

## Senate Bill No. 412

### CHAPTER 927

An act to repeal the heading of Article 3 (commencing with Section 18320) of, and to add and repeal Article 3 (commencing with Section 18320) of, Chapter 4 of Division 18 of, the Elections Code, relating to campaign practices.

[Approved by Governor October 14, 2001. Filed  
with Secretary of State October 14, 2001.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 412, Vasconcellos. Campaign practices: political cyberfraud.

Existing law makes it unlawful for a person, with bad faith intent, to register, traffic in, or use an Internet domain name, as defined, that is identical or confusingly similar to the personal name of another living person or deceased personality, without regard to any goods or services offered.

This bill would make it unlawful for a person, with intent to mislead, deceive, or defraud, to commit an act of political cyberfraud.

This bill would define "political cyberfraud" as an act concerning a political Web site, as defined, that is committed with intent to deny a person access to a political Web site, deny a person the opportunity to register a domain name for a political Web site, or cause a person reasonably to believe that a political Web site has been posted by a person other than the person who posted the Web site. It would provide that political cyberfraud includes, but is not limited to, specified acts.

This bill would not apply to a domain name registrar, registry, or registration authority. It would make a violation of its provisions punishable by a fine not to exceed \$1,000 for each day the violation occurs and would authorize a court to order the transfer of a domain name as part of the relief awarded.

This bill would remain in effect only until January 1, 2003.

Existing law (Ch. 975, Stats. 2000) creates the Bipartisan California Commission on Internet Political Practices to study the issues presented by political activity on the Internet, and to report thereon to the Legislature by December 1, 2001.

This bill would extend the deadline for submittal of the report to September 30, 2002, would extend the existence of the commission accordingly, and would require the commission to include in its study the issue of political cyberfraud.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) The World Wide Web is a unique arena for the free and open exchange of ideas.

(b) “Political cybersquatting” stifles that open exchange, thus undermining the essential element of our democracy.

(c) During the November 7, 2000, general election, the opponents of Proposition 36, the drug treatment initiative, engaged in political cybersquatting, the cynical and deceitful practice of co-opting the Web site domain name, or address, of a competitor in order to keep the public away from the competitor’s Web site.

(d) The opponents registered several domain names that would be reasonably foreseen to support passage of Proposition 36. When persons using the Internet entered one of the “Yes on Proposition 36” Web site addresses, the person was directed instead (and involuntarily) to the official “No on Proposition 36” Web site.

(e) Political cybersquatting has the effect of denying a voter access, or interfering with a voter’s access, to information that will allow the person to make a knowledgeable electoral decision. It is the equivalent of stealing campaign literature out of a voter’s mailbox because it prevents a voter from accessing or being aware of particular electoral information.

(f) Political cybersquatting violates principles of free speech by denying unfettered access to the free and open exchange of ideas. Therefore, it is the intent of the Legislature to protect that free and open exchange of ideas at the heart of our electoral system by prohibiting the act of political cybersquatting.

SEC. 2. The heading of Article 3 (commencing with Section 18320) of Chapter 4 of Division 18 of the Elections Code is repealed.

SEC. 3. Article 3 (commencing with Section 18320) is added to Chapter 4 of Division 18 of the Elections Code, to read:

### Article 3. Deceptive Online Activities

18320. (a) This act shall be known and may be cited as the “California Political Cyberfraud Abatement Act.”

(b) It is unlawful for a person, with intent to mislead, deceive, or defraud, to commit an act of political cyberfraud.

(c) As used in this section:

(1) “Political cyberfraud” means a knowing and willful act concerning a political Web site that is committed with the intent to deny a person access to a political Web site, deny a person the opportunity to



register a domain name for a political Web site, or cause a person reasonably to believe that a political Web site has been posted by a person other than the person who posted the Web site. Political cyberfraud includes, but is not limited to, any of the following acts:

(A) Intentionally diverting or redirecting access to a political Web site to another person’s Web site by the use of a similar domain name, meta-tags, or other electronic measures.

(B) Intentionally preventing or denying exit from a political Web site by the use of frames, hyperlinks, mouse-trapping, pop-up screens, or other electronic measures.

(C) Registering a domain name that is similar to another domain name for a political Web site with intent to cause confusion.

(D) Intentionally preventing the use of a domain name for a political Web site by registering and holding the domain name or by reselling it to another with the intent of preventing its use.

(2) “Domain name” means any alphanumeric designation that is registered with or assigned by any domain name registrar, domain name registry, or other domain registration authority as part of an electronic address on the Internet.

(3) “Political Web site” means a Web site that urges or appears to urge the support or opposition of a statewide ballot measure.

(4) “Statewide ballot measure” means a measure that has been certified to appear on a statewide ballot.

18321. This article does not apply to a domain name registrar, registry, or registration authority.

18322. A violation of this article is punishable by a fine not to exceed one thousand dollars (\$1,000) for each day the violation occurs. A court may order the transfer of a domain name as part of the relief awarded.

18323. Jurisdiction for actions brought pursuant to this article shall be in accordance with Section 410.10 of the Code of Civil Procedure.

18324. This article shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute that is enacted on or before January 1, 2003, deletes or extends that date.

SEC. 4. Notwithstanding subdivision (f) of Section 2 of Chapter 975 of the Statutes of 2000, the Bipartisan California Commission on Internet Political Practices shall report its findings and recommendations to the Legislature not later than September 30, 2002, and shall include in its study the issue of political cyberfraud. The commission shall cease to exist on October 1, 2002.

