

Chapter 2

Libel

45-2-1 Retraction by newspapers -- Limit of recovery.

If it shall appear on the trial of any action brought for the publication of any alleged libel in any newspaper published in this state that the alleged libel was published in good faith, that the publication thereof was due to mistake or misapprehension of the facts, and that a full and fair retraction of any statement therein alleged to be erroneous was published in the same type and in the same position on the same page as was the article complained of as libelous, in the next regular issue of such newspaper, or in case of a daily paper within three days, after service upon the publisher of such newspaper, at the principal office of its publication by the party aggrieved, of a written notice specifying the statement alleged to be erroneous, or, in case such notice is not served in the issue or within the time above specified after the filing of the complaint and service of the summons in said action, then the plaintiff shall recover only actual damages; provided, that if such libel was published in a Sunday edition, the publication of the retraction must have been in a Sunday edition within two weeks after the times above specified; provided further, that this section shall not apply in the case of any libel against any candidate for a public office at any election or primary, or any avowed candidate for nomination to any office before any political convention, unless the retraction of the charge was made editorially in a conspicuous manner at least five days before the holding of such election, primary or political convention in case such libelous article was published in a daily paper, or if published in a weekly paper, at least three days before the holding thereof, which editorial retraction shall be in lieu of any other retraction herein provided for.

No Change Since 1953

45-2-1.5 Actual damages -- Broadcast in good faith -- Retraction -- Time -- Candidate for public office.

- (1) If it shall appear on the trial of any action brought for any alleged libel or slander on any radio or television broadcast originating in this state that the alleged libel or slander was broadcast in good faith, the broadcast thereof was due to mistake or misapprehension of the facts, and that a full and fair retraction of any statement therein alleged to be erroneous was broadcast on the same station and approximately the same time of day as was the alleged libel or slander, within three days after learning of the mistake or within three days after service upon the person broadcasting that libel or slander, by the party aggrieved, of a written notice specifying the statement alleged to be erroneous or, in case such notice is not served, in the manner and within the time above specified after the filing of the complaint and service of the summons in said action, then the plaintiff shall recover only actual damages.
- (2) This section shall not apply in the case of any libel or slander against any candidate for a public office at any general or primary election, or any avowed candidate for nomination to any office before any political convention, unless the retraction of the charge was made in the same manner as provided for other retractions under this section within 24 hours of the time the person broadcasting that libel or slander became aware of the mistake, but in no case later than three days before the holding of such general or primary election or political convention. A written text of the retraction shall be made available to the candidate immediately after it has been broadcast. This retraction shall be in lieu of any other retraction herein provided for.

Enacted by Chapter 134, 1975 General Session

45-2-2 Libel and slander defined.

As used in this chapter:

- (1) "Libel" means a malicious defamation, expressed either by printing or by signs or pictures or the like, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue or reputation, or publish the natural defects of one who is alive, and thereby to expose him to public hatred, contempt or ridicule.
- (2) "Slander" means any libel communicated by spoken words.

Amended by Chapter 134, 1975 General Session

45-2-3 Privileged publication or broadcast defined.

A privileged publication or broadcast which shall not be considered as libelous or slanderous per se, is one made:

- (1) In the proper discharge of an official duty.
- (2) In any publication or broadcast of or any statement made in any legislative or judicial proceeding, or in any other official proceeding authorized by law.
- (3) In a communication, without malice, to a person interested therein, by one who is also interested, or by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or who is requested by the person interested to give the information.
- (4) By a fair and true report, without malice, of a judicial, legislative, or other public official proceeding, or of anything said in the course thereof, or of a charge or complaint made by any person to a public official, upon which a warrant shall have been issued or an arrest made.
- (5) By a fair and true report, without malice, of the proceedings of a public meeting, if such meeting was lawfully convened for a lawful purpose and open to the public, or the publication or broadcast of the matter complained of was for the public benefit.

Amended by Chapter 134, 1975 General Session

45-2-4 Malice not inferred from publication.

In the cases provided for in Subsections 45-2-3(3), (4) and (5), malice is not inferred from the communication or publication.

Amended by Chapter 20, 1995 General Session

45-2-5 Radio or television broadcasting station or network of stations.

No person, firm, or corporation owning or operating a radio or television broadcasting station or network of stations shall be liable under the laws of libel, slander or defamation on account of having made its broadcasting facilities or network available to any person, whether a candidate for public office or any other person, or on account of having originated or broadcast a program for discussion of controversial or any other subjects, in the absence of proof of actual malice on the part of such owner or operator. In no event, however, shall any such owner or operator be held liable for any damages for any defamatory statement uttered over the facilities of such station or network by or on behalf of any candidate for public office.

Amended by Chapter 73, 1953 Special Session C

45-2-6 Right of station to require submission of matter intended to be broadcast.

Any person, firm, or corporation owning or operating a radio or television broadcasting station shall have the right, but shall not be compelled, to require the submission and permanent filing, in such station, of a copy of the complete address, script, or other form of expression, intended to be broadcast over such station before the time of the intended broadcast thereof.

Amended by Chapter 73, 1953 Special Session C

45-2-7 Limitations and restrictions -- Immune from liability -- Due care.

Except as provided in Section 45-2-1.5, nothing in this act contained shall be construed to relieve any person broadcasting over a radio or television station from liability under the law of libel, slander, or defamation. Nor shall anything else in this act be construed to relieve any person, firm, or corporation owning or operating a radio or television broadcasting station or network from liability under the law of libel, slander, or defamation on account of any broadcast prepared or made by any such person, firm, or corporation or by any officer or employee thereof in the course of his employment. In no event, however, shall any such person, firm, or corporation be liable for any damages for any defamatory statement or act published or uttered in or as a part of a visual or sound broadcast unless it shall be alleged and proved by the complaining party that such person, firm, or corporation has failed to exercise due care to prevent the publication or utterance of such statement or act in such broadcast. Bona fide compliance with any federal law or the regulation of any federal regulatory agency shall be deemed to constitute such due care as hereinabove mentioned.

Amended by Chapter 134, 1975 General Session

45-2-8 Liability in case of joint operation.

In any case where liability shall exist on account of any broadcast where two or more broadcasting or television stations were connected together simultaneously or by transcription, film, metal tape, or other approved or adapted use for joint operation, in the making of such broadcast, such liability shall be confined and limited solely to the person, firm, or corporation owning or operating the radio or television station which originated such broadcast.

Amended by Chapter 73, 1953 Special Session C

45-2-10 Privileged broadcasts.

A privileged broadcast which shall not be considered as libelous, slanderous, or defamatory per se, is one made:

- (1) In the proper discharge of an official duty.
- (2) In any broadcast of or any statement made in any legislative or judicial proceeding, or in any other official proceeding authorized by law.
- (3) By a fair and true report, without malice of a judicial, legislative or other public official proceeding, or of anything said in the course thereof, or of a charge or complaint made by any person to a public official, upon which a warrant shall have been issued or an arrest made.
- (4) By a fair and true report, without malice, of the proceedings of a public meeting, if such meeting was lawfully convened, for a lawful purpose and open to the public or the broadcast of the matter complained of was for the public benefit.

No Change Since 1953

