

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0268.01 Bob Lackner

HOUSE BILL 11-1065

HOUSE SPONSORSHIP

Balmer, Ferrandino, Priola

SENATE SPONSORSHIP

(None),

House Committees
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING RESTRICTIONS ON THE APPEARANCE BY PUBLIC**
102 **OFFICIALS IN COMMUNICATIONS PAID FOR WITH STATE MONEYS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill prohibits state moneys from being used in whole or in part for the payment of the cost of any advertisement or other form of communication containing the proper name or visual or audio likeness of any person who is either currently serving as a public official, which the bill defines to mean an elected state official or an elected official of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

federal or a local government, but excluding an employee of such government. These requirements do not apply to any advertisement or other form of communication that is required by law in order for the public official to undertake his or her official duties or functions, including:

- ! A legal notice in which the name of the public official is required to appear; and
- ! Any communication that is disseminated or distributed by means of a web site owned, operated, or maintained by the state or the federal or any local government.

The bill permits a person alleging a violation of the prohibition to file a written complaint. Any person who commits a violation of the prohibition is subject to and personally liable for a civil penalty of either an amount that is at least double and up to 5 times the sum total of state moneys expended in violation of the bill's requirements or in the amount of \$20,000 for each such violation, whichever is greater.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 45 of title 1, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 **1-45-117.7. Public service advertising - prohibited**
5 **expenditures - penalties - definitions.** (1) AS USED IN THIS SECTION,
6 UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) "ADVERTISEMENT" MEANS ALL REPRESENTATIONS
8 DISSEMINATED IN ANY MANNER OR BY ANY MEANS THAT ARE
9 SPECIFICALLY DESIGNED TO REACH A LARGE AUDIENCE FOR THE PURPOSE
10 OF INDUCING, OR WHICH ARE LIKELY TO INDUCE, THE PURCHASE OF ANY
11 GOOD OR SERVICE. "ADVERTISEMENT" INCLUDES AN ADVERTISEMENT
12 PLACED BY THE STATE LOTTERY DIVISION PURSUANT TO PART 2 OF
13 ARTICLE 35 OF TITLE 24, C.R.S., A BILLBOARD, A BUS BENCH
14 ADVERTISEMENT, OR ANY SIMILAR TYPE OF PUBLIC COMMUNICATION.

15 (b) "ELECTED STATE OFFICIAL" OR "OFFICIAL" MEANS THE
16 GOVERNOR, LIEUTENANT GOVERNOR, SECRETARY OF STATE, STATE

1 TREASURER, ATTORNEY GENERAL, OR A MEMBER OF THE GENERAL
2 ASSEMBLY.

3 (c) "SOCIAL MEDIA" MEANS ANY ON-LINE TECHNOLOGY TOOL THAT
4 ENABLES PEOPLE TO COMMUNICATE EASILY BY MEANS OF THE INTERNET
5 TO SHARE INFORMATION AND RESOURCES. "SOCIAL MEDIA" WEB SITES ARE
6 DISTINGUISHED BY A HIGH DEGREE OF CONTENT THAT IS USER GENERATED,
7 A HIGH DEGREE OF PARTICIPATION OR INTERACTION BETWEEN OR AMONG
8 USERS, AND EASY INTEGRATION WITH OTHER WEB SITES. "SOCIAL MEDIA"
9 INCLUDES TEXT, AUDIO, VIDEO, IMAGES, PODCASTS, AND OTHER FORMS OF
10 MULTIMEDIA CONTENT.

11 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (2),
12 NO STATE MONEYS MAY BE USED IN WHOLE OR IN PART FOR THE PAYMENT
13 OF THE COST OF ANY ADVERTISEMENT CONTAINING THE PROPER NAME OR
14 VISUAL OR AUDIO LIKENESS OF ANY PERSON WHO IS CURRENTLY SERVING
15 AS AN ELECTED STATE OFFICIAL; EXCEPT THAT THIS PARAGRAPH (a) SHALL
16 NOT APPLY TO ANY ADVERTISEMENT THAT IS REQUIRED BY LAW IN ORDER
17 FOR THE OFFICIAL TO UNDERTAKE HIS OR HER OFFICIAL DUTIES OR
18 FUNCTIONS, INCLUDING A LEGAL NOTICE IN WHICH THE NAME OF THE
19 OFFICIAL IS REQUIRED TO APPEAR.

20 (b) THE PROHIBITION SPECIFIED IN PARAGRAPH (a) OF THIS
21 SUBSECTION (2) SHALL NOT APPLY TO THE FOLLOWING FORMS OF PUBLIC
22 COMMUNICATION:

23 (I) ANY COMMUNICATION THAT IS DISSEMINATED OR DISTRIBUTED
24 BY MEANS OF A WEB SITE OWNED, OPERATED, OR MAINTAINED BY THE
25 STATE;

26 (II) AN EMAIL COMMUNICATION DISSEMINATED BY AN ELECTED
27 STATE OFFICIAL;

1 (III) A TOWN HALL OR OTHER INFORMAL TYPE OF MEETING THAT
2 DRAWS PEOPLE IN A GIVEN GEOGRAPHIC AREA TOGETHER WITH AN
3 ELECTED STATE OFFICIAL TO DISCUSS PUBLIC BUSINESS, ANY
4 ADVERTISEMENT OR SIMILAR FORM OF COMMUNICATION DESIGNED TO
5 SOLICIT ATTENDANCE AT SUCH AN EVENT, AND ANY COMMUNICATION
6 SENT BY A PERSON EMPLOYED BY THE OFFICIAL INTENDED TO SOLICIT
7 ATTENDANCE AT SUCH AN EVENT;

8 (IV) ANY FORM OF MAILING DISTRIBUTED BY THE UNITED STATES
9 POSTAL SERVICE; AND

10 (V) ANY INTERACTION BY AN ELECTED STATE OFFICIAL ON A
11 SOCIAL MEDIA WEB SITE.

12 (3) ANY PERSON ALLEGING A VIOLATION OF SUBSECTION (2) OF
13 THIS SECTION MAY FILE A WRITTEN COMPLAINT PURSUANT TO SECTION
14 1-45-111.5 (1.5) (a). ANY PERSON WHO COMMITS A WILLFUL AND
15 INTENTIONAL VIOLATION OF THIS SECTION SHALL BE SUBJECT TO AND
16 PERSONALLY LIABLE FOR A CIVIL PENALTY EITHER OF AN AMOUNT THAT
17 IS AT LEAST DOUBLE AND UP TO FIVE TIMES THE TOTAL AMOUNT OF STATE
18 MONEYS EXPENDED IN VIOLATION OF THIS SECTION OR OF TWENTY
19 THOUSAND DOLLARS FOR EACH SUCH VIOLATION, WHICHEVER IS GREATER.
20 NO OFFICIAL ENGAGED IN A SUPERVISORY CAPACITY WITH RESPECT TO
21 ANOTHER PERSON MAY BE SUBJECT TO THE CIVIL PENALTY AS A RESULT OF
22 A VIOLATION CAUSED BY SUCH OTHER PERSON UNLESS THE OFFICIAL KNEW
23 OR SHOULD HAVE KNOWN IN THE EXERCISE OF REASONABLE DILIGENCE
24 THAT THE PERSON WAS COMMITTING A VIOLATION OF THIS SECTION.

25 **SECTION 2. Effective date.** This act shall take effect July 1,
26 2011.

1 **SECTION 3. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.