

1 SENATE BILL NO. 22

2 INTRODUCED BY HOLDEN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A PERSON OR POLITICAL COMMITTEE FROM
5 DISTRIBUTING CERTAIN CAMPAIGN LITERATURE CONCERNING A CANDIDATE UNLESS A COPY OF THE
6 LITERATURE IS MAILED TO THE CANDIDATE; AND PROVIDING A PENALTY."

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8 WHEREAS, special interest groups sometimes distribute campaign literature expressing support of
9 or opposition to a candidate in a state or local election; and

10 WHEREAS, a candidate may be unaware of the distribution of the campaign literature and therefore
11 unable to respond to the literature in a timely fashion; and

12 WHEREAS, candidates should be able to respond to statements made in campaign literature,
13 particularly statements made in the closing days of a campaign that distort the candidate's voting record
14 or position on an issue of public interest or that are otherwise incorrect; and

15 WHEREAS, because content discrimination constitutes unlawful censorship under the first
16 amendment of the United States Constitution, the Legislature may not constitutionally distinguish between
17 campaign literature distributed on behalf of a candidate and literature distributed opposing a candidate if
18 notice of distribution is to be required.

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20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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22 **NEW SECTION. Section 1. Candidate to receive copy of campaign literature -- definition -- penalty.**

23 (1) A person, other than a candidate, or a political committee may not distribute campaign literature
24 regarding a candidate unless the person or political committee mails to the candidate by certified mail a
25 copy of the campaign literature to be distributed. The literature must be mailed by the person or political
26 committee in time to be received by the candidate at least 1 day before the distribution of the campaign
27 literature.

28 (2) For the purposes of this section, "campaign literature" means a direct mailing, poster, or
29 handbill.

30 (3) A person or political committee violating the requirements of subsection (1) is guilty of a

1 misdemeanor.

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3 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an
4 integral part of Title 13, chapter 35, part 2, and the provisions of Title 13, chapter 35, part 2, apply to
5 [section 1].

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