

12-27-16. Statements and disclaimers regarding independent communication expenditures--No control by candidate or political committee--Violation as misdemeanor. The following apply to independent communication expenditures by persons and entities related to communications concerning candidates, public office holders, ballot questions, or political parties who are not controlled by, coordinated with, requested by, or made upon consultation with that candidate, political committee, or agent of a candidate or political committee:

(1) Any person or entity that makes a payment or promise of payment totaling more than one hundred dollars, including donated goods or services for an independent communication expenditure that concerns a candidate, public office holder, ballot question, or political party shall append to or include in each communication a disclaimer that clearly and forthrightly:

(a) Identifies the person or entity making the independent communication expenditure for that communication;

(b) States the mailing address and website address, if applicable, of the person or entity; and

(c) If an independent expenditure is undertaken by an entity not including a candidate, public office holder, political party, or political committee, the following notation must be included: "Top Five Contributors," including a listing of the names of the five persons making the largest contributions in aggregate to the entity during the twelve months preceding that communication. An independent communication expenditure made by a person or entity shall include the following: "This communication is independently funded and not made in consultation with any candidate, public office holder, or political committee."

A violation of this subdivision is a Class 2 misdemeanor. A subsequent offense within a calendar year is a Class 1 misdemeanor;

(2) Any person or entity making a payment or promise of payment of more than one hundred dollars, including donated goods and services, for a communication described in subdivision (1) shall file an independent communication expenditure statement within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published;

(3) The independent communication expenditure statements required by this section shall:

(a) Identify the person or entity making the expenditure;

(i) Including mailing address, city, and state of a person; or

(ii) If an entity, the mailing address, city, and state, and website address if applicable; and

(iii) Identify any expenditures made for communications described in subdivision (1) during the current calendar year but not yet reported on a prior statement, the name of each candidate, public office holder, ballot question, or political

party mentioned or identified in each communication, the amount spent on each communication, and a description of the content of each communication; and

(b) For an entity, the independent communication expenditure statement shall also include the name and title of the person filing the report, the name of its chief executive, if any, and the name of the person who authorized the expenditures on behalf of the entity;

(4) For an entity whose majority ownership is owned by, controlled by, held for the benefit of, or comprised of twenty or fewer persons, partners, owners, trustees, beneficiaries, participants, members, or shareholders, the statement shall identify by name and mailing address each person, partner, owner, trustee, beneficiary, participant, shareholder, or member who owns, controls, or comprises ten percent or more of the entity;

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(5) An entity shall also provide statements, as defined in subdivision (3), for any of its partners, owners, trustees, beneficiaries, participants, members, or shareholders identified pursuant to subdivision (4) that are owned by, controlled by, held for the benefit of, or comprised of twenty or fewer persons, partners, owners, trustees, beneficiaries, participants, members, or shareholders, until no entity identified in the statements meets the ownership test set forth in subdivision (4); and

(6) For purposes of this section, the term, communication, does not include:

(a) Any news article, editorial endorsement, opinion or commentary writing, or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical not owned or controlled by a candidate or political committee;

(b) Any editorial endorsement or opinion aired by a broadcast facility not owned or controlled by a candidate or political committee;

(c) Any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership entity solely to members of the entity and the members' families;

(d) Any communication that refers to any candidate only as part of the popular name of a bill or statute; and

(e) Any communication used for the purpose of polling if the poll question does not expressly advocate for or against a candidate, public office holder, ballot question, or political party.

**Source:** SL 2007, ch 80, § 16; SL 2010, ch 76, § 6, eff. Mar. 25, 2010; SL 2013, ch 67, § 1; SL 2017, ch 222 (Initiated Measure 22), § 16, eff. Nov. 16, 2016; SL 2017, ch 72, § 15, eff. Feb. 2, 2017; SL 2017, ch 71, § 15.