

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

House Bill 5228

By Delegates Funkhouser, Akers, Holstein, Ridenour,

Heckert, and Martin

[By Request of the Office of the Secretary of State]

[Originating in the Committee on the Judiciary;

Reported on February 16, 2026]

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 certain persons to enforce election laws and maintain law and order
5 inside the prohibited zone; and permitting certain persons to seek assistance from law-
6 enforcement 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 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 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, ~~so~~ as long as persons
21 conducting exit polling are not otherwise engaging in electioneering activities described ~~above~~ in
22 subsection (b) of this section; and

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

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

29 (e) (e) ~~No~~ A person may not do any electioneering on election day within any polling place,
30 or within 100 feet of the outside entrance to the building housing the polling place. ~~No~~ A person
31 may not do any electioneering in the polling place or within 100 feet of the outside entrance of any
32 polling place where early voting is conducted during the period in which early voting is offered
33 during the hours while ~~such~~ early voting is actually taking place. Nothing in this subsection ~~shall~~
34 ~~prohibit~~ prohibits a citizen from doing any electioneering upon his or her own private property,
35 regardless of distance from the polling place, ~~so~~ as long as that electioneering conforms to other
36 existing laws and ordinances.

37 (d) (f) ~~No~~ A person may not apply for or receive any ballot in any polling place, other than
38 that in which the person is entitled to vote, nor may any person examine a ballot which any voter
39 has prepared for voting, or solicit the voter to show the same, nor ask, nor make any arrangement,
40 directly or indirectly, with any voter, to vote an open ballot. ~~No~~ A person, except a commissioner of
41 election, may not receive from any voter a ballot prepared by him or her for voting. ~~No~~ A voter may
42 not receive a ballot from any person other than one of the poll clerks; nor may any person other
43 than a poll clerk deliver a ballot to a commissioner of election to be voted by ~~such~~ the

44 commissioner. ~~No~~ A voter may not deliver any ballot to a commissioner of election to be voted,
45 except the one he or she receives from the poll clerk. ~~No~~ A voter may not place any mark upon his
46 or her ballot or suffer or permit any other person to do so, by which it may be afterward identified as
47 the ballot voted by him or her.

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

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

54 (i) Any precinct election official, county clerk, deputy county clerk, or municipal election
55 official may request the assistance of any law-enforcement officer.

NOTE: The purpose of this bill is to clarify the definition of electioneering; describe certain prohibited electioneering information or activity; exempt from the definition of "electioneering" certain activity and materials; permit certain persons to enforce election laws and maintain law and order inside the prohibited zone; and permit certain persons to seek assistance from law-enforcement officer.

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