



ELECTIONS BC

A non-partisan Office of the Legislature

GUIDE TO INITIATIVE COMMUNICATIONS

Table of contents

Introduction	1
Privacy	1
Definitions	2
Initiative advertising	4
Sponsorship of initiative advertising	4
No indirect initiative advertising	4
Registration of initiative advertising sponsors	4
Initiative advertising must identify sponsor	4
Authorization policy for advertising on the Internet	5
Restrictions on rates charged for initiative advertising	5
Spending limits	6
Initiative campaign signs	6
Prohibition against certain initiative advertising on General Voting Day	6
Restrictions on initiative campaigning near district electoral offices and voting places	6
Registration information	7
Initiative advertising sponsors must be registered	7
Registration with Elections BC	7
When can you apply for registration as an initiative advertising sponsor?	8
Obligations of a registered advertising sponsor	8
Recording contributions	8
Advertising sponsors must file disclosure reports	9
Contents of the disclosure report	10
Maintaining records	11
Offences and penalties	11
Late filing of reports	11
Failure to file reports	11
Court order for relief from filing obligations	11
Exceeding the third party advertising limits	12
Other initiative advertising offences	12
Information to be open to the public	12
Questions?	14

Introduction

Elections BC is the non-partisan Office of the Legislature responsible for the administration of the provincial electoral process in B.C. and the campaign financing provisions for local government elections.

This guide outlines the rules for initiative communications during an initiative petition period and an initiative vote period.

This guide is intended only as an aid to understanding the *Recall and Initiative Act*. How the Act applies to any particular case will depend on the individual circumstances of the case, and may change in light of new legislation and judicial developments. Where there is inconsistency between this guide and the *Recall and Initiative Act*, the Act will prevail.

Where possible, references to specific sections of the *Recall and Initiative Act* are included.

You can view the *Recall and Initiative Act* on the Elections BC website (elections.bc.ca) or you can buy a copy of the Act from Crown Publications (crownpub.bc.ca).

Privacy

Elections BC has the authority to collect, use, disclose and dispose of personal information under the *Recall and Initiative Act*. This information is used to administer provisions of the *Recall and Initiative Act*.

For information about Elections BC's privacy policies, please visit elections.bc.ca/privacy or contact the **Privacy Officer, Elections BC** at 1-800-661-8683 or privacy@elections.bc.ca or PO Box 9275 Stn Prov Govt, Victoria, BC V8W 9J6.

Definitions

Advertising	Advertising is any public promotional material including, but not limited to, leaflets, lawn signs, billboards, brochures, buttons, badges, newspapers, radio, television, websites, newsletters and public address systems.
Authorized participant	The authorized participants for an initiative petition are the proponent of the petition and registered opponents. The authorized participants for an initiative vote are the registered proponents and registered opponents of the initiative vote.
Chief Electoral Officer	An Officer of the Legislature. The Chief Electoral Officer is responsible for the administration of the <i>Recall and Initiative Act</i> .
Conduct	Conducting advertising means to publish or sponsor initiative advertising.
Initiative advertising	Initiative advertising is advertising used during an initiative petition period to promote or oppose, directly or indirectly, the initiative or draft Bill, or during an initiative vote period to promote or oppose, directly or indirectly, an initiative.
Initiative petition	A petition to have a proposed law introduced into the Legislative Assembly.
Initiative petition/initiative vote opponents	Opponents of an initiative petition or initiative vote are individuals and organizations for whom a financial agent has been designated by the Chief Electoral Officer.
Initiative petition period	The period starting on the day an initiative petition application is approved in principle by the Chief Electoral Officer and ending either 90 days after the petition is issued by the Chief Electoral Officer, or on the day the petition is submitted to the Chief Electoral Officer, if earlier.
Initiative petition proponent	The registered voter who applied for the issuance of a petition.

Initiative vote	If the Select Standing Committee on Legislative Initiatives refers an initiative petition and draft Bill to the Chief Electoral Officer, the Chief Electoral Officer must hold an initiative vote.
Initiative vote period	An initiative vote period is the period starting 60 days before General Voting Day for an initiative vote and ending at the close of general voting for the initiative vote.
Initiative vote proponent	The proponent(s) of an initiative vote may be the proponent of the initiative petition, or other individuals or organizations for whom a financial agent has been designated by the Chief Electoral Officer.
Select Standing Committee	The Select Standing Committee on Legislative Initiatives appointed at the start of the first session of each Parliament.
Sponsor	An individual or organization who pays for initiative advertising to be conducted or an individual or organization for whom initiative advertising is conducted without charge as a contribution, or on whose behalf initiative advertising is conducted.

Initiative advertising

What is initiative advertising?

“Initiative advertising” is advertising used during an initiative petition period to promote or oppose, directly or indirectly, an initiative petition or draft Bill, or advertising used during an initiative vote period to promote or oppose, directly or indirectly, an initiative. This includes all forms of advertising, such as media advertising, brochures, signs, etc.

What initiative advertising does not include

Initiative advertising does not include:

- messages on the Internet that do not, and would not normally have, a placement cost, including social media posts, websites and videos.

Examples of messages that **are not** initiative advertising include: Facebook, Instagram, and Snapchat posts, tweets, YouTube videos, and websites.

Initiative advertising can only be conducted by registered proponents, registered opponents or registered initiative advertising sponsors.

s. 86 **Sponsorship of initiative advertising**

The sponsor of initiative advertising is the individual or organization who pays for the advertising, who receives the services of conducting the advertising as a contribution, or who has initiative advertising conducted on their behalf.

s. 87 **No indirect initiative advertising**

An individual or organization must not sponsor initiative advertising with the property of any other individual or organization or indirectly through any other individual or organization.

s. 96 **Registration of initiative advertising sponsors**

Individuals or organizations, other than authorized participants, who sponsor initiative advertising must be registered with the Chief Electoral Officer before the initiative advertising is conducted (or published).

s. 88 **Initiative advertising must identify sponsor**

Initiative advertising must not be conducted (or published) unless it:

- identifies the name of the sponsor or, in the case of a registered proponent or registered opponent, the name of the financial agent;
- indicates that it was authorized by the identified sponsor or, in the case of a proponent or opponent, the financial agent;

- indicates that the sponsor is a registered sponsor under the *Recall and Initiative Act* (not necessary for proponents or opponents);
- gives a British Columbia telephone number or British Columbia mailing address at which the sponsor or financial agent may be contacted regarding the advertising; and
- for sponsors that are numbered corporations or unincorporated organizations, indicates the name of an individual who is a director or principal member.

Examples:

Authorized by Jane Doe, financial agent, 250-123-4567;

Authorized by Big Company, registered sponsor under the Recall and Initiative Act, 250-123-4567; or

Authorized by Small Partnership, John Smith, registered sponsor under the Recall and Initiative Act, 250-123-4567.

The sponsor name on the advertising must be a name filed with Elections BC on the registration application.

Initiative advertising sponsors must make an individual available who is responsible for answering questions from the public that are directed to the address or phone number indicated on the advertising.

Authorization policy for advertising on the Internet

Elections BC recognizes that it is not practical to include the authorization statement within certain initiative advertising on the Internet due to the space and character limitations imposed by some message formats (e.g. pay-per-click ads, Tweets on Twitter).

For Internet initiative advertising, the authorization statement is not required to be contained within the advertising message if selecting (i.e. clicking, finger-tapping) the advertising message sends the viewer to a website, landing page or profile page which contains the sponsor's required authorization statement.

s. 89

Restrictions on rates charged for initiative advertising

An individual or organization must not charge a rate for initiative advertising in a periodical publication (newspaper, magazine, etc.) or on radio or television that exceeds the lowest rate charged by the individual or organization for equivalent advertising in the same medium during the same initiative petition or initiative vote period. This also applies to the costs of producing advertising.

This means that authorized participants and initiative advertising sponsors must be charged equivalent rates for equivalent ads.

s. 93

Spending limits

A registered initiative advertising sponsor must not sponsor initiative advertising that has a value of more than \$5,000 or a higher amount established by regulation. This includes initiative advertising sponsored in combination with other individuals or groups.

The value of documents that are initiative advertising but that are sent directly to the registered advertising sponsor's members, shareholders or employees is not included in the spending limit.

Registered proponents and opponents are not subject to the advertising spending limit but have their own spending limits.

Initiative campaign signs

The sign policy of the Ministry of Transportation does not allow the placement of initiative campaign signs along provincial highways.

There may be additional rules at the municipal level regarding where signs may be placed. Authorized participants and initiative advertising sponsors are advised to check for municipal by-laws regulating the placement of signs in any municipality where they wish to erect signs.

s. 90

Prohibition against certain initiative advertising on General Voting Day

On General Voting Day for an initiative vote, there is a prohibition against conducting, publishing or sponsoring initiative advertising by publishing it in a newspaper, magazine, on radio or television. The prohibition against sponsoring initiative advertising on General Voting Day applies whether the publication is done within British Columbia or outside the Province.

s. 91

Restrictions on initiative campaigning near district electoral offices and voting places

During voting hours of advance voting or general voting for an initiative vote, initiative advertising by means of a public address system or loudspeaker is not permitted within hearing distance of a voting place.

While advance or general voting for an initiative vote is being conducted at a voting place, there is a 100 metre no-campaigning zone around the building where the voting is being conducted. Campaigning includes:

- posting, displaying or disseminating initiative advertising;
- canvassing or soliciting votes or attempting to influence how a voter votes;

- carrying, wearing or supplying a flag, badge or anything else that indicates the user is a supporter of a particular response to an initiative; and
- posting, displaying, disseminating or openly leaving a representation of a ballot marked for a particular response to an initiative.

During an initiative vote period (starts 60 days before General Voting Day and continues to the end of voting on General Voting Day), no one may post, display or disseminate any initiative advertising within 100 metres of the building where the district electoral office is located.

If any contravening material is posted or displayed within the 100 metre no-campaigning zone, the District Electoral Officer may enter the property where the materials are located and remove, cover or otherwise obscure them from view.

Registration information

s. 96 **Initiative advertising sponsors must be registered**

Except for the authorized participants, all individuals and organizations must register with Elections BC before sponsoring initiative advertising.

Authorized participants (registered proponents and opponents) are not required to register as a sponsor in order to conduct initiative advertising in relation to the initiative petition or initiative vote.

s. 97 **Registration with Elections BC**

Anyone who wishes to become a registered initiative advertising sponsor must file an application with Elections BC. Applications may be submitted at any time during an initiative petition or initiative vote period. An application must be submitted on the specified form and include the following information:

- the full name of the applicant, and, in the case of an applicant organization, the usual name of the organization;
- the full address of the applicant;
- if the applicant is an organization, the names of the principal officers of the organization or, if there are no principal officers, of the principal members of the organization;
- an address at which notices and communications under the *Recall and Initiative Act* and other communications will be accepted as served on or otherwise delivered to the individual or organization;

- a telephone number at which the applicant can be contacted, and
- identification of the initiative petition or initiative vote for which the applicant wishes to be registered.

Applications must be signed by:

- the individual applicant; or
- two principal officers of the organization if the applicant is an organization; or
- two principal members of the organization if the organization has no principal officers.

Applications must be accompanied by a signed statement of an individual signing the application.

If any information contained in the application for registration as a sponsor changes, the sponsor must send Elections BC written notice of the change within 15 days after it occurs.

When can you apply for registration as an initiative advertising sponsor?

An initiative petition must be approved in principle by the Chief Electoral Officer before anyone can apply for registration as an initiative advertising sponsor for that petition. Requests for an application package can be made at any time. Registration packages are available on Elections BC's website (elections.bc.ca) or can be requested using the contact information noted on the last page of this guide.

Obligations of a registered advertising sponsor

Recording contributions

Anyone who is registered, or required to be registered, as an advertising sponsor is responsible for maintaining records of the following information in respect to every contribution of money received by the sponsor:

- the value of the contribution;
- the date the contribution was made;
- the full name and address of the contributor;
- the class of the contributor; and
- if the contributor is a numbered corporation or a class 3, 4, 5 or 6

contributor, the full names and addresses of at least two individuals who are directors, principal officers or principal members of the organization.

The classes of contributors are:

- (1) individuals;
- (2) corporations;
- (3) unincorporated organizations engaged in business or commercial activity (including sole proprietors and partnerships);
- (4) trade unions;
- (5) non-profit organizations; and
- (6) other contributors.

For anonymous contributions received, the sponsor must record:

- the date the contribution was received;
- the total amount received on each date, and
- if applicable, the event at which they were received.

s. 100

Advertising sponsors must file disclosure reports

Initiative advertising sponsors, other than registered proponents or opponents, who sponsor initiative advertising with a total value of \$500 or more, must file initiative advertising disclosure reports.

In the case of initiative advertising during an initiative petition period, advertising sponsors must file disclosure reports within 28 days after the end of the initiative petition period.

In the case of initiative advertising during an initiative vote period, advertising sponsors must file disclosure reports within 90 days after the end of the initiative vote period.

If any information required to be disclosed in an initiative advertising disclosure report changes, or if the sponsor becomes aware that the report does not accurately and completely disclose the information, the sponsor must file a supplementary report with the Chief Electoral Officer. For initiative petition advertising, a supplementary report must be filed within 14 days after the sponsor becomes aware of the change. For initiative vote advertising, the deadline is 30 days.

s. 101

Contents of the disclosure report

An initiative advertising disclosure report must be submitted on forms provided by Elections BC and contain the following information:

- the value of the initiative advertising sponsored by the sponsor, reported by category;
- for advertising in relation to an initiative petition, the amount of contributions of money accepted by the sponsor during the period beginning six months before the initiative petition was issued and ending at the end of the initiative petition period;
- for advertising in relation to an initiative vote, the amount of contributions of money accepted by the sponsor during the period beginning six months before General Voting Day for the initiative vote and ending at the end of the initiative vote period;
- any amount of sponsor's assets, other than assets received by way of contributions, that was used to pay for initiative advertising sponsored by the sponsor;
- anonymous contributions; and
- any other information required by regulation to be included.

Amounts accepted from contributors must be reported separately for each of the following classes of contributor:

- (1) individuals;
- (2) corporations;
- (3) unincorporated organizations engaged in business or commercial activity;
- (4) trade unions;
- (5) non-profit organizations; and
- (6) other contributors.

If the records of the sponsor indicate that a contributor made one or more contributions of money that, in total, have a value of more than \$250, the report must include the following information:

- the full name of the individual;
- the class of the contributor;
- if the contributor is a numbered corporation or a class 3, 4, 5 or 6 contributor, the full names of at least two individuals who are directors of the organization, or if there are no individual directors, who are principal officers or principal members of the organization;
- the value of each contribution and the date on which it was made.

s. 105 **Maintaining records**

An individual or organization who is, or has been, a sponsor of initiative advertising must:

- ensure the records required are maintained in British Columbia; and
- retain these records for at least five years, or a longer period if specified by the Chief Electoral Officer, from the date of filing a report.

Offences and penalties

s. 102 **Late filing of reports**

An initiative advertising sponsor disclosure report can be filed up to 30 days after the filing deadline if the sponsor pays a \$500 late filing fee to the Chief Electoral Officer.

s. 103 **Failure to file reports**

If an initiative advertising disclosure report is not filed with Elections BC at the end of the late filing period, the sponsor:

- must pay to the Chief Electoral Officer \$500 for each day the report is late after the 30 day late filing period; and
- is deregistered, and is not entitled to be reregistered as a sponsor until the report is filed and any outstanding penalties are paid.

s. 104 **Court order for relief from filing obligations**

A sponsor may apply to the Supreme Court of British Columbia to seek relief from an obligation to file an initiative advertising disclosure report or from the penalty in relation to the filing of the report. Relief must be sought within 58 days after the end of the initiative petition period for an initiative petition or within 120 days after the end of the initiative vote period for an initiative vote.

s. 94 **Exceeding third party advertising limits**

If a registered advertising sponsor exceeds the advertising spending limit, they:

- are deregistered as a sponsor; and
- must pay a penalty that is 10 times the amount by which they exceeded the limit.

If the sponsor is an unincorporated organization, its members will be separately and jointly liable to pay the penalty.

s. 161 **Other initiative advertising offences**

It is an offence to contravene the initiative communications sections of the *Recall and Initiative Act*.

Examples of offences include but are not limited to:

- sponsoring initiative advertising without being registered;
- conducting initiative advertising that does not identify the sponsor; and
- exceeding the third party advertising spending limit.

For a complete list of initiative communication offences, please consult s. 161 of the *Recall and Initiative Act*.

Individuals and organizations convicted of contravening the initiative communications sections of the Act are liable to a fine of up to \$5,000 or imprisonment for up to one year, or both.

Information to be open to the public

Sponsor registration and advertising disclosure reports must be available for public inspection at the Chief Electoral Office during regular office hours and is also published on the Elections BC website.

Questions?

For more information

Phone toll-free 1-800-661-8633/TTY 1-888-456-5448

or contact

Elections BC

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PO Box 9275 Stn Prov Govt

Victoria BC V8W 9J6

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