

111TH CONGRESS  
2D SESSION

# H. R. 4749

To amend the Federal Election Campaign Act of 1971 to require personal disclosure statements in all third-party communications advocating the election or defeat of a candidate, to require the disclosure of identifying information within communications made through the Internet, to apply disclosure requirements to prerecorded telephone calls, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2010

Mr. PRICE of North Carolina (for himself, Mr. CASTLE, Ms. SHEA-PORTER, Mr. PLATTS, Mr. CAPUANO, and Mr. OWENS) introduced the following bill; which was referred to the Committee on House Administration

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## A BILL

To amend the Federal Election Campaign Act of 1971 to require personal disclosure statements in all third-party communications advocating the election or defeat of a candidate, to require the disclosure of identifying information within communications made through the Internet, to apply disclosure requirements to prerecorded telephone calls, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Stand By Every Ad  
3 Act of 2010”.

4 **SEC. 2. REQUIRING PERSONAL DISCLOSURE STATEMENTS**  
5 **IN EXPRESS ADVOCACY COMMUNICATIONS.**

6       (a) APPLICATION OF DISCLOSURE REQUIREMENTS  
7 TO COMMUNICATIONS CONSISTING OF FUNCTIONAL  
8 EQUIVALENT OF EXPRESS ADVOCACY.—Section 318(a) of  
9 the Federal Election Campaign Act of 1971 (2 U.S.C.  
10 441d(a)) is amended by striking “clearly identified can-  
11 didate,” and inserting “clearly identified candidate or con-  
12 sisting of the functional equivalent of express advocacy,”.

13       (b) REQUIRING STATEMENT IDENTIFYING HEAD OF  
14 ENTITY PAYING FOR COMMUNICATION.—Section 318(d)  
15 of such Act (2 U.S.C. 441d(d)) is amended—

16               (1) in paragraph (2), by striking “Any commu-  
17 nication” and inserting “Except as provided in para-  
18 graph (3), any communication”; and

19               (2) by adding at the end the following new  
20 paragraph:

21               “(3) SPECIAL RULES FOR EXPRESS ADVOCACY  
22 COMMUNICATIONS.—

23               “(A) PERSONAL DISCLOSURE STATEMENT  
24 REQUIRED.—Any communication described in  
25 paragraph (3) of subsection (a) which expressly  
26 advocates the election or defeat of a clearly

1 identified candidate, or which consists of the  
2 functional equivalent of express advocacy, and  
3 which is transmitted through radio or television  
4 shall include, in addition to the requirements of  
5 that paragraph—

6 “(i) the individual disclosure state-  
7 ment described in subparagraph (C) (if the  
8 person paying for the communication is an  
9 individual) or the organizational disclosure  
10 statement described in subparagraph (D)  
11 (if the person paying for the communica-  
12 tion is not an individual); and

13 “(ii) if the person who paid for the  
14 communication received any disbursement  
15 from another person for purposes of fi-  
16 nancing the communication, a statement of  
17 the names of the persons providing the  
18 largest disbursements for such purposes,  
19 except that the number of persons identi-  
20 fied in the statement may not exceed 5.

21 “(B) METHOD OF CONVEYANCE OF STATE-  
22 MENT.—

23 “(i) COMMUNICATIONS TRANSMITTED  
24 THROUGH RADIO.—In the case of a com-  
25 munication to which this paragraph applies

1 which is transmitted through radio, the  
2 disclosure statements required under sub-  
3 paragraph (A)—

4 “(I) shall be made by audio in a  
5 clearly spoken manner; and

6 “(II) in the case of the individual  
7 disclosure statement described in sub-  
8 paragraph (C) or the organization dis-  
9 closure statement described in sub-  
10 paragraph (D), shall be made by the  
11 applicable individual.

12 “(ii) COMMUNICATIONS TRANSMITTED  
13 THROUGH TELEVISION.—In the case of a  
14 communication to which this paragraph  
15 applies which is transmitted through tele-  
16 vision, the disclosure statements required  
17 under subparagraph (A)—

18 “(I) shall appear in writing at  
19 the end of the communication in a  
20 clearly readable manner, with a rea-  
21 sonable degree of color contrast be-  
22 tween the background and the printed  
23 statement, for a period of at least 4  
24 seconds; and

1                   “(II) in the case of the individual  
 2                   disclosure statement described in sub-  
 3                   paragraph (C) or the organization dis-  
 4                   closure statement described in sub-  
 5                   paragraph (D), shall be conveyed by  
 6                   an unobscured, full-screen view of the  
 7                   applicable individual, or by the appli-  
 8                   cable individual making the statement  
 9                   in voice-over accompanied by a clearly  
 10                  identifiable photograph or similar  
 11                  image of the individual.

12                  “(C) INDIVIDUAL DISCLOSURE STATEMENT  
 13                  DESCRIBED.—The individual disclosure state-  
 14                  ment described in this subparagraph is the fol-  
 15                  lowing: ‘I am \_\_\_\_\_, and I am re-  
 16                  sponsible for the content of this advertising.’,  
 17                  with the blank filled in with the name of the ap-  
 18                  plicable individual.

19                  “(D) ORGANIZATIONAL DISCLOSURE  
 20                  STATEMENT DESCRIBED.—The organizational  
 21                  disclosure statement described in this subpara-  
 22                  graph is the following: ‘I am \_\_\_\_\_,  
 23                  the \_\_\_\_\_ of \_\_\_\_\_, and  
 24                  \_\_\_\_\_ is responsible for the content  
 25                  of this advertising.’, with—

1 “(i) the first blank to be filled in with  
2 the name of the applicable individual;

3 “(ii) the second blank to be filled in  
4 with the title of the applicable individual;  
5 and

6 “(iii) the third and fourth blank each  
7 to be filled in with the name of the person  
8 paying for the communication.

9 “(E) APPLICABLE INDIVIDUAL DE-  
10 FINED.—In this paragraph, the term ‘applicable  
11 individual’ means, with respect to a communica-  
12 tion to which this paragraph applies—

13 “(i) if the communication is paid for  
14 by an individual, the individual paying for  
15 the communication;

16 “(ii) if the communication is paid for  
17 by a corporation, the chief executive officer  
18 of the corporation (or, if the corporation  
19 does not have a chief executive officer, the  
20 highest ranking official of the corporation);

21 “(iii) if the communication is paid for  
22 by a labor organization, the highest rank-  
23 ing officer of the labor organization; or

24 “(iv) if the communication is paid for  
25 by any other person, the president, chief

1 executive officer, highest ranking official,  
 2 or similar officer of the person who serves  
 3 in an executive, decisionmaking capacity  
 4 with respect to the making of communica-  
 5 tions to which this paragraph applies.”.

6 (c) EFFECTIVE DATE.—The amendment made by  
 7 subsection (a) shall apply with respect to communications  
 8 made on or after the date of the enactment of this Act.

9 **SEC. 3. APPLICATION OF DISCLOSURE REQUIREMENTS**  
 10 **FOR AUDIO AND VIDEO COMMUNICATIONS**  
 11 **TO AUDIO AND VIDEO PORTIONS OF COMMU-**  
 12 **NICATIONS TRANSMITTED THROUGH INTER-**  
 13 **NET OR ELECTRONIC MAIL.**

14 (a) COMMUNICATIONS BY CANDIDATES OR AUTHOR-  
 15 IZED PERSONS.—Section 318(d)(1) of the Federal Elec-  
 16 tion Campaign Act of 1971 (2 U.S.C. 441d(d)(1)) is  
 17 amended by adding at the end the following new subpara-  
 18 graph:

19 “(C) AUDIO AND VIDEO PORTIONS OF  
 20 COMMUNICATIONS TRANSMITTED THROUGH  
 21 INTERNET OR ELECTRONIC MAIL.—In the case  
 22 of a communication described in paragraph (1)  
 23 or (2) of subsection (a) which is transmitted  
 24 through the Internet or through any form of  
 25 electronic mail—

1 “(i) any audio portion of the commu-  
2 nication shall meet the requirements appli-  
3 cable under subparagraph (A) to commu-  
4 nications transmitted through radio; and

5 “(ii) any video portion of the commu-  
6 nication shall meet the requirements appli-  
7 cable under subparagraph (B) to commu-  
8 nications transmitted through television.”.

9 (b) COMMUNICATIONS BY OTHERS.—

10 (1) IN GENERAL.—Section 318(d)(2) of such  
11 Act (2 U.S.C. 441d(d)(2)) is amended by adding at  
12 the end the following: “In the case of a communica-  
13 tion described in paragraph (3) of subsection (a)  
14 which is transmitted through the Internet or  
15 through any form of electronic mail, any audio por-  
16 tion of the communication shall meet the require-  
17 ments applicable under this paragraph to commu-  
18 nications transmitted through radio and any video  
19 portion of the communication shall meet the require-  
20 ments applicable under this paragraph to commu-  
21 nications transmitted through television.”.

22 (2) APPLICATION OF SPECIAL PERSONAL DIS-  
23 CLOSURE RULES FOR EXPRESS ADVOCACY COMMU-  
24 NICATIONS.—Section 318(d)(3) of such Act, as  
25 added by section 2(a), is amended—



(A) in subparagraph (A), by striking “radio or television” and inserting “radio or television, through the Internet, or through any form of electronic mail”; and

(B) in subparagraph (B), by adding at the end the following new clause:

“(iii) COMMUNICATIONS TRANSMITTED THROUGH INTERNET OR ELECTRONIC MAIL.—In the case of a communication to which this paragraph applies which is transmitted through the Internet or through any form of electronic mail, any audio portion of the communication shall meet the requirements applicable under this paragraph to communications transmitted through radio and any video portion of the communication shall meet the requirements applicable under this paragraph to communications transmitted through television.”.

**SEC. 4. DISCLOSURE REQUIREMENTS FOR CAMPAIGN COMMUNICATIONS MADE THROUGH PRERECORDED TELEPHONE CALLS.**

(a) APPLICATION OF REQUIREMENTS.—Section 318(a) of the Federal Election Campaign Act of 1971 (2

1 U.S.C. 441d(a)) is amended by inserting after “mailing,”  
2 each place it appears the following: “telephone call which  
3 consists in substantial part of a prerecorded audio mes-  
4 sage,”.

5 (b) TREATMENT AS AUDIO COMMUNICATION.—

6 (1) COMMUNICATIONS BY CANDIDATES OR AU-  
7 THORIZED PERSONS.—Section 318(d)(1) of such Act  
8 (2 U.S.C. 441d(d)(1)), as amended by section 3(a),  
9 is further amended by adding at the end the fol-  
10 lowing new subparagraph:

11 “(D) PRERECORDED TELEPHONE  
12 CALLS.—Any communication described in para-  
13 graph (1) or (2) of subsection (a) which is a  
14 telephone call which consists in substantial part  
15 of a prerecorded audio message shall meet the  
16 requirements applicable under subparagraph  
17 (A) to communications transmitted through  
18 radio, except that the statement required under  
19 such subparagraph shall be made at the begin-  
20 ning of the telephone call.”.

21 (2) COMMUNICATIONS BY OTHERS.—

22 (A) IN GENERAL.—Section 318(d)(2) of  
23 such Act (2 U.S.C. 441d(d)(2)), as amended by  
24 section 3(b), is further amended by adding at  
25 the end the following: “Any communication de-

1           scribed in paragraph (3) of subsection (a) which  
2           is a telephone call which consists in substantial  
3           part of a prerecorded audio message shall meet  
4           the requirements applicable under this para-  
5           graph to communications transmitted through  
6           radio, except that the statement required shall  
7           be made at the beginning of the telephone  
8           call.”.

9           (B) APPLICATION OF SPECIAL PERSONAL  
10          DISCLOSURE RULES FOR EXPRESS ADVOCACY  
11          COMMUNICATIONS.—Section 318(d)(3) of such  
12          Act, as added by section 2(a) and as amended  
13          by section 3(b)(2), is further amended—

14               (i) in subparagraph (A), by striking  
15               “electronic mail” and inserting “electronic  
16               mail, or which is a telephone call which  
17               consists in substantial part of a  
18               prerecorded audio message,”; and

19               (ii) in subparagraph (B), by adding at  
20               the end the following new clause:

21                       “(iv)       COMMUNICATIONS       MADE  
22                       THROUGH   PRERECORDED   TELEPHONE  
23                       CALLS.—Any communication to which this  
24                       paragraph applies which is a telephone call  
25                       which consists in substantial part of a

1           prerecorded audio message shall meet the  
2           requirements applicable under this para-  
3           graph to communications transmitted  
4           through radio.”.

5 **SEC. 5. NO EXPANSION OF PERSONS SUBJECT TO DIS-**  
6 **CLAIMER REQUIREMENTS ON INTERNET**  
7 **COMMUNICATIONS.**

8           Nothing in this Act or the amendments made by this  
9 Act may be construed to require any person who is not  
10 required under section 318 of the Federal Election Cam-  
11 paign Act of 1971 (as provided under section 110.11 of  
12 title 11 of the Code of Federal Regulations) to include  
13 a disclaimer on communications made by the person  
14 through the Internet to include any disclaimer on any such  
15 communications.

16 **SEC. 6. EFFECTIVE DATE.**

17           Except as provided in section 2(c), the amendments  
18 made by this Act shall apply with respect to communica-  
19 tions made on or after the expiration of the 90-day period  
20 which begins on the date of the enactment of this Act.

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