
The original instrument was prepared by Michelle D. Ridge. The following digest, which does not constitute a part of the legislative instrument, was prepared by Xavier Alexander.

DIGEST

SB 378 Engrossed 2022 Regular Session Peacock

Proposed law prohibits deceptive or misleading advertisements and provides that an advertisement shall not do any of the following:

- (1) Be presented as a medical alert, health alert, drug alert, public service announcement, or substantially similar phrase that suggests to a reasonable viewer the advertisement is offering professional, medical, or government agency advice about any medication or medical device. Proposed law does not apply to any advertisement by a person who is authorized by law to offer professional, medical, or government advice about any medication or medical device in an advertisement.
- (2) Display the logo of a federal or state government agency in a manner that suggests to a reasonable viewer the advertisement is presented by a federal or state government agency or by an entity approved by or affiliated with a federal or state government agency.
- (3) Use the term "recall" when referring to a product that has not been recalled in accordance with applicable state or federal regulation.

Proposed law provides that an advertisement that references a prescription drug or medical device approved by the FDA shall state the identity of the advertisement's sponsor and that the drug or medical device is FDA approved, unless the drug or medical device has been recalled in accordance with state or federal law.

Proposed law requires an advertisement that references an FDA approved prescription drug include the following statement or a substantially similar statement: "Consult your physician before making decisions regarding prescribed medication or medical treatment."

Proposed law provides that the required disclosures be made in written and verbal formats, except if the statements appear in an advertisement that is in print format only or audible format only.

Proposed law provides that a written statement to appear in an advertisement shall be presented clearly, conspicuously, and for a sufficient length of time for a reasonable viewer to see and read the statement.

Proposed law provides that a verbal statement required to appear in an advertisement shall be audible, intelligible, and presented with equal prominence as the other parts of the advertisement.

Proposed law provides that a court may find a statement is in compliance with proposed law if:

- (1) The written statement is printed in the same size and style of font and for the same duration as other printed information in the advertisement.
- (2) The verbal statement is made at approximately the same volume and uses approximately the same number of words per minute as the voice-over of longest duration in the advertisement, excluding any statement required by proposed law.

A violation of proposed law shall be a deceptive and unfair trade practice and the violator shall be subject to all penalties provided for in the Unfair Trade Practices and Consumer Protection Law.

Proposed law does not apply to any media entity responsible for the production or publication of any advertisement found to be in violation of proposed law. Further provides that the carriage, distribution, transmission, or display of any advertisement by a media entity shall not be considered a violation of proposed law.

Proposed law does not apply to any member of a profession if the regulation of that profession has been granted to a governmental entity by the Louisiana Constitution.

Effective August 1, 2022.

(Adds R.S. 51:3221)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Exempts from proposed law the regulation of any member of a profession if the regulation of that profession has been granted to a governmental entity by the Louisiana Constitution.