

T. C. A. § 2-19-120 - Commonly Referred to as the “Disclaimer Law”

I. Highlights of the Disclaimer Law

A. To whom does it apply? Candidates

1. Definition of Candidate - T. C. A. § 2-10-102(3) provides that "Candidate" means an individual who has made a formal announcement of candidacy or who is qualified under the law of this state to seek nomination for election or elections to public office, or has received contributions or made expenditures except for incidental expenditures to determine if one shall be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures with a view to bringing about the individual's nomination for election or election to state public office.

B. When does the statute apply? Whenever any person:

1. Makes an expenditure to finance a communication that expressly advocates the election or defeat of a clearly identified candidate, or
2. Solicits any contribution, through any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing or any other form of general public political advertising.
3. Exceptions: The requirements of this section do not apply to bumper stickers, pins, buttons, pens, novelties, and similar small items upon which the disclaimer cannot be conveniently printed.

C. What is the penalty for its violation? Class C misdemeanor

D. Who enforces the statute? The District Attorney General

II. Actual Text of the Statute

(a) Whenever any person makes an expenditure for the purpose of financing a communication that expressly advocates the election or defeat of a clearly identified candidate, as defined by § 2-10-102, or that solicits any contribution, through any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing or any other form of general public political advertising, a disclaimer meeting the requirements of subdivision (a)(1), (2), (3) or (4) shall appear and be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of persons who paid for and, where required, who authorized the communication. Such person is not required to place the disclaimer on the front face or page of any such material, as long as a disclaimer appears within the communication, except on communications, such as billboards, that contain only a front face.

(1) Such communication, including any solicitation, if paid for and authorized by a candidate, an authorized committee of a candidate, or its agent shall clearly state that the communication has been paid for by the authorized political committee, in addition to the identity of the person who is the head of such committee, or the identity of the treasurer of such committee.

(2) Such communication, including any solicitation, if authorized by a candidate, an authorized committee of a candidate or an agent thereof, but paid for by any other person, shall clearly state that the communication is paid for by such other person and is authorized by such candidate, authorized committee or agent.

(3) Such communication, including any solicitation, if made on behalf of or in opposition to a candidate, but paid for by any other person and not authorized by a candidate, authorized committee of a candidate or its agent, shall clearly state that the communication has been paid for by such person and is not authorized by any candidate or candidate's committee.

(4) (A) For solicitations directed to the general public on behalf of a political committee which is not an authorized committee of a candidate, such solicitation shall clearly state the full name of the person who paid for the communication.

(B) For purposes of this section, whenever a separate segregated fund solicits contributions to the fund from those persons it may solicit, such communication shall not be considered a form of general public advertising. Such advertisements shall also include the name of the printer of such advertisement, and the identity of the person who paid for the advertisement.

(b) (1) [Deleted by 2004 amendment.]

(2) [Deleted by 2004 amendment.]

(3) The requirements of this section do not apply to bumper stickers, pins, buttons, pens, novelties, and similar small items upon which the disclaimer cannot be conveniently printed.

(c) A violation of this section is a Class C misdemeanor.