

2015 -- H 5728

=====
LC001803
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

—————
A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - MODERNIZATION OF LEGAL
NOTICES AND ADVERTISEMENTS

Introduced By: Representatives Carnevale, Almeida, Slater, Diaz, and Palangio

Date Introduced: February 26, 2015

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 157

4 MODERNIZATION OF LEGAL NOTICES AND ADVERTISEMENTS

5 **42-157-1. Legislative findings.** – It is hereby found and declared as follows:

6 (1) Throughout the Rhode Island general laws, there are over two hundred and fifty (250)
7 discrete requirements for legal notices or advertisements to be published in newspapers. While
8 the responsible parties, geographies (e.g., statewide or local), and frequencies of notice vary
9 widely among these hundreds of different requirements, their common goal is to notify the public
10 about informational requirements under law and to give the public a meaningful opportunity to
11 participate in its government. However, modes of communication change over time, and along
12 with these changes there is an obligation to openness for technological innovation.

13 (2) The United States Census Bureau reports that computer possession and household
14 Internet usage have consistently risen over time. For example, in 1997, there was a computer in
15 thirty six and six-tenths percent (36.6%) of U.S. households, with eighteen percent (18%) of U.S.
16 households reporting Internet usage. By 2011, there was a computer in seventy five and six-tenths
17 percent (75.6%) of U.S. households, with seventy one and seven-tenths percent (71.7%) of U.S.
18 households reporting Internet usage. The Bureau reported similar rates of household Internet

1 connection of Rhode Islanders in 2011 seventy two and two-tenths percent (72.2%). These
2 increases are inclusive, cutting across age, education attainment, income, and racial and ethnic
3 boundaries.

4 (3) Using the Internet to conduct civic transactions is a common practice according to a
5 2010 Pew Research Center's Internet & American Life Project survey, which reported that eighty
6 two percent (82%) of U.S. Internet users looked for information or completed a transaction on a
7 government website in the preceding twelve (12) months. This data is consistent with the
8 experience in Rhode Island, where executive agencies have rolled out several new initiatives over
9 the past few years that illustrate this trend: the expansion of online services at the division of
10 motor vehicles; the introduction of a transparency portal (one of the first in the country) to
11 provide more information regarding the operation and management of government; the creation
12 of a new division of veterans' affairs website; and the launch of an e-Licensing initiative by the
13 department of business regulation, working with the office of digital excellence and the division
14 of information technology.

15 (4) Further, Rhode Island is particularly well poised to harness the power of
16 communicating digitally because of its depth of digital infrastructure. The New York Times
17 reported in 2011 that Rhode Island had the fastest Internet speed for residential customers in the
18 country; and "broadband service," which describes high-speed Internet, digital cable and digital
19 phone services traveling through a single pipeline, is available to ninety seven percent (97%) of
20 Rhode Islanders, with eighty three percent (83%) of Rhode Islanders having the choice of at least
21 two (2) broadband providers, according to the Broadband Rhode Island initiative.

22 (5) While the use of the Internet has grown nationally and in Rhode Island over time,
23 with investments in expansion of online services and digital infrastructure, readership of daily
24 newspapers has shown a steady slide in paid circulation. For example, the Pew Research Center's
25 Project for Excellence in Journalism reported in 2011 that daily newspaper circulation, which
26 stood at sixty two million three hundred thousand (62,300,000) in 1990, had fallen to forty-three
27 million four hundred thousand (43,400,000) in 2010, a decline of thirty percent (30%). In 1990,
28 evening papers, which began to decline in the 1970s, made up about one third (1/3) of daily
29 circulation. In 2009, this ratio had dropped to just over ten percent (10%).

30 (6) Moreover, a national survey by the Pew Research Center for the People and the Press
31 in 2010 found that "more people continue to cite the Internet than newspapers as their main
32 source of news, reflecting both the growth of the Internet, and the gradual decline in newspaper
33 readership. [from thirty four percent (34%) in 2007 to thirty one percent (31%) now]."

34 (7) Given historical and current trends, offering an electronic means of publishing notices

1 and advertisements is a common-sense, efficient way to disseminate vital information to the
2 public for several reasons:

3 (i) Publication of legal notices and advertisements by electronic means is more likely to
4 reach citizens, providing them with crucial information about information required to be
5 disclosed under law and a better opportunity to participate in government;

6 (ii) Expanding the amount of information available electronically will allow for new
7 forms of connection between citizens and government, through e-mail alerts and enhanced search
8 opportunities; and

9 (iii) Posting legal notices and advertisements electronically may ease the regulatory
10 burden of compliance for businesses, especially small businesses, and governmental agencies by
11 offering a cost-effective alternative to newspaper publication that capitalizes on the state's
12 existing technological assets and investments.

13 **42-157-2. Definitions. --** As used within this chapter:

14 (1) "Authorized website" means any website approved by the department;

15 (2) "Department" means the department of administration; and

16 (3) "Person" means any individual, corporation, partnership, association, municipality,
17 other public body, state agency or department, legal entity, employee or agent of the person.

18 **42-157-3. Authorized website transitional notice. --** (a) Notwithstanding any provision
19 of the general or public laws to the contrary, any notice or other written matter required to be
20 published by any law of this state in a newspaper shall be deemed to satisfy such requirement if
21 posted on an "authorized website," approved by the department as defined in the rules and
22 regulations promulgated in accordance with §42-157-7.

23 (b) Before any person may post a notice or advertisement on an authorized website, such
24 person must announce its intention to do so in the following ways and for the following periods
25 of time:

26 (1) By publishing an announcement at least three (3) times a week for three (3)
27 consecutive weeks in the newspaper or newspapers where notice or advertisement is currently
28 required to be published;

29 (2) By publishing an announcement on the secretary of state's website for at least three
30 (3) consecutive weeks; and

31 (3) By publishing an announcement on the Rhode Island transparency portal
32 (<http://www.transparency.ri.gov/>) and the Rhode Island general assembly website for at least
33 three (3) consecutive weeks.

34 (c) The provisions of this chapter shall apply to persons, the state of Rhode Island, cities

1 and towns, and all agencies and departments connected thereto whether public or quasi-public.

2 **42-157-4. Required posting.** -- Posting a notice or advertisement on the secretary of
3 state's website pursuant to § 42-46-6 shall be sufficient to meet the requirements for posting on an
4 authorized website provided the provisions of § 42-157-7 are satisfied.

5 **42-157-5. Costs.** -- Any costs associated with posting the notice or advertisement on the
6 authorized website shall be borne by the party required to post the notice or advertisement as set
7 forth in the rules and regulations promulgated in accordance with § 42-157-7.

8 **42-157-6. Burden of proof.** -- In all actions brought under this chapter, the burden shall
9 be on the party required to provide notice or advertisement to demonstrate notice or
10 advertisement was sufficient pursuant to the rules and regulations set forth in accordance with §
11 42-157-7.

12 **42-157-7. Rules and regulations.** -- (a) No later than one hundred and twenty (120) days
13 after the passage of this act, the department shall promulgate rules and regulations, after review
14 and recommendation by the office of digital excellence, to implement the provisions of this
15 chapter.

16 (b) Such rules and regulations shall include:

17 (1) A mechanism by which the authorized website can send a subscribing person e-mail
18 alerts (as specified by such subscribing person), including a choice of how often to receive such
19 alerts and the option to terminate such alerts;

20 (2) The ability to search the authorized website by statutory cite, keyword, or date of
21 posting; and

22 (3) The particular specifications, if any, required for mobile electronic devices to access
23 the authorized website and utilize its functionalities.

24 **42-157-8. Penalties.** -- Any person aggrieved as a result of violations of the provisions of
25 this chapter may file a complaint with the department of attorney general. The attorney general
26 shall investigate the complaint and, if the department of attorney general determines that the
27 allegations of the complaint are meritorious, such person may file a complaint on behalf of the
28 complainant in the superior court against the entities alleged to have violated the requirements of
29 this chapter.

30 **42-157-9. Severability.** -- If any provision of this chapter or the application thereof to any
31 person or circumstances is held invalid, such invalidity shall not affect other provisions or
32 applications of the chapter, which can be given effect without the invalid provision or application,
33 and to this end the provisions of this chapter are declared to be severable.

1 SECTION 2. This act shall take effect upon passage.

=====
LC001803
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - MODERNIZATION OF LEGAL
NOTICES AND ADVERTISEMENTS

1 This act would permit the department of administration to provide a method of legal
2 notice to be issued by way of a department authorized website. This act would also remove the
3 requirement for many legal notices that such notices be published in a newspaper.

4 This act would take effect upon passage.

=====
LC001803
=====