

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1876 Session of 2009

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INTRODUCED BY HORNAMAN, MCILVAINE SMITH, CALTAGIRONE, CURRY,  
MIRABITO, BRENNAN, D. COSTA AND HALUSKA, JULY 20, 2009

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AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF  
REPRESENTATIVES, AS AMENDED, AUGUST 4, 2009

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## AN ACT

1 Amending Title 45 (Legal Notices) of the Pennsylvania  
2 Consolidated Statutes, ~~adding a definition of "community~~ ←  
3 ~~paper of mass dissemination"; and further providing for legal~~ ←  
4 ~~advertising~~ FURTHER PROVIDING FOR LEVEL OF ADVERTISING RATES  
5 AND FOR ESTABLISHMENT AND CHANGE OF ADVERTISING RATES; AND  
6 PROVIDING FOR ADDITIONAL PUBLICATION ON INTERNET WEBSITES.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 ~~Section 1. Section 101(a) of Title 45 of the Pennsylvania~~ ←  
10 ~~Consolidated Statutes is amended by adding a definition to read:~~  
11 ~~§ 101. Definitions.~~

12 ~~(a) Definitions applicable to printing or newspaper~~  
13 ~~advertising laws. Subject to additional definitions contained~~  
14 ~~in subsequent provisions of this title which are applicable to~~  
15 ~~specific provisions of this title, the following words and~~  
16 ~~phrases when used in:~~

17 ~~(1) this title; or~~

18 ~~(2) any other law relating to printing or newspaper~~  
19 ~~advertising;~~

1 shall have, unless the context clearly indicates otherwise, the  
2 meanings given to them in this subsection:

3 \* \* \*

4 "Community paper of mass dissemination."

5 (1) A printed paper or publication, bearing a title or  
6 name, and conveying reading or pictorial intelligence of  
7 passing events, local or general happenings, printing  
8 regularly or irregularly editorial comment, announcements,  
9 miscellaneous reading matter, commercial advertising,  
10 classified advertising, legal advertising and other notices,  
11 and which has been issued in numbers of four or more pages at  
12 short intervals, either daily, twice or more often each week,  
13 or weekly, continuously during a period of at least six  
14 months, or as the successor of such a printed paper or  
15 publication issued during an immediate prior period of at  
16 least six months, and which has been circulated and  
17 distributed from an established place of business to the  
18 community at large.

19 (2) For purposes of this definition, continuous  
20 publication shall not be deemed interrupted by any  
21 involuntary suspension of publication resulting from loss,  
22 destruction, failure or unavailability of operating  
23 facilities, equipment or personnel from whatever cause, and  
24 any community paper of mass distribution so affected shall  
25 not be disqualified to publish official and legal advertising  
26 in the event that publication is resumed within one week  
27 after it again becomes possible.

28 (3) A community paper of mass dissemination shall do one  
29 of the following:

30 (i) Distribute through the United States mail to

~~entire local zip codes.~~

~~(ii) Distribute by carriers to the majority of  
established addresses, or be widely available at  
numerous, widely visited public locations within the  
political subdivision effecting the advertising and have  
the distribution independently verified by an accredited  
auditor of circulations.~~

~~\* \* \*~~

~~Section 2. Title 45 is amended by adding a section to read:  
§ 311. Use of community papers of mass dissemination.~~

~~(a) General rule. Any government unit may, at its  
discretion, authorize publication in a community paper of mass  
dissemination in substitution of publication in a newspaper of  
general circulation.~~

~~(b) Construction. Nothing in this section alters or affects  
the obligation to publish a legal notice in a legal newspaper.~~

SECTION 1. SECTIONS 303 AND 304 OF TITLE 45 OF THE  
PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:

§ 303. LEVEL OF ADVERTISING RATES.

(A) GENERAL RULE.--ALL OFFICIAL AND LEGAL ADVERTISING SHALL  
BE CHARGED FOR AT AN ESTABLISHED OR DECLARED RATE OR PRICE PER  
SINGLE COLUMN, LINE OF READING MATTER MEASURED IN DEPTH BY THE  
POINT SYSTEM, OR AT A RATE OR PRICE PER INCH SINGLE COLUMN. WHEN  
SUCH OFFICIAL AND LEGAL ADVERTISING IS NOT CLASSIFIED AND IS NOT  
PUBLISHED ACCORDING TO PRESCRIBED OR RECOGNIZED FORMS, AND NO  
RATE HAS BEEN ESTABLISHED OR DECLARED, SUCH RATE FOR OFFICIAL  
AND LEGAL ADVERTISING SHALL NOT BE IN EXCESS OF THE RATES  
USUALLY CHARGED OR RECEIVED BY THE PUBLICATION PUBLISHING SUCH  
OFFICIAL AND LEGAL ADVERTISING FOR COMMERCIAL, GENERAL, OR OTHER  
ADVERTISING.

(B) [EXCEPTION.--WHERE OFFICIAL AND LEGAL ADVERTISING IS USUALLY AND ORDINARILY PUBLISHED ACCORDING TO RECOGNIZED OR PRESCRIBED FORMS, OR PARTICULAR MATTERS ARE ITEMIZED AND CLASSIFIED UNDER GENERAL HEADINGS, SUBSECTION (A) SHALL NOT PROHIBIT THE FIXING OF DEFINITE PRICES OR SUMS FOR PUBLISHING OFFICIAL AND LEGAL ADVERTISING, REGARDLESS OF THE NUMBER OF SINGLE COLUMN LINES OR SPACE REQUIRED FOR EACH ITEM, NOTICE, OR ADVERTISEMENT PUBLISHED IN ANY SEPARATE MATTER OR PROCEEDING, AND REGARDLESS OF RATES ESTABLISHED, FIXED, CHARGED OR RECEIVED FOR COMMERCIAL, GENERAL OR OTHER ADVERTISING. THE PURPOSE OF THIS SUBSECTION IS TO ENABLE NEWSPAPERS TO TAKE INTO CONSIDERATION, AS ELEMENTS, WHEN FIXING ADVERTISING RATES OR CHARGES, LOCATION OF THE ADVERTISEMENT IN THE NEWSPAPER, THE PURPOSE TO BE SERVED, THE CHARACTER OF THE ADVERTISING, AND THAT A NEWSPAPER IS ENTITLED TO COMPENSATION FOR ITS READINESS AT ALL TIMES TO RENDER AN ADVERTISING SERVICE.] EXCEPTIONS.--

(1) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, FROM THE EFFECTIVE DATE OF THIS PARAGRAPH THROUGH JUNE 30, 2012, A NEWSPAPER OF GENERAL CIRCULATION SHALL NOT CHARGE A GOVERNMENT UNIT A RATE OR PRICE THAT EXCEEDS 75% OF THE LEGAL ADVERTISING RATES IN EFFECT ON JULY 1, 2009, OR THAT EXCEEDS 75% OF THE LOWEST BASE CLASSIFIED ADVERTISING RATE CHARGED BY THE NEWSPAPER TO ITS NONCONTRACTUAL COMMERCIAL CUSTOMERS FOR ADVERTISEMENTS OF THE SAME SIZE, COMPOSITION AND USE, WHICHEVER IS LOWER.

(2) AFTER JUNE 30, 2012, THE RATE OR PRICE MAY BE RAISED NO MORE THAN THE ANNUAL COST-OF-LIVING INCREASE CALCULATED BY APPLYING THE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS (CPI-U) FOR THE PENNSYLVANIA, NEW JERSEY, DELAWARE AND MARYLAND AREA, FOR THE MOST RECENT 12-

1 MONTH PERIOD FOR WHICH FIGURES HAVE BEEN OFFICIALLY REPORTED  
2 BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR  
3 STATISTICS. IN NO EVENT SHALL THE RATE OR PRICE CHARGED UNDER  
4 THIS PARAGRAPH EXCEED 75% OF THE LOWEST BASE CLASSIFIED  
5 ADVERTISING RATE CHARGED BY THE NEWSPAPER TO ITS  
6 NONCONTRACTUAL COMMERCIAL CUSTOMERS FOR ADVERTISEMENTS OF THE  
7 SAME SIZE, COMPOSITION AND USE.

8 (3) THE PROVISIONS OF THIS SUBSECTION SHALL NOT APPLY TO  
9 FEES FOR SERVICES REQUESTED BY A GOVERNMENT UNIT IN ADDITION  
10 TO PUBLICATION, OR TO LEGAL ADVERTISING FOR WHICH THE COST IS  
11 REIMBURSED TO THE GOVERNMENT UNIT.

12 § 304. ESTABLISHMENT AND CHANGE OF ADVERTISING RATES.

13 (A) GENERAL RULE.--ALL NEWSPAPERS OF GENERAL CIRCULATION,  
14 OFFICIAL NEWSPAPERS AND LEGAL NEWSPAPERS ACCEPTING AND  
15 PUBLISHING OFFICIAL AND LEGAL ADVERTISING, ARE HEREBY REQUIRED  
16 TO FIX AND ESTABLISH RATES AND CHARGES FOR OFFICIAL, LEGAL AND  
17 ALL OTHER KINDS OF ADVERTISING, OFFERED OR ACCEPTED FOR  
18 PUBLICATION, AND SUCH PUBLICATIONS SHALL FURNISH, ON DEMAND, TO  
19 ANY PERSON HAVING USE FOR THE SAME, DETAILED SCHEDULES, STATING  
20 THE RATES AND CHARGES WHICH SHALL BE DEEMED TO BE IN FORCE AND  
21 EFFECT UNTIL CHANGED OR ALTERED, AND, WHEN CHANGED OR ALTERED,  
22 SUCH PUBLICATION SHALL GIVE THE PERSON AUTHORIZED OR REQUIRED TO  
23 PUBLISH ADVERTISING, BEFORE DEMANDING OR RECEIVING COMPENSATION  
24 AT ANY INCREASED RATE, NOTICE THAT THE RATES AND CHARGES OF SUCH  
25 PUBLICATION FOR ADVERTISING HAVE BEEN CHANGED OR ABROGATED, AND  
26 THAT INCREASED ADVERTISING RATES AND CHARGES HAVE BEEN  
27 ESTABLISHED OR FIXED.

28 (B) PUBLICATION OF NOTICE.--NO LATER THAN 30 DAYS AFTER THE  
29 EFFECTIVE DATE OF THIS SUBSECTION AND 30 DAYS PRIOR TO ANY  
30 CHANGE IN RATES AS ALLOWABLE UNDER SECTION 303 (RELATING TO

LEVEL OF ADVERTISING RATES), EACH NEWSPAPER OF GENERAL  
CIRCULATION WHICH ACCEPTS PUBLICATION OF LEGAL NOTICES SHALL BE  
REQUIRED TO PRINT FOR THREE CONSECUTIVE DAYS A NOTICE IN 12-  
POINT TYPE OF THE RATE OR CHARGE WHICH THE NEWSPAPER INTENDS TO  
CHARGE FOR THE PUBLICATION OF LEGAL NOTICES. SUCH NOTICES SHALL  
BE PLACED IN THE SECTION WHERE LEGAL NOTICES ARE ORDINARILY  
PUBLISHED. AT THE SAME TIME, THE NEWSPAPER SHALL DELIVER TO EACH  
GOVERNMENT UNIT WITHIN ITS AREA OF CIRCULATION A NOTICE OF ITS  
RATES AND CHARGES FOR THE PUBLICATION OF LEGAL NOTICES.

(C) ANNUAL AUDIT.--THE LEGAL ADVERTISING RATE CHARGED BY  
NEWSPAPERS OF GENERAL CIRCULATION SHALL BE SUBJECT TO ANNUAL  
AUDIT AT THE DISCRETION OF THE AUDITOR GENERAL OF THE  
COMMONWEALTH.

SECTION 2. TITLE 45 IS AMENDED BY ADDING A SECTION TO READ:  
§ 308.1. ADDITIONAL PUBLICATION ON INTERNET WEBSITES.

(A) GENERAL RULE.--EXCEPT AS OTHERWISE PROVIDED BY STATUTE,  
EVERY NOTICE OR ADVERTISEMENT REQUIRED BY LAW OR RULE OF COURT  
TO BE PUBLISHED IN ONE OR MORE NEWSPAPERS OF GENERAL  
CIRCULATION, UNLESS DISPENSED WITH BY SPECIAL ORDER OF COURT,  
SHALL ALSO BE PUBLISHED ON AN INTERNET WEBSITE WITH A SEARCHABLE  
DATABASE OF LEGAL NOTICES, MAINTAINED BY OR CONTRACTED TO  
PROVIDE SUCH SERVICE BY A NEWSPAPER OF GENERAL CIRCULATION.  
PUBLICATION SHALL BE SUBJECT TO THE SAME STIPULATIONS AND  
REGULATIONS AS THOSE IMPOSED FOR THE PUBLICATION OF PRINT  
NOTICES.

(B) EXCEPTIONS.--

(1) THIS SECTION SHALL NOT APPLY IF HIGH-SPEED INTERNET  
BROADBAND SERVICE IS NOT AVAILABLE IN THE NEWSPAPER'S AREA OF  
PUBLICATION AND CIRCULATION.

(2) PROVIDED THAT PRINT PUBLICATION REQUIREMENTS ARE

1 SATISFIED, TEMPORARY DISRUPTION OF AN INTERNET POSTING SHALL  
2 NOT AFFECT THE VALIDITY OR LEGAL EFFECT OF AN ADVERTISEMENT  
3 WHERE SUCH DISRUPTION IS CAUSED IN WHOLE OR IN PART BY CAUSES  
4 BEYOND AGENCY CONTROL, INCLUDING FIRE, FLOOD, EXPLOSION, WAR,  
5 STRIKE, EMBARGO, ACT OF GOD, ACTS OR OMISSIONS OF CARRIERS,  
6 TRANSMITTERS, TELEPHONE COMPANIES, INTERNET SERVICE  
7 PROVIDERS, VANDALS OR HACKERS.

8 Section 3. This act shall take effect in 60 days.