

WSR 24-22-056

PROPOSED RULES

PUBLIC DISCLOSURE COMMISSION

[Filed October 28, 2024, 2:10 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-18-042.

Title of Rule and Other Identifying Information: WAC 390-18-030 Advertising—Exemptions from sponsor identification and alternatives for online advertising.

Hearing Location(s): On December 12, 2024, at 9:30 a.m., at the Public Disclosure Commission (PDC) Office, 711 Capitol Way South, Olympia, WA 98504. Remote access available. Contact pdc@pdc.wa.gov.

Date of Intended Adoption: December 12, 2024.

Submit Written Comments to: Sean Flynn, 711 Capitol Way South, Olympia, WA 98504, email pdc@pdc.wa.gov, fax 360-753-1112, by November 30, 2023 [2024].

Assistance for Persons with Disabilities: Contact Jana Greer, phone 360-753-1111, fax 360-753-1112, email pdc@pdc.wa.gov, by December 5, 2023 [2024].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The rule would be updated to reflect recent changes in statute regarding the exemption of sponsor identification for political yard signs. The rule would also alter the measurements for the exemption of sponsor identification on campaign paraphernalia in order to account for the variety of different shapes.

Reasons Supporting Proposal: Rule making is necessary to update reference to the newly enacted law, HB 2032 (2024), which requires sponsor identification on previously exempted political yard signs. The new dimensions for the exemption of sponsor identification on campaign paraphernalia is intended to clarify scope of the exemption and avoid overly technical application of the exemption.

Statutory Authority for Adoption: RCW 42.17A.110.

Statute Being Implemented: RCW 42.17A.320.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: PDC, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sean Flynn, 711 Capitol Way South, Olympia, WA 98504, pdc@pdc.wa.gov.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. PDC is not required to prepare a cost-benefit analysis under RCW 34.05.328 (5) (b).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Scope of exemption for rule proposal:

Is fully exempt.

October 28, 2024

Sean Flynn

OTS-5956.1

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-18-030 Advertising—Exemptions from sponsor identification and alternatives for online advertising. (1) RCW 42.17A.320 requires that political advertising must identify certain information. The commission is authorized to exempt advertising where the sponsor identification disclosures required by RCW 42.17A.320 (1) and (2) are impractical. In addition, other political advertising is exempt from providing certain disclosures.

(2) The following forms of advertising need not include the sponsor's name and address, the "no candidate authorized this ad" sponsor identification, the "top five contributors," "top three donors to PAC contributors," or the identification of the individual, corporation, union, association, or other entity that established, maintains, or controls the sponsoring political committee as otherwise required by RCW 42.17A.320 (1) and (2) and 42.17A.350:

(a) Campaign paraphernalia, including novelty or sundry items intended for individual distribution and use, with a printing surface area smaller than ((4" x 15")) 60 square inches, including expandable surface area such as a balloon when expanded, or where such identification is otherwise impractical to provide a readable text;

(b) Newspaper ads of one column inch or less (excluding online ads);

(c) Reader boards where a message is affixed in movable letters, or skywriting;

(d) State or local voter's pamphlets published pursuant to law; and

(e) Yard signs ((~~size 4' x 8' or smaller.~~)) must include sponsor identification, but need not include "top five contributors" or "top three donors to PAC contributors."

(3) Online political advertising must provide the same disclosures that apply to non-online advertising to the extent practical. As an alternative, small online advertising may provide the required disclosures by using an automatic display with the advertising that takes the reader directly to the required disclosures.

(a) These automatic displays must be clear and conspicuous, unavoidable, immediately visible, remain visible for at least four seconds, and display a color contrast as to be legible. Online advertising that includes only audio must include the disclosures in a manner that is clearly spoken.

(b) Examples include nonblockable pop-ups, roll-overs, a separate text box or link that automatically appears with or in the advertising that automatically takes the reader directly to the required disclosures upon being clicked once, or other similar mechanisms that disclose the information required in RCW 42.17A.320 in a manner that is compatible with the device and technology used to display the advertising.

(4) Political advertising created and distributed by an individual using their own modest resources is not required to provide the disclosures in RCW 42.17A.320, when all of the following criteria are satisfied:

(a) The individual spends in the aggregate less than (~~one hundred dollars~~) \$100 to produce and distribute the advertising or less than (~~fifty dollars~~) \$50 to produce and distribute online advertising;

(b) The individual acts independently and not as an agent of a candidate, authorized committee, political committee, corporation, union, business association, or other organization or entity;

(c) The advertising is not a contribution under RCW 42.17A.005 (16) (a) (ii) or (iii) or WAC 390-05-210;

(d) The individual does not receive donations, contributions, or payments from others for the advertising, and is not compensated for producing or distributing the advertising; and

(e) The advertising is either:

(i) A letter, flier, handbill, text, email or other digital communications from the individual that does not appear in a newspaper or other similar mass publication (except for letters to the editor and similar communications addressed in WAC 390-05-490(4)); or

(ii) Disseminated on the individual's social media site, personal website, or an individual's similar online forum where information is produced and disseminated only by the individual.

(5) Political advertising that is internal political communications to members is not required to separately include the disclosures in RCW 42.17A.320 where the sponsor's name is otherwise apparent on the face of the communication.