

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **Senate Bill 488**

By Senators Woodrum and Oliverio

[Introduced February 14, 2025; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §3-9-9 of the Code of West Virginia, 1931, as amended, relating to  
2 clarifying the definition of “electioneering” communications to include buttons, hats, pins,  
3 and other campaign paraphernalia, as well as express calls to vote for or against a ballot  
4 question; exempting from the definition of “electioneering” educational materials about a  
5 ballot question that do not expressly advocate for or against a ballot question; allowing  
6 voters to use cellular phones within the electioneering prohibition zone for personal use  
7 including a list of candidates or ballot questions the voter intends to support as long as the  
8 voter does not engage in electioneering within the prohibited zone; prohibiting taking  
9 photos or videos within the prohibited zone or inside the polling place except for the  
10 purpose of capturing potential violations of law; and permitting precinct election officials to  
11 enforce election laws and maintain law and order inside the prohibited zone, and seek  
12 assistance from any law-enforcement officer for that purpose.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 9. OFFENSES AND PENALTIES.**

### **§3-9-9. Electioneering defined; unlawful acts at polling places; exceptions; penalties.**

1 (a) As used in this section, “electioneering” ~~displaying of signs or other campaign~~  
2 ~~paraphernalia, the distribution of campaign literature, cards, or handbills, the soliciting of~~  
3 ~~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.~~ means the visible display or  
6 audible dissemination of information that advocates for or against any candidate or question on  
7 the ballot. Prohibited electioneering information or activity includes, but is not limited to, any of the  
8 following:

9 (1) A display of a candidate or candidate’s committee name, likeness, or logo;

10 (2) A display of a ballot question’s number, title, subject, or logo;

11 (3) Buttons, hats, pencils, pens, shirts, pins, signs, stickers, and the like that contain

electioneering information;

(4) The distribution of campaign literature, cards, or handbills containing electioneering information;

(5) The soliciting of signatures to any petition; and

(6) The verbal or electronic soliciting of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question.

(b) "Electioneering" does not include:

(1) Media representatives conducting exit polling, so long as persons conducting exit polling are not otherwise engaging in electioneering activities described above in subsection (a) of this section;

(2) bumper Bumper stickers or signs affixed to a person's vehicle which is parked within or passing through a distance of 100 feet of the entrance to a polling place while such person is voting or transporting any voter to the polls; and-

(3) Educational materials or information pertaining to a ballot question, number, title, subject, or logo, in a manner that permits a reasonable interpretation other than express advocacy for or against its passage or defeat.

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

~~(c)~~ (d) No person may do any electioneering on election day within any polling place, or within 100 feet of the outside entrance to the building housing the polling place. No person may do any electioneering in the polling place or within 100 feet of the outside entrance of any polling place where early voting is conducted during the period in which early voting is offered during the hours while such early voting is actually taking place. Nothing in this subsection ~~shall~~ may prohibit a citizen from doing any electioneering upon his or her own private property, regardless of distance from the polling place, so long as that electioneering conforms to other existing laws and

ordinances.

~~(d)~~ (e) Voters may use cellular telephones or other electronic devices within 100 feet of any entrance to the building in which voting is conducted, while such voting is taking place, as long as electioneering or loud or disruptive conversations do not occur.

(1) A person may not take photographs or videos within 100 feet of any entrance to the building in which voting is conducted, nor may a person take photographs inside the building or room where voting is conducted, while such voting is taking place; *Provided*, That photographs or videos of potential violations of law may be taken if provided to the Secretary of State or law enforcement for investigative purposes.

(2) A voter may bring into the polling place a list of candidates and public questions for the voter's use in voting, including a list stored on a cellular telephone or similar electronic device, as long as electioneering does not occur.

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

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

~~(g)~~(h) Any precinct election official, county clerk, deputy county clerk, or any law

64 enforcement official may enforce the election laws and maintain law and order at the polls and  
65 within 100 feet of any entrance to the building in which voting is conducted. Assistance may be  
66 requested of any law enforcement officer.

NOTE: The purpose of this bill is to clarify the definition of electioneering, exclude non-express advocacy from the definition of electioneering, permit the use of cellular phones for personal reference within the electioneering prohibition zone and inside the polling place, prohibit taking photographs or video inside the polling place except for capturing potential violations of law, and permitting precinct election officials to enforce election laws and seek assistance from any law enforcement officer for that purpose.

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