

1-1 By: Buckingham, et al. S.B. No. 1189
1-2 (In the Senate - Filed February 26, 2019; March 7, 2019,
1-3 read first time and referred to Committee on State Affairs;
1-4 April 8, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 8, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Huffman</u>	X		
1-10	<u>Hughes</u>	X		
1-11	<u>Birdwell</u>	X		
1-12	<u>Creighton</u>	X		
1-13	<u>Fallon</u>	X		
1-14	<u>Hall</u>	X		
1-15	<u>Lucio</u>	X		
1-16	<u>Nelson</u>	X		
1-17	<u>Zaffirini</u>	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1189 By: Hall

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to certain deceptive advertising of legal services.
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-23 SECTION 1. Chapter 81, Government Code, is amended by
1-24 adding Subchapter J to read as follows:
1-25 SUBCHAPTER J. DECEPTIVE ADVERTISING PRACTICES
1-26 Sec. 81.151. APPLICABILITY. (a) This subchapter applies
1-27 only to a television advertisement that promotes a person's
1-28 provision of legal services or solicits clients to receive legal
1-29 services.
1-30 (b) This subchapter does not apply to an advertisement by a
1-31 federal, state, or local government entity.
1-32 Sec. 81.152. PROHIBITED ADVERTISING. An advertisement for
1-33 legal services may not:
1-34 (1) present the advertisement as a "medical alert,"
1-35 "health alert," "consumer alert," "drug alert," "public service
1-36 announcement," or substantially similar phrase that suggests to a
1-37 reasonable viewer the advertisement is offering professional,
1-38 medical, or government agency advice about medications or medical
1-39 devices rather than legal services;
1-40 (2) display the logo of a federal or state government
1-41 agency in a manner that suggests to a reasonable viewer the
1-42 advertisement is presented by a federal or state government agency
1-43 or by an entity approved by or affiliated with a federal or state
1-44 government agency; or
1-45 (3) use the term "recall" when referring to a product
1-46 that has not been recalled by a government agency or through an
1-47 agreement between a manufacturer and government agency.
1-48 Sec. 81.153. REQUIRED WARNINGS AND DISCLOSURES. (a) An
1-49 advertisement for legal services must state, both verbally and
1-50 visually:
1-51 (1) at the beginning of the advertisement, "This is a
1-52 paid advertisement for legal services.";
1-53 (2) the identity of the sponsor of the advertisement;
1-54 and
1-55 (3) either:
1-56 (A) the identity of the attorney or law firm
1-57 primarily responsible for providing solicited legal services to a
1-58 person who engages the attorney or law firm in response to the
1-59 advertisement; or
1-60 (B) the manner in which a responding person's

2-1 case is referred to an attorney or law firm if the sponsor of the
2-2 advertisement is not legally authorized to provide legal services
2-3 to clients.

2-4 (b) An advertisement for legal services soliciting clients
2-5 who may allege an injury from a prescription drug approved by the
2-6 United States Food and Drug Administration must include a verbal
2-7 and visual statement: "Do not stop taking a prescribed medication
2-8 without first consulting a physician."

2-9 Sec. 81.154. FORM OF REQUIRED WARNINGS AND DISCLOSURES;
2-10 COURT FINDINGS. (a) A visual statement required by this
2-11 subchapter to appear in an advertisement must be presented clearly,
2-12 conspicuously, and for a sufficient length of time for a viewer to
2-13 see and read the statement.

2-14 (b) A court may not find that a visual statement in an
2-15 advertisement is noncompliant with Subsection (a) if the statement
2-16 is presented in the same size and style of font and for the same
2-17 duration as a visual reference to the telephone number or Internet
2-18 website of the entity a responding person contacts for the legal
2-19 services offered or discussed in the advertisement.

2-20 (c) A verbal statement required by this subchapter to appear
2-21 in an advertisement must be audible, intelligible, and presented
2-22 with equal prominence as the other parts of the advertisement.

2-23 (d) A court may not find that a verbal statement in an
2-24 advertisement is noncompliant with Subsection (c) if the statement
2-25 is made at approximately the same volume and uses approximately the
2-26 same number of words per minute as the voice-over of longest
2-27 duration in the advertisement other than information required by
2-28 this subchapter.

2-29 Sec. 81.155. ENFORCEMENT; PRIVATE CAUSE OF ACTION NOT
2-30 CREATED. (a) A violation of this subchapter is a deceptive act or
2-31 practice actionable under Subchapter E, Chapter 17, Business &
2-32 Commerce Code, and may be enforced by the attorney general or a
2-33 district or county attorney as provided by that subchapter. All
2-34 remedies available under that subchapter are available for a
2-35 violation of this subchapter.

2-36 (b) This subchapter does not create a private cause of
2-37 action.

2-38 Sec. 81.156. CONSTRUCTION OF SUBCHAPTER. This subchapter
2-39 may not be construed to limit or otherwise affect the authority of
2-40 the Supreme Court of Texas to regulate the practice of law, enforce
2-41 the Texas Disciplinary Rules of Professional Conduct, or discipline
2-42 persons admitted to the state bar.

2-43 SECTION 2. The change in law made by this Act applies only
2-44 to an advertisement that is presented on or after the effective date
2-45 of this Act. An advertisement presented before the effective date
2-46 of this Act is governed by the law in effect immediately before the
2-47 effective date of this Act, and that law is continued in effect for
2-48 that purpose.

2-49 SECTION 3. This Act takes effect September 1, 2019.

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