

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2025-2026 Regular Session**

SB 37 (Umberg)  
Version: April 21, 2025  
Hearing Date: April 29, 2025  
Fiscal: No  
Urgency: No  
AM

**SUBJECT**

Attorneys: unlawful solicitations and advertisements

**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. The bill also prohibits advertisements by attorneys from containing or referring to certain additional statements or information, including references to past results, unless the information is objectively verifiable and does not omit facts that would make the purported results misleading, and misleading, deceptive, or false statements, words, or phrases regarding a lawyer's or law firm's skills, experience, reputation, or record.

**EXECUTIVE SUMMARY**

Existing law provides various prohibitions and standards for attorney advertisements, solicitations, and the use of referrals and referral services. These provisions serve important consumer protections and help to prevent unethical behavior and business practices. Under existing law, these provisions are generally enforced by the State Bar of California, which is currently facing budgetary pressures. This bill seeks to supplement existing regulatory enforcement by providing private rights of actions to enforce these prohibitions. The bill enhances the existing prohibitions on advertising by adding new restrictions on the use of misleading, deceptive, or false statements and requiring advertisements to identify 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 the location in the state of at least one bona fide office location or address. The bill is sponsored by the Consume Attorneys of California. The bill is supported by a various local bar associations and United Policyholders. The Committee did not receive any timely opposition. Should the bill pass this Committee, it will next be heard in the Senate Appropriations Committee.

**PROPOSED CHANGES TO THE LAW**

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). (Bus. & Prof. Code §§ 6000 et seq.)
  - a) The State Bar is established within the judicial branch of state government for the purpose of regulating the legal profession. (Cal. const., 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) Defines the following terms for purposes of 2), above:
  - a) "advertise" or "advertisement" means any communication, disseminated by television or radio, by any print medium, including, but not limited to, newspapers and billboards, or by means of a mailing directed generally to members of the public and not to a specific person, that solicits employment of legal services provided by a licensee, and is directed to the general public and is paid for by, or on the behalf of, an attorney;
  - b) "licensee" means a licensee in good standing of the State Bar and includes any agent of the licensee and any law firm or law corporation doing business in the State of California; and
  - c) "lawyer" means a licensee of the State Bar or a person who is admitted in good standing and eligible to practice before the bar of any United States court or the highest court of the District of Columbia or any state, territory, or

- insular possession of the United States, or is licensed to practice law in, or is admitted in good standing and eligible to practice before the bar of the highest court of, a foreign country or any political subdivision thereof, and includes any agent of the lawyer, law firm, or law corporation doing business in the state. (Bus. & Prof. Code § 6157.)
- 4) 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 4), 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.*)
- 5) 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 all of the following requirements are met:
- a) 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
- b) 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).)

- 6) 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.
  - a) For purposes of this provision, a referral service that is owned or operated by a bar association, as defined in the minimum standards, is deemed to be owned or operated by its governing committee so long as the governing committee is constituted and functions in the manner prescribed by the minimum standards. (Bus. & Prof. Code § 6155(b).)
- 7) 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).)
  - a) 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, including, among others:
    - i. establishing minimum standards for lawyer referral services;
    - ii. requiring that an entity seeking to qualify as a lawyer referral service register with the State Bar and obtain certification from the State Bar;
    - iii. requiring that the certificate may be obtained, maintained, suspended, or revoked pursuant to procedures set forth in the rules and
    - iv. establishing minimum standards for nonprofit organizations that partner with lawyer referral services. (Bus. & Prof. Code § 6155(f).)
- 8) Provides that any individual, partnership, association, corporation, or other entity, including, but not limited to, any person or entity having an ownership interest in a lawyer referral service, that engages, has engaged, or proposes to engage in violations of the prohibitions or requirements for lawyer referral services is liable for a civil penalty as provided under the unfair competition statutes. (Bus. & Prof. Code § 6156.)
  - a) An action to recover the civil penalty described above is to be brought in a civil action as provided for under the unfair competition statutes. (*Ibid.*)

This bill:

- 1) Authorizes any person to bring a civil action for a violation of 4), above.
  - a) Remedies available are:
    - i. 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.
    - ii. attorney's fees;
    - iii. injunctive or declaratory relief; and
    - iv. any other relief the court deems proper.

- b) Requires the court, in assessing the amount of statutory damages, to consider any one or more of the relevant circumstances presented by the case, including, but not limited to, the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.
  - c) This right of action is independent of any enforcement action or inaction by any governmental agency or official.
- 2) Authorizes any person to bring a civil action for a violation of 5) through 7), above.
  - a) Remedies available are:
    - i. 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;
    - ii. attorney's fees;
    - iii. injunctive or declaratory relief; and
    - iv. any other relief the court deems proper.
  - b) Requires the court, in assessing the amount of statutory damages, to consider any one or more of the relevant circumstances presented by the case, including, but not limited to, the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.
  - c) This right of action is independent of any enforcement action or inaction by any governmental agency or official.
- 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) Additionally prohibits an advertisement from containing or referring to any of the following:
  - a) a prediction of success regarding the legal matter;
  - b) references to past results, unless the information is objectively verifiable and does not omit facts that would make the purported results misleading;
  - c) misleading, deceptive, or false statements, words, or phrases regarding a lawyer's or law firm's skills, experience, reputation, or record; and

- d) references to a lawyer's or a law firm's recognition by, or awards from, an organization, unless the entity conferring the recognition or award is recognized within the legal profession as being a bona fide organization or does not charge or solicit a fee, cost, or payment for the recognition or award.
- 5) Requires an advertisement to contain the following information conspicuously displayed, or intelligible, if spoken:
  - a) 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
  - b) 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.
  - a) Remedies available are:
    - i. 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;
    - ii. attorney's fees;
    - iii. injunctive or declaratory relief; and
    - iv. any other relief the court deems proper.
  - b) Requires the court, in assessing the amount of statutory damages, to consider any one or more of the relevant circumstances presented by the case, including, but not limited to, the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.
  - c) This right of action is independent of any enforcement action or inaction by any governmental agency or official.

### COMMENTS

#### 1. Stated need for the bill

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.

## 2. Attorney solicitations and advertising

Attorneys who wish to practice law in California generally must be admitted and licensed in this state and must be members of the State Bar. (Cal. Const., art. VI, Sec. 9.) Existing law provides various requirements and prohibitions regarding attorney advertising and solicitation of clients. (Bus. & Prof. Code §§ 6150 et seq.) The purpose of these statutes is to protect consumers from being misled into obtaining legal services through unethical or fraudulent solicitation tactics and to preserve the integrity of attorney-client relationship. Additionally, the Rules of Professional Conduct also specify various requirements and prohibitions around attorney advertising and solicitation of legal services. (Cal. Rules of Prof. Conduct, rules 7.1-7.16.) Any licensee that violates the State Bar Act or the Rules of Professional Conduct can be disciplined by the State Bar.

### *a. Capping*

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. Upon any subsequent convictions, 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 § 6152 & 6153.) 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. Remedies available under this cause of action 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.

Under the bill, the court, when assessing the amount of statutory damages, is to consider any one or more of the relevant circumstances presented by the case, including, but not limited to: the nature and seriousness of the misconduct; the number of violations; the persistence of the misconduct; the length of time over which the misconduct occurred; the willfulness of the defendant's misconduct; and the defendant's assets, liabilities, and net worth. This right of action is independent of any enforcement action or inaction by any governmental agency or official.

*b. Advertising*

Existing law specifies various items that an advertisement is prohibited from containing. These include, among others, any guarantee of warranty regarding the outcome of a legal matter as a result of representation by the licensee. 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 under the State Bar Act 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. Upon any subsequent convictions, 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 § 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 of the following: a prediction of success regarding the legal matter; references to past results, unless the information is objectively verifiable and does not omit facts that would make the purported results misleading; and misleading, deceptive, or false statements, words, or phrases regarding a lawyer's or law firm's skills, experience, reputation, or record.

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.<sup>1</sup> They wrote:

If 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

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<sup>1</sup> 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>.

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.<sup>2</sup>

To address the concerns raised by the FTC, the bill prohibits an advertisement from containing references to a lawyer's or a law firm's recognition by, or awards from, an organization, unless the entity conferring the recognition or award is recognized within the legal profession as being a bona fide organization or does not charge or solicit a fee, cost, or payment for the recognition or award. The bill also places affirmative requirements on advertisements to contain both of the following information: (1) 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 (2) 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. These statements must be conspicuously displayed or, if spoken, be spoken intelligibly.

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.<sup>3</sup> 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 referencing specific media, such as television, radio, or mail.

This bill authorizes a consumer who is misled by an advertisement in violation of the provisions related to attorney advertising to bring a civil action for the following remedies:

- 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.

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<sup>2</sup> *Ibid.*

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

Under the bill, the court, when assessing the amount of statutory damages, is to consider any one or more of the relevant circumstances presented by the case, including, but not limited to: the nature and seriousness of the misconduct; the number of violations; the persistence of the misconduct; the length of time over which the misconduct occurred; the willfulness of the defendant's misconduct; and the defendant's assets, liabilities, and net worth. This right of action is independent of any enforcement action or inaction by any governmental agency or official.

*c. Lawyer referrals and referral services*

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. Remedies available under this cause of action 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.

Under the bill, the court, when assessing the amount of statutory damages, is to consider any one or more of the relevant circumstances presented by the case, including, but not limited to: the nature and seriousness of the misconduct; the number of violations; the persistence of the misconduct; the length of time over which the misconduct occurred; the willfulness of the defendant's misconduct; and the defendant's assets, liabilities, and net worth. This right of action is independent of any enforcement action or inaction by any governmental agency or official.

*d. Private rights of action under the bill*

The author notes that under existing law violations of attorney advertising and solicitation prohibitions are generally enforced by the State Bar of California, which has limited resources and is currently facing budgetary pressures. By enacting these specific rights of action, the bill protects consumers and supplements existing state regulatory efforts. This will act to deter misconduct and empower victims leading to a fairer marketplace for consumers of legal services.

3. Statements in support

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.

### **SUPPORT**

Consumer Attorneys of California (sponsor)  
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

### **OPPOSITION**

None received

### **RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation: None known.

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