

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

### **Committee Substitute**

**for**

### **Senate Bill 488**

BY SENATORS WOODRUM AND OLIVERIO

[Reported February 27, 2025, from 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; describing certain prohibited electioneering  
3 information or activity; exempting from the definition of "electioneering" certain activity and  
4 materials; permitting voters to use cellular phones within the electioneering prohibition  
5 zone under certain circumstances; prohibiting taking photos or videos in and around a  
6 place where voting is conducted; providing exceptions to prohibition on photographs and  
7 videos; permitting a voter's use of candidate list and public questions in polling place;  
8 permitting certain persons to enforce election laws and maintain law and order inside the  
9 prohibited zone; and permitting certain persons to seek assistance from law-enforcement  
10 officer.

*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" 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.~~ visible display or audible  
6 dissemination of information that advocates for or against any candidate or ballot question.

7 (b) Prohibited electioneering information or activity includes, but is not limited to, any of  
8 the 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 similar items that contain  
12 electioneering information;

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

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

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

19           (c) "Electioneering" does not include:

20           (1) A representative of the news media conducting exit polling, ~~se~~ as long as persons  
21 conducting exit polling are not otherwise engaging in electioneering activities described ~~above~~ in  
22 subsection (b) of this section;

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

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

29           ~~(b)~~ (d) ~~No~~ An officer of election may not disclose to any person the name of any candidate  
30 for whom a voter has voted. ~~No~~ An officer of election may not do any electioneering on election  
31 day.

32           ~~(c)~~ (e) ~~No~~ A person may not do any electioneering on election day within any polling place,  
33 or within 100 feet of the outside entrance to the building housing the polling place. ~~No~~ A person  
34 may not do any electioneering in the polling place or within 100 feet of the outside entrance of  
35 any polling place where early voting is conducted during the period in which early voting is offered  
36 during the hours while ~~such~~ early voting is actually taking place. Nothing in this subsection ~~shall~~  
37 ~~prohibit~~ prohibits a citizen from doing any electioneering upon his or her own private property,

regardless of distance from the polling place, ~~so~~ as long as that electioneering conforms to other existing laws and ordinances.

~~(d)~~ (f) Voters may use cellular telephones or other electronic devices within 100 feet of any entrance to the building in which voting is conducted, while 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 voting is taking place: *Provided*, That photographs or videos of potential violations of law may be taken if provided to the Office of 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 including, but not limited to, a list stored on a cellular telephone or similar electronic device, as long as electioneering does not occur.

~~(e)~~ (g) No A person may not 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~~ A person, except a commissioner of election, may not receive from any voter a ballot prepared by him or her for voting. ~~No~~ A voter may not 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~~ the commissioner. ~~No~~ A voter may not deliver any ballot to a commissioner of election to be voted, except the one he or she receives from the poll clerk. ~~No~~ A voter may not 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.

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

65        (i) Any precinct election official, county clerk, deputy county clerk, municipal election  
66        official, or any law-enforcement official may enforce the election laws and maintain law and order  
67        at the polling place and within 100 feet of any entrance to the building in which voting is conducted.

68        (j) Any precinct election official, county clerk, deputy county clerk, or municipal election  
69        official may request the assistance of any law-enforcement officer.