

## Chapter 3 Abuse of Personal Identity Act

### 45-3-1 Short title.

This act shall be known and may be cited as the "Abuse of Personal Identity Act."

Enacted by Chapter 95, 1981 General Session

### 45-3-2 Definitions.

As used in this act:

- (1) "Advertisement" means a notice designed to attract public attention or patronage and includes a list of supporters for a particular cause.
- (2) "Cause the publication" means that a person prepares or requests another to prepare an advertisement of the type described in Subsection 45-3-3(1), and that person submits or requests another to submit the advertisement to a publisher, and the advertisement has been published.
- (3)
  - (a) "Consent" means a person's voluntary agreement to the use of that person's name, title, picture, or portrait.
  - (b) "Consent" may not be inferred by the failure of the person to request that the person's name, title, picture, or portrait not be used or that the person's name be removed from a mailing or supporter list.
- (4) "Individual" means a natural person.
- (5) "Person" means any natural person, firm, partnership, association, corporation, joint venture, or any other form of business organization or arrangement, and the agents or representatives of such persons.
- (6) "Personal identity" means an individual's name, title, picture, or portrait.
- (7) "Publish" means that a person provides the instrumentality through which an advertisement is communicated to the public at large or to a significant portion thereof.

Amended by Chapter 146, 1999 General Session

### 45-3-3 Acts constituting abuse -- Permitting prosecution.

- (1) Except for purposes of the criminal penalty in Section 76-9-407, the personal identity of an individual is abused if:
  - (a) an advertisement is published in which the personal identity of that individual is used in a manner which expresses or implies that the individual approves, endorses, has endorsed, or will endorse the specific subject matter of the advertisement; and
  - (b) consent has not been obtained for such use from the individual, or if the individual is a minor, then consent of one of the minor's parents or consent of the minor's legally appointed guardian.
- (2) Nothing in this part prohibits prosecution of abuse of personal identity under Section 76-9-407.
- (3) The personal identity of an individual is not abused if the individual's personal data or publicly available information:
  - (a) was lawfully obtained;

- (b) is used to preview, advertise, or promote the sale of a product, service, or subscription, including the sale of a product, service, or subscription of which the individual's personal data or publicly available information is or may be a part; and
- (c) is not used in a way that expresses or implies that the individual approves, endorses, has endorsed, or will endorse the product, service, or subscription being previewed, advertised, or promoted.

Amended by Chapter 424, 2023 General Session

**45-3-4 Cause of action for abuse -- Remedies.**

An individual whose personal identity has been abused under Section 45-3-3 of this act may bring an action against a person who caused the publication of the advertisement, and is entitled to injunctive relief, damages alleged and proved, exemplary damages, and reasonable attorney's fees and costs.

Enacted by Chapter 95, 1981 General Session

**45-3-5 Action against publisher -- Grounds -- Remedies.**

- (1) An individual whose personal identity has been abused under Section 45-3-3 of this act may bring an action against a person who published the advertisement:
  - (a) if the advertisement, on its face is such that a reasonable person would conclude that it is unlikely that an individual would consent to such use; and
  - (b) the publisher did not take reasonable steps to assure that consent was obtained.
- (2) In an action under this section, the plaintiff shall be entitled to injunctive relief, damages alleged and proved, exemplary damages, and reasonable attorney's fees and costs.

Enacted by Chapter 95, 1981 General Session

**45-3-6 Other remedies unaffected.**

This act does not limit or supersede any causes of action otherwise available to the parties.

Enacted by Chapter 95, 1981 General Session