

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 697 (Senator Feldman)
Education, Energy, and the Environment

**Election Law - Actions to Influence an Election - Social Media Platform
Algorithms and Bots Purchased by Foreign Nationals**

This bill establishes (1) specified circumstances in which a social media platform is presumed to have made an independent expenditure if it knowingly and purposely alters its algorithm to amplify political content beneficial to a clearly identified candidate for a public State or local office for the purpose of influencing an election and (2) establishes penalties for making such an independent expenditure and failing to comply with independent expenditure reporting requirements. The bill also prohibits a foreign national from using a bot to (1) publish, distribute, or disseminate campaign material in the State to influence an election or (2) artificially amplify political content to users of an online platform to influence an election.

Fiscal Summary

State Effect: The State Board of Elections (SBE) can implement the bill's changes with existing resources. Special fund (Fair Campaign Financing Fund) revenues may increase annually, beginning in FY 2027.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Social Media Algorithm Alterations

Independent Expenditure Presumption

The bill establishes a presumption that a social media platform has made an independent expenditure when it knowingly and purposely alters its algorithm to amplify political content that is beneficial to a clearly identified candidate for a public State or local office in the State, for the purpose of influencing an election, if:

- the alteration is made without (1) a legitimate business purpose or standard policy for editorial control and judgment before an election and (2) the cooperation, consultation, understanding, agreement, or concert with the clearly identified candidate; and
- the political content is not paid advertising for the clearly identified candidate or a political party, an agent of the candidate or a political party, or a campaign finance entity.

The value of the presumed independent expenditure is determined by the fair market value of the cost to boost content on the social media platform based on (1) the factors used by the social media platform to determine costs and (2) the actual effect of the alterations to the algorithm.

A social media platform may rebut the presumption by presenting sufficient contrary evidence and obtaining a declaratory ruling from SBE that (1) the alteration to the algorithm was not for the purpose of influencing an election; (2) the amplified political content was the result of organic virality; or (3) a legitimate business purpose or editorial control over content moderation was not the result of the advancement of a specific political viewpoint or ideology.

Definitions

“Social media platform” means a website or mobile application that (1) allows users to upload, create, share, and view content to share with other users and (2) enables users viewing content to react, comment, or share the content viewed with the user.

“Political content” means content that (1) expresses opinions or viewpoints on a clearly identified candidate in an election that are designed to influence a voter to cast a vote or make a voting decision in that election or (2) is campaign material.

“Content” means text, images, videos, memes, graphics, and other expressive media created by a person that are shared or disseminated on a social media platform.

“Legitimate business purpose” does not include a business decision to support or oppose a candidate due to the perceived commercial or financial benefit to the person if the candidate wins or loses the election.

Investigation and Penalties

A person that is deemed to have made an independent expenditure and willfully and knowingly fails to file an independent expenditure report is guilty of a misdemeanor and on conviction is subject to a fine not exceeding 300% of the amount by which the independent expenditure exceeded a specified contribution limit.

The bill authorizes the State Administrator of Elections or the State Administrator’s designee to investigate a potential violation of independent expenditure reporting requirements by a person deemed to have made an independent expenditure by knowingly and purposely altering its algorithm to amplify political content that is beneficial to a clearly defined candidate for the purpose of influencing an election. The State Administrator or the State Administrator’s designee must (1) notify a social media platform that is subject to an investigation of the circumstances that gave rise to the investigation and (2) provide the social media platform ample opportunity to be heard at a public meeting of SBE.

The State Administrator or the State Administrator’s designee may issue a subpoena for the attendance of a witness to testify, or the production of records, provided the State Administrator makes a finding that the subpoena is necessary to and in furtherance of the investigation. A subpoena issued under this authority must be served in accordance with the Maryland Rules. If a person fails to comply with a subpoena, a circuit court of competent jurisdiction may compel compliance on petition of the State Administrator.

At the conclusion of the investigation and following the hearing, SBE must issue a public report of its findings and may (1) impose a civil penalty if SBE determines that the social media platform has unintentionally violated independent expenditure reporting requirements or (2) refer the matter for further investigation by the State Prosecutor if SBE has reasonable cause to believe that the social media platform has willfully and knowingly violated the bill’s provisions.

A civil penalty must be assessed in the manner specified for civil penalties for violations of campaign finance laws and may not exceed (1) 100% of the amount by which the expenditure made by the social media platform exceeded a specified contribution limit or

(2) 100% of the amount by which the independent expenditure of which the candidate or political party was the beneficiary exceeded a specified contribution limit.

A fine or penalty imposed must be paid by the social media platform that committed the violation unless a court or SBE finds that the candidate engaged in conduct that constitutes coordination, in which case the candidate may be held jointly and severally liable. A fine or penalty must be distributed to the Fair Campaign Financing Fund (which holds funds for public campaign financing of gubernatorial tickets under the Public Financing Act).

Regulations

The bill authorizes SBE to adopt regulations to carry out the above provisions.

Prohibition on the Use of Bots by a Foreign National

The bill prohibits a foreign national from using a bot to (1) publish, distribute, or disseminate campaign material online to a person in the State for the purpose of influencing an election or (2) artificially amplify political content to users of an online platform for the purpose of influencing an election. If SBE determines that there has been a violation of the prohibition, SBE may seek to remove the bot.

“Foreign national” means (1) an individual who is a citizen of a foreign country; (2) a government of a foreign country or of a political subdivision of a foreign country; (3) a foreign political party; or (4) an individual, a partnership, an association, a corporation, an organization, or any other combination of individuals organized under the laws of or having its principal place of business in a foreign country.

Current Law:

Independent Expenditures and Electioneering Communications

Independent expenditures in general – political spending by individuals or organizations without coordination with a candidate – cannot be limited or prohibited, pursuant to the 2010 Supreme Court decision *Citizens United v. FEC*. Requirements for disclosure of independent expenditures, however, have been upheld by courts. Under Maryland’s disclosure requirements, independent expenditures are expenditures for public communications that are not made in coordination with a candidate or campaign finance entity and that expressly advocate the success or defeat of a clearly identified candidate or ballot question. Electioneering communications, on the other hand, do not expressly advocate the success or defeat of a candidate or ballot question, but refer to a clearly identified candidate or ballot question, are made within 60 days of an election, are capable of being received by a certain amount of individuals (with the amount depending on the

type of communication) in the constituency where the candidate or ballot question is on the ballot, and are not made in coordination with a candidate or campaign finance entity.

Within 48 hours after a person makes aggregate independent expenditures or disbursements for electioneering communications of \$5,000 or more in an election cycle, the person must file a registration form with SBE. Within 48 hours after a day on which a person makes aggregate independent expenditures or disbursements for electioneering communications of \$10,000 or more in an election cycle, the person must file a report with SBE providing information on the person, the expenditures or disbursements, and persons who made cumulative donations of \$6,000 or more to the person during the period covered by the report. Further, a person who files an independent expenditure or electioneering communication report must file an additional report within 48 hours after a day on which the person makes aggregate independent expenditures or disbursements for electioneering communications of \$10,000 or more following the closing date of the person's previous report.

Bot Disclosure Requirements

Under State law, person that uses a bot to publish, distribute, or disseminate campaign material online to another person in the State for the purpose of influencing an election must disclose in a clear and conspicuous manner on the campaign material that the person is using a bot. If a person violates this requirement, SBE may seek to remove the bot.

Violations of State Campaign Finance Law

Unless otherwise provided under State campaign finance law:

- a person who knowingly and willfully violates a provision of the law is guilty of a misdemeanor and subject to a fine of up to \$25,000 and/or imprisonment for up to one year; and
- a person who violates the law without knowing the act is illegal is subject to a civil penalty of up to \$5,000.

State Revenues: Special fund (Fair Campaign Financing Fund) revenues may increase annually, beginning in fiscal 2027, to the extent fine/penalty revenues are collected. The extent of any increase cannot be reliably estimated.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); State Prosecutor's Office; Maryland State Board of Elections; Department of Legislative Services

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