

2024 Regular Session

SENATE BILL NO. 474

BY SENATOR BASS AND REPRESENTATIVE ECHOLS

ADVERTISING. Provides relative to false, misleading, or deceptive acts or practices and the award of certain costs and fees to the attorney general. (8/1/24)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To enact R.S. 51:1407(F) and 1429, relative to unfair or deceptive acts or practices; to allow the attorney general to be awarded certain costs and fees; to provide relative to advertisement for services; to provide relative to a false, misleading, and deceptive statement in an advertisement; to provide for violations, actions, and penalties; to provide for definitions, terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 51:1407(F) and 1429 are hereby enacted to read as follows:

§1407. Restraining prohibited acts

* * *

F. In any action brought by the attorney general wherein the state prevails, the court shall, in addition to the relief granted pursuant to this Chapter, award reasonable costs, investigative expenses, and attorney fees to the attorney general.

* * *

§1429. Unfair or deceptive trade practice or act; misleading assertion of

1 monetary result obtained.

2 A. As used in this Section, the following words and phrases shall have the
3 following meanings:

4 (1) "Actually received" means the net amount of money received by a
5 person, calculated by deducting from the person's gross recovery all expenses
6 including but not limited to attorney fees, broker fees, expert witness fees,
7 interest, court costs, costs of collection or recovery, and all other expenses
8 related to litigation.

9 (2) "Advertisement" means any communication to the public regarding
10 services provided for a fee including but not limited to a communication
11 transmitted through any of the following:

12 (a) Print media, including a telephone directory, legal directory,
13 newspaper, magazine, or other periodical publication.

14 (b) Outdoor advertising, including billboards or other signs.

15 (c) Radio and television commercials.

16 (d) Any communication accessed by a computer, tablet, or handheld
17 device, including a text message, instant message, or digital advertisement of
18 any kind.

19 (e) A recorded message the public may access by telephone.

20 (3) "False, misleading, or deceptive statement" means any
21 communication that states or infers that a person actually received an amount
22 of money that the person did not actually receive.

23 (4) "Media entity" means a radio broadcast station, television broadcast
24 station, cable television company, newspaper company, periodical company,
25 billboard company, advertisement agency, media platform, or bona fide news
26 or public interest website operator.

27 (5) "Monetary result obtained" means any amount claimed to have been
28 recovered on behalf of a client through a legal judgment or settlement.

29 (6) "Person" means an individual, partnership, unincorporated

1 association of individuals, joint stock company, corporation, limited liability
2 company, or other legal entity of any kind. "Person" shall not include a media
3 entity.

4 B. No person in any advertisement shall make, or permit to be made, a
5 false, misleading, or deceptive statement about a monetary result obtained on
6 behalf of a client or fail to disclose information necessary to prevent the
7 information supplied in an advertisement from being false, misleading, or
8 deceptive.

9 C.(1) Any violation of this Section shall be an unfair or deceptive trade
10 practice declared unlawful by this Chapter and shall subject the violator to any
11 and all actions and penalties provided for in this Chapter.

12 (2) For the purpose of this Section, each iteration of an advertisement
13 constitutes an unfair or deceptive trade practice.

14 (3)(a) The provisions of this Section shall not apply to any media entity
15 responsible for the production or publication of any advertisement found to be
16 in violation of this Section.

17 (b) The carriage, distribution, transmission, or display of any
18 advertisement, including but not limited to those for legal services, by a media
19 entity shall not be considered a violation of this Section.

20 D. In addition to all other remedies provided for in this Chapter, any
21 person who is found to have made, or to have permitted to be made on his
22 behalf, a false, misleading, or deceptive statement under the provisions of this
23 Section shall be liable to the attorney general for all costs, expenses, and fees
24 related to investigations and proceedings associated with the violation, including
25 attorney fees. An action to recover costs, expenses, fees, and attorney fees shall
26 be ancillary to and shall be filed and heard in the same court as a civil action
27 filed under the provisions of this Section.

28 E. The remedies and rights provided for in this Section are in addition
29 to and shall not preclude any right or remedy otherwise authorized by law,

1 **including the enforcement of professional rules against the person by any**
 2 **licensing board or court. If a licensing board or court adopts a comparable rule**
 3 **and a process for approval of advertisements, then the approval of an**
 4 **advertisement under that rule and process shall constitute prima facie evidence**
 5 **of compliance with the provisions of this Section.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Dawn Romero Watson.

DIGEST

SB 474 Original

2024 Regular Session

Bass

Present law provided that unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.

Proposed law provides that in any action brought by the attorney general under the Uniform Trade Practices and Consumer Protection Law in which the state prevails, the court is required, in addition to relief granted by law, to award reasonable costs, investigative expenses, and attorney fees to the attorney general.

Proposed law provides that no person in any advertisement shall make, or permit to be made, a false, misleading, or deceptive statement about a monetary result obtained on behalf of a client or fail to disclose information necessary to prevent the information supplied in an advertisement from being false, misleading, or deceptive.

Proposed law defines "actually received", "advertisement", "media entity", "monetary result obtained", "false, misleading, or deceptive statement", and "person".

Proposed law excludes a media entity as a person.

Proposed law provides that any violation of proposed law shall be an unfair or deceptive trade practice declared unlawful and shall subject the violator to any and all actions and penalties pursuant to the Unfair Trade Practices and Consumer Protection Law. Proposed law provides that each iteration of an advertisement constitutes an unfair or deceptive trade practice.

Proposed law does not apply to any media entity responsible for the production or publication of any advertisement found to violate proposed law.

Proposed law does not apply to a media entity that is responsible for the carriage, distribution, transmission, or display of any advertisement found to violate proposed law.

Proposed law provides that in addition to all other remedies provided in the Unfair Trade Practices and Consumer Protection Law, any person who is found to have made, or to have permitted to be made on his behalf, a false, misleading, or deceptive statement under the provisions of proposed law shall be liable to the attorney general for all costs, expenses, and fees related to investigations and proceedings associated with the violation, including attorney fees.

Proposed law provides that an action to recover costs, expenses, fees, and attorney fees shall be ancillary to and shall be filed and heard in the same court as a civil action filed for the unfair or deceptive trade practice.

Provides that the remedies and rights provided in proposed law are in addition to and shall not preclude any right or remedy otherwise authorized by law, including the enforcement of professional rules against the person by any licensing board or court.

Proposed law provides that if a licensing board or court adopts a comparable rule and a process for approval of advertisements, then the approval of an advertisement under that rule and process shall constitute prima facie evidence of compliance with proposed law.

Effective August 1, 2024.

(Adds R.S. 51:1407(F) and 1429)