

CHAPTER 399
FORMERLY
HOUSE BILL NO. 310
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 80, TITLE 15 OF THE DELAWARE CODE RELATING TO VIOLATIONS OF CAMPAIGN FINANCE LAWS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 8043, Title 15 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 8043. Violations; penalties; jurisdiction in Superior Court.

(a) Except as set forth in § 8044 of this title, any ~~Any~~ person who knowingly violates any provision of § 8003, § 8004 or § 8005 of this title shall be guilty of a class B misdemeanor.

(b) Any person who knowingly accepts or knowingly makes an unlawful contribution or expenditure in violation of any provision of subchapter II or III of this title shall be guilty of a class A misdemeanor.

(c) Any reporting party candidate or treasurer ~~candidate or treasurer~~ who knowingly files any report required under by § 8023 or subchapter IV of this chapter that is false in any material respect, or fails to file any such report, shall be guilty of a class A misdemeanor. For purposes of this subchapter, "reporting party" means any candidate, treasurer or other person required to file reports under this chapter.

(d) Any person who knowingly violates any provision of § 8006 of this title shall be guilty of a class G felony.

(e) A ~~candidate or treasurer~~ reporting party who reasonably relies upon information provided by another person which is inaccurate, false or misleading and who has no reason to know that such information was inaccurate, false or misleading, shall not be liable for any report filed by such reporting party candidate or treasurer ~~reporting party candidate or treasurer~~ which is inaccurate, false or misleading as a result of such information, if such reporting party candidate or treasurer ~~reporting party candidate or treasurer~~, within 30 days after learning that such information was inaccurate, false or misleading, files an amended report with the Commissioner that corrects the inaccurate, false or misleading aspects of the report ~~filed by the candidate or treasurer~~. Where a reporting party candidate or treasurer ~~candidate or treasurer~~ files an amended report later than 30 days after learning that such information was inaccurate, false or misleading, the reporting party candidate or treasurer ~~candidate or treasurer~~ shall not be liable if the reporting party candidate or treasurer ~~candidate or treasurer~~ shows good cause for filing the amended report beyond the 30-day period.

(f) The Superior Court shall have jurisdiction over all offenses under this chapter.

(g) A reporting party candidate or treasurer ~~candidate or treasurer~~ shall report immediately to the Commissioner and the Attorney General any attempt to make a prohibited contribution, or to demand a prohibited expenditure, where such attempt is made with intent to violate this chapter.

(h) A reporting party candidate or treasurer ~~candidate or treasurer~~ who receives a prohibited contribution or makes a prohibited expenditure without any intention to violate this chapter, but who returns the contribution or reimburses the political committee or other person making for such ~~for such~~ expenditure within 7 days after learning that the contribution or expenditure was prohibited, shall not be liable for any violation of this chapter.

(i) A reporting party who violates § 8021 of this title shall be assessed a fine by the Commissioner of \$500 or 25 percent of the cost of the campaign advertisement subject thereto, whichever is greater.

Section 2. Amend § 8044, Title 15 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 8044. Tardy and incomplete reports.

(a) Any ~~candidate, political committee or other person that~~ reporting party who fails to file or deliver to the Commissioner any report required ~~by § 8023 or § 8030 of~~ under this title chapter shall be assessed a fine by the Commissioner of \$50 for each day ~~per month, or fraction thereof,~~ that such report is tardy in delivery to the Commissioner. In the event any report required under this chapter shall be incomplete, such report shall be deemed tardy for purposes of this section. Notwithstanding the foregoing, a reporting party shall be entitled to an automatic, one-time 24-hour extension hereunder, provided such party notifies the Commissioner in writing thereof no later than 11:59 p.m. on the date such report is due.

(b) In the event a report is incomplete or otherwise tardy, the Commissioner shall immediately notify the reporting party thereof in writing. Such notice shall state that a fine is being assessed for each late day, and to the extent applicable, shall also specify why such report is incomplete. Upon receipt of such notice, the reporting party shall have 30 days to appeal such fine in writing to the Commissioner. In the event of an appeal, Within 30 days after the Commissioner assesses such a fine such person the reporting party shall have the opportunity to show the Commissioner that such tardiness is ~~is~~ was ~~due to reasonable cause and not wilful neglect. If the Commissioner determines that such tardiness is not due to reasonable cause, or the reporting party fails to timely file an appeal, such~~ ~~Such~~ fine shall constitute a debt due and owing the State, assessable by the Commissioner and recoverable against the reporting party, committee, its treasurer or, in the case of a candidate committee, the candidate, or in the case of an independent expenditure, the person making such expenditure.

(c) If a tardy report is not filed or corrected within 30 days following (i) a determination by the Commissioner that such tardiness is not due to reasonable cause, or (ii) the expiration of the appeal period set forth in paragraph (b), then the Commissioner shall notify the Office of the Attorney General that the reporting party has failed to file such report.

Approved August 15, 2012