioner of
23 election, may receive from any voter a ballot prepared by him or her for voting. No voter may
24 receive a ballot from any person other than one of the poll clerks; nor may any person other than
25 a poll clerk deliver a ballot to a commissioner of election to be voted by such commissioner. No
26 voter may deliver any ballot to a commissioner of election to be voted, except the one he or she
27 receives from the poll clerk. No voter may place any mark upon his or her ballot, or suffer or permit
28 any other person to do so, by which it may be afterward identified as the ballot voted by him or
29 her.

30 (e) Whoever violates any provision of this section shall be guilty of a misdemeanor and,
31 on conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail
32 for not more than one year, or both fined and confined.

NOTE: The purpose of this bill is to prohibit electioneering during early voting periods in and around early voting locations to the same extent as is currently prohibited at polling places on election day.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.