



## Give up trying to stop political lies

By Cindi Andrews

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Ohio's election law banning lying in political campaigns – while perhaps well-meaning – is constitutionally questionable and should be repealed by the General Assembly as soon as possible.

We'd love to see candidates stop telling lies. However, the First Amendment right to free speech trumps a wish that's simply unattainable.

Truth – particularly in politics – is measured in shades of gray, not black and white, and Ohio's "false statements" law gives a bipartisan commission appointed by the governor the power to decide what's true and false, and how egregious the falsehood is.

Under state law, the Ohio Elections Commission can refer perceived violations for criminal prosecution, with a possible penalty of up to six months in jail. Philip Richter, executive director of the commission and an attorney, said only six cases have been referred to prosecutors in the 18 years since the law was passed, and no one has gone to jail.

However, in hearing a local case in April, several U.S. Supreme Court justices expressed concerns that the law could have a chilling effect on free speech. The case involves conservative groups COAST and the Susan B. Anthony List, which sought to take out billboards in 2010 accusing then-U.S. Rep. Steve Driehaus of supporting taxpayer-funded abortions by voting for the Affordable Care Act. Driehaus, a pro-life Democrat, sought to block the ads via the Ohio Elections Commission, which ruled in his favor.

Driehaus dropped the case after he lost to Republican Rep. Steve Chabot, but the Supreme Court unanimously ruled Monday that COAST and the Susan B. Anthony List could pursue their fight to change the law. It will now go back to U.S. District Court for a full hearing.

However, the law should be voided before it comes to that. The writing is on the wall: While the justices didn't rule on the case, a majority of the nine indicated they have issues with it. In addition, more than a dozen interested parties from across the political spectrum voluntarily weighed in with friend-of-the-court briefs – all opposing the law. They include Democratic

President Barack Obama, the conservative Cato Institute and the American Civil Liberties Union.

Even Republican Ohio Attorney General Mike DeWine, whose office is charged with representing the elections commission and, therefore, defending the law, simultaneously submitted a brief raising “the serious First Amendment concerns that he had with it,” spokesman Dan Tierney said.

The General Assembly needs to hear what the state’s top attorney and others are saying and remove this law from the books. As we go into the midterm elections this fall and then the 2016 presidential race, it benefits both candidates and voters to have clear, constitutional election laws.

Also, as long as the false statements law remains, COAST and the Susan B. Anthony List are running up legal fees fighting it – fees that COAST attorney Chris Finney said the groups will seek to make the state pay.

Lawmakers have already recessed for the summer, unfortunately, but removing this law should be an easy, bipartisan decision as soon as they return to Columbus.