

Legislative Advertising

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The Texas lobby law requires certain disclosures on certain communications that support, oppose, or propose legislation. This brochure explains what you need to know to ensure that such "legislative advertising" complies with the law.

Most people are familiar with the requirement that political advertising contain a disclosure statement (sometimes referred to as a "disclaimer"). But did you realize that "legislative advertising" must also include such a statement?

What Is Legislative Advertising?

"Legislative advertising" means a communication that supports, opposes, or proposes legislation and that either:

- ***in return for consideration***, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television, or
- appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, button, or similar form of written communication.

Tex. Gov't Code § 305.027(e).

Legislative advertising is a communication supporting, opposing or proposing **legislation**; political advertising is a communication supporting or opposing individuals running for or holding office, political parties, or ballot measures.

When is a Disclosure Statement Required?

You must place a disclosure statement (also referred to as a "disclaimer") on legislative advertising if you have entered into a ***contract or other agreement*** to print, publish, or broadcast the legislative advertising. Tex. Gov't Code § 305.027(a).

You enter into an agreement to print, publish, or broadcast something if another person agrees to do the printing, publishing, or broadcasting for you. There is an agreement even if the other person agrees to do the printing for free.

EXAMPLE: *If you print legislative advertising fliers with your own computer and printer, the disclosure is not required. But, if you print a master copy of a legislative advertising flier at home and then you agree to have the fliers printed at a copy shop, the disclosure is required.*

In some circumstances, you will not be sure whether there was an "agreement." Instead of worrying about it, do the cautious thing and use the disclosure. That way no one can claim you've violated the law.

Remember: Because of the way "legislative advertising" is defined, the disclosure is required on communications published in a newspaper, magazine or other periodical, or on communications broadcast by radio or television **only if** you give consideration to have the communication published or broadcast.

"Consideration" is a legal term meaning, in this context, that the publisher or broadcaster received something of value in exchange for publishing or broadcasting the communication. The effect of the consideration requirement is that communications in the form of editorials, "op ed" pieces, letters to the editor, or call-ins to a radio show, for example, are not "legislative advertising" and are not required to carry a disclosure.

In contrast, whenever you agree with someone to print legislative advertising in the form of pamphlets, circulars, fliers, billboards or other signs, bumper stickers, or similar forms of written communication the advertising must include a disclosure statement, whether or not there is consideration.

What Must The Legislative Advertising Disclosure Include?

Section 305.027 of the Government Code provides that it is an offense to knowingly enter into a contract or other agreement to print, publish or broadcast legislative advertising unless the advertising indicates:

- that it is legislative advertising;
- the name of the individual who personally entered into the contract or agreement with the printer, publisher or broadcaster **and** the name of the person, if any, that the individual represents; and
- in the case of printed or published advertising, the address of the individual who entered into the contract or agreement with the printer or publisher, **and** the address of the person, if any, that the individual represents.

NOTE: There are differences between political advertising and legislative advertising requirements. The *political advertising* disclosure statement contains the name of *either* the individual placing the advertising *or* the person the individual represents. The *legislative advertising* disclosure statement requires the names and addresses of *both* persons to be included.

What If I Am a Professional Advertising Agent?

The legislative advertising provision also imposes a special duty on a professional advertising agent who procures the broadcasting, publishing, or printing of legislative advertising on behalf

of the actual sponsor of the advertising by entering into a contract or agreement with a printer, publisher or broadcaster. Before the contract is performed, the advertising agent must give the actual sponsor of the advertising the following written notice:

Section 305.027, Government Code, requires legislative advertising to disclose certain information. A person who knowingly enters into a contract or other agreement to print, publish, or broadcast legislative advertising that does not contain the information required under that section commits an offense that is a Class A misdemeanor.

Tex. Gov't Code § 305.027(c), (d).