

CHAPTER 664

POLITICAL ADVERTISING

664:14 Signature, Identification, and Lack of Authorization. I. All political advertising shall be signed at the beginning or the end with the names and addresses of the candidate, his fiscal agent, or the name and address of the chairman or the treasurer of a political committee, or the name and address of a natural person, according to whether a candidate, political committee, or natural person is responsible for it. Said signature shall clearly designate the name of the candidate, party or political committee by or on whose behalf the same is published or broadcast. In the case of political advertising on behalf of a political committee registered with the secretary of state pursuant to RSA 664:3 or a political advocacy organization registered with the secretary of state pursuant to RSA 664:3-a, the name and address on the advertisement shall match the name and address registered with the secretary of state.

II. Political advertising to promote the success or defeat of a measure by a business organization, labor union, or other enterprise or organization shall be signed. The name of the enterprise or organization shall be indicated and the chairman or treasurer of the enterprise or organization shall sign his name and address. Nothing in this section shall be construed to permit contributions which are prohibited under RSA 664:4.

III. In the case of printed or written matter, the signature and address of signer shall be printed or written in a size of type or lettering large enough to be clearly legible.

IV. (a) In the case of political advertising broadcast on radio, television, or any public address system, the name and address of the signer shall be clearly identified.

(b) All political advertising broadcast on television shall identify the name of the candidate who pays for the advertisement or whose advertisement is paid for by a campaign committee. Such identification shall be made both aurally and visually. The visual presentation shall be clearly legible and shall use letters equal to or greater than 12 percent of the vertical picture height and shall air for not less than 4 seconds at the conclusion of the broadcast. For the purpose of this section, "campaign committee" means any committee established to elect a particular candidate to office, including raising funds for that purpose.

V. Notwithstanding any other provision of this section, buttons or any printed or written political advertising which is attached to or displayed on any motor vehicle need not be signed

VI. Notwithstanding any other provision of this section, any advertising in support of or in opposition to a candidate by a political committee shall comply with this paragraph. If the advertising is not authorized by the candidate or candidate committee, the advertising shall so state and shall identify the sponsor of the advertisement. All such political advertising shall include the statement: "This advertisement has been paid for by (name of sponsor) and has not been authorized by any candidate." Such statement shall be made both aurally and visually if broadcast on television. The visual presentation on television shall be clearly legible and shall use letters equal to or greater than 12 percent of the vertical picture height and shall be broadcast for not less than 4 seconds at the conclusion of the advertisement.

VII. Any advertising which is not political advertising because it does not advocate the success or defeat of a party, measure, or person, but which mentions or depicts a candidate, shall include the statement: "This advertisement has been paid for by (name of sponsor) and has not been authorized by any candidate."

VIII. Political advertising in the form of signs or placards may contain an Internet address in lieu of the signature and identification requirements of this section, if the Internet address is printed or written in a size of type or lettering large enough to be clearly legible and the website immediately and prominently displays all of the information required by this section through election day.

RSA 664:14-a Prerecorded Political Messages. I. In this section, "prerecorded political message" means a prerecorded audio message delivered by telephone by: (a) A candidate or political committee; or (b) Any person when the content of the message expressly or implicitly advocates the success or defeat of any party, measure, or person at any election, or contains information about any candidate or party.

II. No person shall deliver or knowingly cause to be delivered a prerecorded political message unless the message contains , or a live operator provides, within the first 30 seconds of the message, the following information:

(a) The name of the candidate or of any organization or organizations the person is calling on behalf of.

(b) The name of the person or organization paying for the delivery of the message and the name of the fiscal agent, if applicable.

III. No person shall deliver or knowingly cause to be delivered a prerecorded political message to any telephone number on any federal do not call list.

IV. (a) A violation of this section shall result in a civil penalty of \$5,000 per violation.

(b) Any person injured by another's violation of this section may bring an action for damages and for such equitable relief, including an injunction, as the court deems necessary and proper. If the court finds for the plaintiff, recovery shall be in the amount of actual damages or \$1,000, whichever is greater. If the court finds that the act or practice was a willful or knowing violation of this section, it shall award as much as 3 times, but not less than 2 times, such amount. In addition, a prevailing plaintiff shall be awarded the costs of the suit and reasonable attorney's fees, as determined by the court. Any attempted waiver of the right to the damages set forth in this paragraph shall be void and unenforceable. Injunctive relief shall be available to private individuals under this section without bond, subject to the discretion of the court. Upon commencement of any action brought under this section, the clerk of the court shall mail a copy of the complaint or other initial pleadings to the attorney general and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the attorney general.

664:14-b Misrepresenting Origin of Campaign Call. I. No person shall knowingly misrepresent the origin of a telephone call which expressly or implicitly advocates the success or defeat of any party, measure, or person at any election, or contains any information about any candidate or party. Such knowing misrepresentation shall include, but shall not be limited to, causing the displayed caller identification information, as defined in RSA 359-E:1, I-a, to indicate that a telephone call originates from a number, person, or organization other than the number, person, or organization originating the call, or making a call knowing that some other person has caused said misrepresentation, except if the displayed caller identification number is a number at which the person or organization responsible for sponsoring or making the call may directly receive a return call.

II. (a) A violation of this section shall result in a civil penalty of \$5,000 per violation.

(b) Any person injured by another's violation of this section may bring an action for damages and for such equitable relief, including an injunction, as the court deems necessary and proper. If the court finds for the plaintiff, recovery shall be in the amount of actual damages or \$1,000, whichever is greater. If the court finds that the act or practice was a willful or knowing violation of this section, it shall award as much as 3 times, but not less than 2 times, such amount. In addition, a prevailing plaintiff shall be awarded the costs of the suit and reasonable attorney's fees, as determined by the court. Any attempted waiver of the right to the damages as set forth in this paragraph shall be void and unenforceable. Injunctive relief shall be available to private individuals under this section without bond, subject to the discretion of the court. Upon commencement of any action brought under this section, the clerk of the court shall mail a copy of the complaint or other initial pleadings to the attorney general and, upon entry of any judgment or decree in the action, shall mail a copy of such judgment or decree to the attorney general.

664:15 Approval of Candidate or Fiscal Agent. A person or business organization publishing a newspaper or periodical or selling billboard space or operating a radio or television station or public address system shall not publish, print or broadcast any political advertising by or in behalf of a candidate in an election unless the same shall be signed by or authorized in writing by the candidate or his fiscal agent.

664:16 Identification of Political Advertising. Political advertising printed in newspapers, periodicals or billboards shall be marked at the beginning or at the end thereof "Political Advertising." Rates for advertising shall be filed, no later than 30 days prior to the deadline for filing for office for an election, with the secretary of state by each person or business organization publishing a newspaper or periodical, operating a radio or television station, or selling billboard space. Such schedule shall be open to public inspection, and such schedules may be amended. However, rates in such amendments shall not take effect until 5 days after they are filed with the secretary of state. No person or business organization publishing a newspaper or periodical, operating a radio or television station, or selling billboard space shall charge an advertising rate to any candidate, political committee, party or cause that is different from that charged to any other candidate, political committee, party or cause.

664:16-a Push Polling; Identification. I. Any person who engages in push-polling, as defined in RSA 664:2, XVII, shall, prior to asking any person contacted a question relating to a candidate:

- (a) Inform the person that the telephone call is a "paid political advertisement;" and
- (b) Identify the organization making the call and the organization paying for the call; and
- (c) Provide a valid, current, publicly-listed telephone number for the organization making the call; and
- (d) Identify that the telephone call is being made on behalf of, in support of, or in opposition to a particular candidate or candidates for public office and identify that candidate or candidates by name.

II. Any person or entity who violates paragraph I shall be subject to penalty under RSA 664:21, IV and V.

664:17 Placement and Removal of Political Advertising. No political advertising shall be placed on or affixed to any public property including highway rights-of-way or private property without the owner's consent. All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and the advertising concerns a candidate who is a winner in the primary. Signs shall not be placed on or affixed to utility poles or highway signs. Political advertising may be placed within state-owned rights-of-way as long as the advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of the land over which the right-of-way passes. No person shall remove, deface, or knowingly destroy any political advertising which is placed on or affixed to public property or any private property except for removal by the owner of the property, persons authorized by the owner of the property, or a law enforcement officer removing improper advertising. Political advertising placed on or affixed to any public property may be removed by state, city, or town maintenance or law enforcement personnel. Political advertising removed prior to election day by state, city, or town maintenance or law enforcement personnel shall be kept until one week after the election at a place designated by the state, city or town so that the candidate may retrieve the items.

664:17-a Advertising on Government and Law Enforcement Vehicles. No printed or written political advertising shall be attached to or displayed on any motor vehicle:

I. Which is used by a police officer authorized to make arrests or serve process; or

II. Which displays government license plates and is registered in the name of the state or of a political subdivision of the state.

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