

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 367

BY SENATORS KARNES AND MARTIN

[Introduced February 19, 2021; referred to
the Committee on the Judiciary]

1 A BILL to amend and reenact §59-3-1 of the Code of West Virginia, 1931, as amended, relating
2 to requiring newspapers qualified to publish legal advertisements must accept
3 advertisements for publication from political candidates without regard to content; and
4 providing exceptions.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. NEWSPAPERS AND LEGAL ADVERTISEMENTS.

§59-3-1. Definitions and general provisions.

1 (a) As used in this article, elsewhere in this code or in any other provision of law:

2 (1) "Legal advertisement" means any notice, advertisement, statement, information or
3 other matter required by law or court to be published.

4 (2) "Publication area" means the area or areas for which a legal advertisement is required
5 by law or court to be made.

6 (3) "Once a week for two successive weeks" means two publications of a legal
7 advertisement in a qualified newspaper occurring within a period of fourteen consecutive days
8 with at least an interval of six full days within the period between the date of the first publication
9 and the date of the second publication.

10 (4) "Once a week for three successive weeks" means three publications of a legal
11 advertisement in a qualified newspaper occurring within a period of twenty-one consecutive days
12 with at least an interval of six full days within the period between the date of the first publication
13 and the date of the second publication and with at least an interval of six full days within the period
14 between the date of the second publication and the date of the third publication.

15 (5) "Publication date" means the date on which a qualified newspaper is first placed in
16 circulation.

17 (6) "General circulation" means not only a newspaper meeting the other qualifications
18 specified in subsection (b) of this section and circulated among and of interest to the general
19 public in the area in which it circulates, but also a newspaper meeting said other qualifications,

20 the actual circulation of which throughout the publication area is large enough to give basis for a
21 reasonable belief that publication of a legal advertisement in the newspaper will give effective
22 notice to the residents of the publication area.

23 (b) Wherever the term “qualified newspaper” or “qualified newspapers” is used in this
24 article, or the term “newspaper” or “newspapers” is used elsewhere in this code or in any other
25 provision of law in connection with a legal advertisement as herein defined in this section, the
26 terms shall be taken to mean only a newspaper or newspapers, as the case may be, published
27 (unless otherwise expressly provided) in the State of West Virginia and which meet the following
28 qualifications:

29 (1) Any newspaper shall be of regular issue and must have a bona fide, general circulation
30 in the publication area. A newspaper is considered to be of regular issue if it is published regularly,
31 as frequently as once a week, for at least fifty weeks during the calendar year as prescribed by
32 its mailing permit; and has been published for at least one year immediately preceding the date
33 on which the legal advertisement is delivered to the newspaper for publication. A newspaper is
34 considered to be of bona fide, general circulation in the publication area if it meets the definition
35 of “general circulation” as defined in this section and is circulated to the general public at a definite
36 price or consideration.

37 (2) Any newspaper shall bear a title or name, consist of not less than four pages without
38 a cover, and be a newspaper to which the general public resorts for passing events of a political,
39 religious, commercial and social nature, and for current happenings, announcements,
40 miscellaneous reading matters, advertisements and other notices.

41 (3) Any newspaper shall accept advertisements for publication, subject to the provisions
42 of §59-3-6 of this code, from political candidates without regard to content: *Provided*, That the
43 advertisements do not contain profane or obscene material.

44 (c) Notwithstanding any other provision of this code or law to the contrary, a qualified
45 newspaper shall for all purposes be considered to be published where it is first placed in
46 circulation.

NOTE: The purpose of this bill is to require newspapers qualified to publish legal advertisements must accept advertisements for publication from political candidates without regard to content; The bill provides exceptions for advertisements containing profane or obscene material.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.