
UNFINISHED BUSINESS

Bill No: SB 37
Author: Umberg (D)
Amended: 10/11/25
Vote: 21

SENATE JUDICIARY COMMITTEE: 13-0, 4/29/25

AYES: Umberg, Niello, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern, Valladares, Wahab, Weber Pierson, Wiener

SENATE APPROPRIATIONS COMMITTEE: 6-0, 5/23/25

AYES: Caballero, Seyarto, Cabaldon, Grayson, Richardson, Wahab

NO VOTE RECORDED: Dahle

SENATE FLOOR: 36-0, 6/5/25

AYES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Richardson, Rubio, Seyarto, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

NO VOTE RECORDED: Alvarado-Gil, Pérez, Reyes, Smallwood-Cuevas

ASSEMBLY FLOOR: 78-1, 9/11/25 – See last page for vote

SUBJECT: Attorneys: unlawful solicitations and advertisements

SOURCE: Author

DIGEST: This bill enhances existing prohibitions on misleading attorney advertisements, attorney solicitations, and the use of referral services by, among other things, providing private rights of action to enforce violations of these provisions, and prohibits advertisements by attorneys from containing or referring to certain additional statements or information.

Assembly Amendments require a permissible joint advertising agreement between each participating attorney or law firm, as provided; extend the application of the

State Bar review procedure to individuals or entities that participate in joint legal advertising arrangements; limit the 72-hour deadline to withdraw an advertisement to an electronic broadcast and, for any other medium, requires notice of withdrawal to be submitted to the State Bar within 72 hours and withdrawal to occur as soon as practicable, not to exceed 30 days; expand the types of violations that would be a cause for licensee discipline for prohibited advertising rules; and exclude broadcasters that disseminate advertisements from the provisions regulating legal advertisement content.

ANALYSIS:

Existing law:

- 1) Establishes the State Bar Act and requires all attorneys who practice law in California to be licensed by the State Bar of California (State Bar). (Business (Bus.) & Professions (Prof.) Code §§ 6000 et seq.) The State Bar is established within the judicial branch of state government for the purpose of regulating the legal profession. (California Constitution, art. VI.)
- 2) Prohibits an advertisement from containing or referring to any of the following listed in a) through f), below.
 - a) Any guarantee or warranty regarding the outcome of a legal matter as a result of representation by the licensee.
 - b) Statements or symbols stating that the licensee featured in the advertisement can generally obtain immediate cash or quick settlements.
 - c) An impersonation of the name, voice, photograph, or electronic image of any person other than the lawyer, directly or implicitly purporting to be that of a lawyer.
 - d) An impersonation of the name, voice, photograph, or electronic image of any person, directly or implicitly purporting to be a client of the licensee featured in the advertisement, or a dramatization of events, unless disclosure of the impersonation or dramatization is made in the advertisement.
 - e) A spokesperson, including a celebrity spokesperson, unless there is disclosure of the spokesperson's title.
 - f) A statement that a licensee offers representation on a contingent basis unless the statement also advises whether a client will be held responsible for any costs advanced by the licensee when no recovery is obtained on behalf of the client. If the client will not be held responsible for costs, no disclosure is required. (Bus. & Prof. Code § 6157.2.)

- 3) Makes it unlawful for any person, in an individual capacity or in a capacity as a public or private employee, or for any firm, corporation, partnership or association to act as a runner or capper for any attorneys or to solicit any business for any attorneys in and about the state prisons, county jails, city jails, city prisons, or other places of detention of persons, city receiving hospitals, city and county receiving hospitals, county hospitals, superior courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever. Makes it unlawful for any person to solicit another person to commit or join in the commission of a violation of any of these aforementioned things. (Bus. & Prof. Code § 6152(a).)
- a) Any person, firm, partnership, association, or corporation violating 3), above, is punishable, upon a first conviction, by imprisonment in a county jail for not more than one year or by a fine not exceeding \$15,000, or by both that imprisonment and fine. Upon a second or subsequent conviction, a person, firm, partnership, association, or corporation is punishable by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years, or by a fine not exceeding \$15,000, or by both that imprisonment and fine. (Bus. & Prof. Code § 6153.)
 - b) Any person employed as an officer, director, trustee, clerk, servant or agent of this state or of any county or other municipal corporation or subdivision thereof, who is found guilty of violating any of these provisions must forfeit the right to their office and employment in addition to any other penalty provided. (*Ibid.*)
- 4) Prohibits an individual, partnership, corporation, association, or any other nongovernmental entity from operating for the direct or indirect purpose, in whole or in part, of referring potential clients to attorneys, and prohibits an attorney from accepting a referral of such potential clients, unless: the service is certified by the State Bar and is operated in conformity with minimum standards for a lawyer referral service established by the State Bar and approved by the California Supreme Court; and the combined charges to the potential client by the referral service and the attorney to whom the potential client is referred do not exceed the total cost that the client would normally pay if no referral service were involved. (Bus. & Prof. Code § 6155(a).)

- 5) Prohibits a referral service from being owned or operated, in whole or in part, directly or indirectly, by those lawyers to whom, individually or collectively, more than 20 percent of referrals are made. (Bus. & Prof. Code § 6155(b).)
- 6) Authorizes any person to bring an action to enjoin a violation or threatened violation of the provisions of 5) and 6), above. (Bus. & Prof. Code § 6155(e).) Authorizes the State Bar to, with the approval of the California Supreme Court, formulate and enforce rules and regulations to carry out the provisions of 5) and 6), above. (Bus. & Prof. Code § 6155(f).)

This bill:

- 1) Authorizes any person to bring a civil action for a violation of 3), above.
 - a) Remedies available are: statutory damages of a minimum of \$5,000 up to a maximum of \$100,000 per violation, or three times the amount of actual damages, whichever is larger; attorney's fees; injunctive or declaratory relief; and any other relief the court deems proper.
- 2) Authorizes any person to bring a civil action for a violation of 4) through 6), above. Remedies available are: statutory damages of a minimum of \$5,000 up to a maximum of \$100,000 per violation, or three times the amount of actual damages, whichever is larger; attorney's fees; injunctive or declaratory relief; and any other relief the court deems proper.
- 3) Defines the following terms:
 - a) "advertise" means to engage in any communication constituting an advertisement.
 - b) "advertisement" means any communication, through any written, recorded, or electronic means, whether available to, or directed generally to, members of the public or to a limited group of individuals, that provides information concerning a lawyer or the lawyer's services for the purpose of encouraging individuals to secure the services of the lawyer or their law firm.
- 4) Prohibits, additionally an advertisement from containing or referring to any of the following: misleading, deceptive, or false statements, words, or phrases regarding a lawyer's or law firm's skills, experience, or record; and references to a lawyer's or a law firm's recognition by, or awards from, an organization, unless the entity conferring the recognition does not charge or solicit a fee, cost,

or payment for the recognition or award or it is not conferred by virtue of being a member of the organization.

- 5) Requires an advertisement to contain the following information conspicuously displayed, or intelligible, if spoken: the name of at least one lawyer licensed to practice law in California, the law firm, or the certified lawyer referral service responsible for the advertisement; and disclosure of the city, town, or county of at least one bona fide office location or the address of record listed with the State Bar for the lawyer or law firm.
- 6) Authorizes a consumer who was misled by an advertisement in violation of requirements related to advertising under the State Bar to bring a civil action, if the consumer files a complaint with the State Bar, the State Bar determines that substantial evidence of a violation exists, and the advertiser does not withdraw the advertisement, as specified. Remedies available are: statutory damages of a minimum of \$5,000 up to a maximum of \$100,000 per each unique advertisement, or three times the amount of actual damages, whichever is larger; attorney's fees; injunctive or declaratory relief; and any other relief the court deems proper.

Comments

The practice known as capping, using nonattorneys to solicit business for an attorney, is unlawful and subject to punishment by imprisonment in a county jail for not more than one year or by a fine not exceeding \$15,000, or by both that imprisonment and fine for a first conviction. Any contract for professional services secured by any licensee or law firm in this state through the services of a runner or capper is void and any judgement for a violation of these statutes is to include an order divesting the attorney or law firm of any fees and other compensation received pursuant to any such void contract. (Bus. & Prof. Code § 6154.) This bill provides a private right of action to enforce the existing prohibition on capping.

Existing law specifies various items that an advertisement is prohibited from containing. Additionally, the Rules of Professional Conduct prohibit a lawyer from making any false or misleading statement about themselves or their services. (Rule 7.1) The Rules of Professional Conduct also prohibit a lawyer from compensating, promising, or giving anything of value to a person for the purpose of recommending or securing the services of the lawyer or lawyer's firm, with certain limited exceptions. (Rule 7.2.) A violation of the advertising prohibitions are subject to punishment by imprisonment in a county jail for not more than one year

or by a fine not exceeding \$15,000, or by both that imprisonment and fine for a first conviction. (Bus. & Prof. Code § 6152 & 6153.)

This bill seeks to enhance the existing prohibitions on advertising by additionally prohibiting certain misleading and unverifiable statements. These include prohibiting an advertisement from containing or referring to any misleading, deceptive, or false statements, words, or phrases regarding a lawyer's or law firm's skills, experience, reputation, or record or references to a lawyer's or a law firm's recognition by, or awards from, an organization, unless the entity conferring the recognition does not charge or solicit a fee, cost, or payment for the recognition or award or it is not conferred by virtue of being a member of the organization.

In 2021, the Federal Trade Commission (FTC) issued a consumer advisory warning consumers regarding attorney awards which they noted could be vanity or ego awards that are bought by an attorney.¹ The FTC wrote, “[i]f you suddenly need to hire a lawyer, you might start searching online. When you do, you’re likely to see lawyers and law firms with fancy-looking seals and badges on their websites claiming they’re among the best in their field. Before you move forward, know that some of these seals or badges might be “vanity” or “ego” awards that lawyers can buy.”²

These provisions implicate the First Amendment, as it both restricts and compels speech. Compelled speech in the commercial context, however, is subjected to much less exacting scrutiny than in other arenas; a law concerning commercial speech is generally upheld if the law advances a substantial government interest and directly advances that interest.³ Here, the state's interest in protecting the public from misleading and potentially deceptive statements in attorney advertising is clearly substantial, and the requirements that advertisements not contain such misleading or deceptive statements and include factual information about the location and name of lawyer or firm responsible for the advertisement is clearly related to the state's interest. It therefore does not appear that there is a First Amendment impediment to this bill.

The bill also updates the definition of “advertise” and “advertisement” to align with Rule 7.2 of the Professional Rules of Conduct by expanding the definitions to include any written, recorded, or electronic means of communication instead of

¹ Fed. Trade Comm., *Consumer Alert: Look beyond the award when you hire a lawyer* (Dec. 16, 2021), available at <https://consumer.ftc.gov/consumer-alerts/2021/12/look-beyond-award-when-you-hire-lawyer>.

² *Ibid.*

³ *Central Hudson Gas & Elec. Corp. v. Public Service Commission of New York* (1980) 477 U.S. 556, 566.

referencing specific media, such as television, radio, or mail. The bill provides a consumer who is misled by an advertisement has a right to bring a cause of action if they: file a complaint with the State Bar; the State Bar determines that substantial evidence of a violation exists; and the advertiser does not withdraw the advertisement, as specified.

Under existing law, legal referral services must register with the State Bar and comply with certain requirements and standards. (Bus. & Prof. Code § 6155.) These provisions are designed to ensure that referrals are not paid for and are made to pair the consumer with an appropriate and competent attorney to address the consumer's specific legal issue. This bill provides a private right of action to enforce the existing prohibitions on lawyer referrals and referral services.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

The Senate Appropriations Committee writes that the fiscal impact is:

Unknown, potentially significant costs to the Department of Justice (DOJ), resulting from the implementation of this bill, with annual costs potentially reaching into the millions of dollars. These costs would be associated with the development, implementation, and maintenance of a secure electronic filing system capable of preventing the inadvertent disclosure of confidential or sensitive information. Additional ongoing expenditures would be required for staff to review submitted notices for statutory compliance and for legal costs for associated litigation. Notably, this bill prohibits the imposition of filing fees, thereby removing the DOJ's ability to offset expenditures.

Cost pressures to the state funded trial court system by allowing the Attorney General to bring civil penalties for violations of this bill and by authorizing disclosure of specified materials pursuant to a protective order. Cost pressures may also arise to the extent that this bill contributes to litigation regarding potential business mergers that otherwise would not have been brought. It is unclear how many proceedings would actually be commenced that otherwise would not have as a result of this bill. The fiscal impact of this bill to the courts will depend on many unknown factors, including the number of proceedings and the factors unique to each case. An eight-hour court day costs approximately \$10,500 in staff workload. The Governor's 2025-26 budget proposes a \$40 million ongoing increase in discretionary funding from the General Fund to help pay for increased trial court operation costs beginning in 2025-26. Although courts are not funded on the basis of workload, increased pressure on the Trial Court Trust Fund may create a need for increased funding for courts from the General Fund to fund additional staff and

resources and to increase the amount appropriated to backfill for trial court operations. If funding is not provided for the new workload created by this bill, it may result in delays and prioritization of court cases.

SUPPORT: (Verified 9/9/25)

Consumer Attorneys of California (source)
Capitol City Trial Lawyers Association
Central Valley Trial Lawyers Association
Orange County Trial Lawyers Association
San Francisco Trial Lawyers Association
San Joaquin County Trial Lawyers Association
United Policyholders
Walker Advertising
Over 75 Individual Attorneys

OPPOSITION: (Verified 9/9/25)

None received

ARGUMENTS IN SUPPORT: The author writes:

Unethical attorney advertising misleads consumers, who often lack legal expertise to distinguish between deceptive promises and legitimate legal representation. False guarantees, misleading settlements, and undisclosed conflicts of interest erode public trust in the legal profession. Current law in statute and ethics rules regulate attorney conduct for advertising. However, these rules are currently enforced by The State Bar of California, the regulatory arm for California attorneys, which has limited resources to investigate and prosecute every violation of attorney advertising rules.

Updating the advertising definitions and adding prohibitions paired with authorizing citizen lawsuits against unethical attorney advertising is a necessary step to protect consumers, supplement state regulatory efforts, deter misconduct, empower victims, and foster a fair legal marketplace. By giving individuals the ability to hold unethical attorneys accountable, the legal profession can restore public trust and ensure that consumers receive honest and competent representation.

The Consumer Attorneys of California, the sponsor of the bill, writes in support, stating:

Unethical attorney advertising misleads vulnerable consumers—many of whom are navigating the legal system for the first time. False guarantees, exaggerated claims, and undisclosed affiliations confuse the public and undermine confidence in the legal profession. While existing ethics rules and statutes already prohibit many of these practices, enforcement has been hampered by limited resources at the State Bar. SB 37 empowers harmed consumers by authorizing citizen enforcement against unlawful attorney advertising, capping, and illegal referral services. [...] Allowing consumer enforcement provides a powerful deterrent against deceptive advertising practices and ensures ethical attorneys are not disadvantaged by bad actors who bend or break the rules to attract clients. SB 37 strikes the right balance between regulatory oversight and consumer empowerment, and we urge your support.

ASSEMBLY FLOOR, 9/11/25

Ayes: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, Dixon, Elhawary, Ellis, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

Noes: DeMaio

No Vote Recorded: Flora

Prepared by: Amanda Mattson/ JUD/ (916)651-4113
7/20/26 12:06:34

**** END ****