

# Utah Public Notice Publishing Requirements For Newspapers

May 2007

Compiled by: Utah Press Association

## **NOTICE OF DISCLAIMER**

This compilation of Utah statutes is provided as a service to the members and customers of Utah Press Association and is not intended as an exhaustive survey of the Utah Code. The contents reflect public information available at the time of publication, and Utah Press Association disclaims any express or implied intent to render any legal opinion or advice regarding the accuracy or enforceability of any statute contained in this volume.

Always consult with an attorney before pursuing any legal or equitable remedy under Utah state law.

45-1-1. Newspapers "of general circulation" -- Requirements.

No newspaper shall be deemed a newspaper having general circulation for the purpose of publishing any notice, advertisement or publication of any kind required by law, unless it has a bona fide subscription list of not less than two hundred subscribers in this state, and shall have been published for not less than eighteen months, and shall have been admitted in the United States mails as second-class matter for twelve months; provided, that nothing in this chapter shall invalidate the publication in a newspaper which has simply changed its name or ownership, or has simply moved its place of publication from one part of the state to another, or suspended publication on account of fire, flood or unavoidable accident not to exceed ten weeks; provided further, that nothing in this chapter shall apply to any county wherein no newspaper has been published the requisite length of time.

45-1-2. Maximum charge.

A legal rate of 30 cents per line on the basis of an eight-point line, not less than 11 ems\* wide, is hereby established in each city of the fourth and fifth class and each town for the publishing of any notice, advertisement, or publication of any kind required by law.

45-1-3. Supplementary publication by broadcast -- Definitions.

As used in this act:

- (1) The word "broadcast" means the transmission of information by means of radio or television facilities.
- (2) The word "notice" means any notice that is required by law to be published.
- (3) The word "station" means any radio or television station licensed for commercial operation by the Federal Communications Commission.

45-1-4. Notice given in broadcast -- Restrictions.

- (1) Any state or other public officer who is required by law to publish any notice may supplement publication of the notice by causing the time, place and nature of the notice to be broadcast at such times and intervals as determined suitable when in his judgment, the public interest is or will be served.
- (2) The material broadcast shall include only the time, place, and nature of the notice.
- (3) In the broadcast of any notice or material authorized under this act, no reference by name or the use of the voice or likeness of any person who is a candidate for elective public office at the time of the broadcast shall be allowed.
- (4) Notices by political subdivisions of this state shall be made only by stations whose basic broadcast coverage encompasses the county or counties in which the notice is required to be given.

45-1-5. Copy of notice broadcast retained by station.

Each station which broadcasts any notice or material under this act shall retain a copy or transcript of the text or material broadcast for a period of six months after the broadcast. The copy shall be available for public review at reasonable times and places.

45-1-6. Proof of broadcast.

Proof of publication or broadcast of the notice or other material under this act shall be by affidavit of a duly authorized representative or agent of the broadcasting station.

45-1-7. Rates of broadcasters.

Rates charged by broadcasters will be no greater than the lowest net rate charged for a like number of announcements by any other advertiser.

45-2-1. Retraction by newspapers -- Limit of recovery.

If it shall appear on the trial of any action brought for the publication of any alleged libel in any newspaper published in this state that the alleged libel was published in good faith, that the publication thereof was due to mistake or misapprehension of the facts, and that a full and fair retraction of any statement therein alleged to be erroneous was published in the same type and in the same position on the same page as was the article complained of as libelous, in the next regular issue of such newspaper, or in case of a daily paper within three days, after service upon the publisher of such newspaper, at the principal office of its publication by the party aggrieved, of a written notice specifying the

statement alleged to be erroneous, or, in case such notice is not served in the issue or within the time above specified after the filing of the complaint and service of the summons in said action, then the plaintiff shall recover only actual damages; provided, that if such libel was published in a Sunday edition, the publication of the retraction must have been in a Sunday edition within two weeks after the times above specified; provided further, that this section shall not apply in the case of any libel against any candidate for a public office at any election or primary, or any avowed candidate for nomination to any office before any political convention, unless the retraction of the charge was made editorially in a conspicuous manner at least five days before the holding of such election, primary or political convention in case such libelous article was published in a daily paper, or if published in a weekly paper, at least three days before the holding thereof, which editorial retraction shall be in lieu of any other retraction herein provided for.

45-2-1.5. Actual damages -- Broadcast in good faith -- Retraction -- Time -- Candidate for public office.

(1) If it shall appear on the trial of any action brought for any alleged libel or slander on any radio or television broadcast originating in this state that the alleged libel or slander was broadcast in good faith, the broadcast thereof was due to mistake or misapprehension of the facts, and that a full and fair retraction of any statement therein alleged to be erroneous was broadcast on the same station and approximately the same time of day as was the alleged libel or slander, within three days after learning of the mistake or within three days after service upon the person broadcasting that libel or slander, by the party aggrieved, of a written notice specifying the statement alleged to be erroneous or, in case such notice is not served, in the manner and within the time above specified after the filing of the complaint and service of the summons in said action, then the plaintiff shall recover only actual damages.

(2) This section shall not apply in the case of any libel or slander against any candidate for a public office at any general or primary election, or any avowed candidate for nomination to any office before any political convention, unless the retraction of the charge was made in the same manner as provided for other retractions under this section within 24 hours of the time the person broadcasting that libel or slander became aware of the mistake, but in no case later than three days before the holding of such general or primary election or political convention. A written text of the retraction shall be made available to the candidate immediately after it has been broadcast. This retraction shall be in lieu of any other retraction herein provided for.

45-2-2. Libel and slander defined.

As used in this chapter:

(1) "Libel" means a malicious defamation, expressed either by printing or by signs or pictures or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of one who is alive, and thereby to expose him to public hatred, contempt or ridicule.

(2) "Slander" means any libel communicated by spoken words.

45-2-3. Privileged publication or broadcast defined.  
A privileged publication or broadcast which shall not be considered as libelous or slanderous per se, is one made:

(1) In the proper discharge of an official duty.

(2) In any publication or broadcast of or any statement made in any legislative or judicial proceeding, or in any other official proceeding authorized by law.

(3) In a communication, without malice, to a person interested therein, by one who is also interested, or by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or who is requested by the person interested to give the information.

(4) By a fair and true report, without malice, of a judicial, legislative, or other public official proceeding, or of anything said in the course thereof, or of a charge or complaint made by any person to a public official, upon which a warrant shall have been issued or an arrest made.

(5) By a fair and true report, without malice, of the proceedings of a public meeting, if such meeting was lawfully convened for a lawful purpose and open to the public, or the publication or broadcast of the matter complained of was for the public benefit.

45-2-4. Malice not inferred from publication.

In the cases provided for in Subsections 45-2-3(3), (4) and (5), malice is not inferred from the communication or publication.

45-2-5. Radio or television broadcasting station or network of stations.

No person, firm, or corporation owning or operating a radio or television broadcasting station or network of stations shall be liable under the laws of libel, slander or defamation on account of having made its broadcasting facilities or network available to any person, whether a candidate for public office or any other person, or on account of having originated or broadcast a program for discussion of controversial or any other subjects, in the absence of proof of actual malice on the part of such owner or operator. In no event, however, shall any such owner or operator be held liable for any damages for any defamatory statement uttered over the facilities of such station or network by or on behalf of any candidate for public office.

45-2-6. Right of station to require submission of matter intended to be broadcast.

Any person, firm, or corporation owning or operating a radio or television broadcasting station shall have the right, but shall not be compelled, to require the submission and permanent filing, in such station, of a copy of the complete address, script, or other form of expression, intended to be broadcast over such station before the time of the intended broadcast thereof.

45-2-7. Limitations and restrictions -- Immune from liability -- Due care.

Except as provided in Section 45-2-1.5, nothing in this act contained shall be construed to relieve any person broadcasting over a radio or television station from liability under the law of libel, slander, or defamation. Nor shall anything else in this act be construed to relieve any person, firm, or corporation owning or operating a radio or television broadcasting station or network from liability under the law of libel, slander, or defamation on account of any broadcast prepared or made by any such person, firm, or corporation or by any officer or employee thereof in the course of his employment. In no event, however, shall any such person, firm, or corporation be liable for any damages for any defamatory statement or act published or uttered in or as a part of a visual or sound broadcast unless it shall be alleged and proved by the complaining party that such person, firm, or corporation has failed to exercise due care to prevent the publication or utterance of such statement or act in such broadcast. Bona fide compliance with any federal law or the regulation of any federal regulatory agency shall be deemed to constitute such due care as hereinabove mentioned.

45-2-8. Liability in case of joint operation.

In any case where liability shall exist on account of any broadcast where two or more broadcasting or television stations were connected together simultaneously or by transcription, film, metal tape, or other approved or adapted use for joint operation, in the making of such broadcast, such liability shall be confined and limited solely to the person, firm, or corporation owning or operating the radio or television station which originated such broadcast.

45-2-10. Privileged broadcasts.

A privileged broadcast which shall not be considered as libelous, slanderous, or defamatory per se, is one made:

- (1) In the proper discharge of an official duty.
- (2) In any broadcast of or any statement made in any legislative or judicial proceeding, or in any other official proceeding authorized by law.
- (3) By a fair and true report, without malice of a judicial, legislative or other public official proceeding, or of anything said in the course thereof, or of a charge or complaint made by any person to a public official, upon which a warrant shall have been issued or an arrest made.
- (4) By a fair and true report, without malice, of the proceedings of a public meeting, if such meeting was lawfully convened, for a lawful purpose and open to the public or the broadcast of the matter complained of was for the public benefit.

45-3-1. Short title.

This act shall be known and may be cited as the "Abuse of Personal Identity Act."

45-3-2. Definitions.

As used in this act:

- (1) "Advertisement" means a notice designed to attract public attention or patronage and includes a list of supporters for a particular cause.
- (2) "Cause the publication" means that a person prepares or requests another to prepare an advertisement of the type described in Subsection 45-3-3(1), and that person submits or requests another to submit the advertisement to a publisher, and the advertisement has been published.
- (3) (a) "Consent" means a person's voluntary agreement to the use of that person's name, title, picture, or portrait.  
(b) "Consent" may not be inferred by the failure of the person to request that the person's name, title, picture, or portrait not be used or that the person's name be removed from a mailing or supporter list.
- (4) "Individual" means a natural person.
- (5) "Person" means any natural person, firm, partnership, association, corporation, joint venture, or any other form of business organization or arrangement, and the agents or representatives of such persons.
- (6) "Personal identity" means an individual's name, title, picture, or portrait.
- (7) "Publish" means that a person provides the instrumentality through which an advertisement is communicated to the public at large or to a significant portion thereof.

45-3-3. Acts constituting abuse -- Permitting prosecution.

- (1) Except for purposes of the criminal penalty in Section 76-9-407, the personal identity of an individual is abused if:
  - (a) an advertisement is published in which the personal identity of that individual is used in a manner which expresses or implies that the individual approves, endorses, has endorsed, or will endorse the specific subject matter of the advertisement; and
  - (b) consent has not been obtained for such use from the individual, or if the individual is a minor, then consent of one of the minor's parents or consent of the minor's legally appointed guardian.
- (2) Nothing in this part prohibits prosecution of abuse of personal identity under Section 76-9-407.

45-3-4. Cause of action for abuse -- Remedies.

An individual whose personal identity has been abused under Section 45-3-3 of this act may bring an action against a person who caused the publication of the advertisement, and is entitled to injunctive relief, damages alleged and proved, exemplary damages, and reasonable attorney's fees and costs.

45-3-6. Other remedies unaffected.

This act does not limit or supersede any causes of action otherwise available to the parties.

45-3-5. Action against publisher -- Grounds -- Remedies.

- (1) An individual whose personal identity has been abused under Section 45-3-3 of this act may bring an action against a person who published the advertisement:
  - (a) if the advertisement, on its face is such that a reasonable person would conclude that it is unlikely that an individual would consent to such use; and
  - (b) the publisher did not take reasonable steps to assure that consent was obtained.
- (2) In an action under this section, the plaintiff shall be entitled to injunctive relief, damages alleged and proved, exemplary damages, and reasonable attorney's fees and costs.

---

\*ems (dictionary.com)

-noun

1. the letter M, m.
2. Also called mut, mutton. Printing.
  - a. the square of any size of type used as the unit of measurement for matter printed in that type size.
  - b. (originally) the portion of a line of type occupied by the letter M in type of the same size.
3. em pica.