

North Carolina Begins Regulating Electioneering Communications

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Following the lead of the federal government, North Carolina became the latest state to implement regulations on electioneering communications. The new North Carolina law is similar to the federal law, but it is both broader and narrower in its application. The new law became effective July 20, 2004.

Like federal law, North Carolina imposes a 30-day blackout period prior to primaries and conventions and a 60-day blackout period prior to general and special elections for broadcast, cable and satellite radio and television ads that refer to candidates for statewide office or for the state legislature. The blackout applies to ads sponsored by both corporations and unions, with special 24-hour reporting requirements for individuals and other organizations. Similar to federal law, the communications about statewide candidates must be able to be received by 50,000 or more persons in North Carolina. However, for candidates for the state legislature, the ads need only be able to be received by 7,500 persons in the relevant legislative district.

In addition, North Carolina law goes farther than federal law in that it also imposes the 30- and 60-day blackout periods on mass mailings (including faxes) and telephone banks. For statewide candidates, such communications must be able to be received by 50,000 or more persons in North Carolina. For legislative candidates, the "targeting" threshold is 5,000 persons in a legislative district.

Both types of electioneering communication restrictions have an exception for 501(c)(4) social welfare groups, but only if the communications are made from a segregated account consisting solely of funds from individuals. There also are specific exceptions for

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grassroots lobbying activities and communications to a company's shareholders and employees and to the members of an association or union.

Finally, like federal law, coordinated electioneering communications are contributions to the candidate with whom they are coordinated.