

AMENDED IN ASSEMBLY APRIL 19, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1954**

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**Introduced by Assembly Member Nestande**

February 23, 2012

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An act to amend Section 6158.3 of, and to add Section 6157.6 to, the Business and Professions Code, relating to attorneys.

LEGISLATIVE COUNSEL'S DIGEST

AB 1954, as amended, Nestande. Legal advertising: class actions.

Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California (the Bar), a public corporation. The State Bar Act also provides for the regulation of legal advertising, as defined, and, among other things, prohibits an advertisement from containing any false, misleading, or deceptive statement.

This bill would require an advertisement soliciting plaintiffs for a class action to include a disclosure stating that a plaintiff in a class action may be financially liable for the ~~attorneys'~~ <sup>attorney's</sup> fees of the defendant where the defendant is the prevailing party. The bill would ~~specify that~~ *require the Bar to impose a civil penalty of \$2,000 for a violation of this section provision* by a member of the Bar ~~is a cause for discipline by the Bar.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6157.6 is added to the Business and  
2 Professions Code, to read:

3 6157.6. (a) An advertisement soliciting plaintiffs for a class  
4 action shall, in addition to meeting any other requirements imposed  
5 by this article, include a disclosure stating that a plaintiff in a class  
6 action may be financially liable for the ~~attorneys'~~ attorney's fees  
7 of the defendant where the defendant is the prevailing party.

8 ~~(b) A violation of this section by a member shall constitute a~~  
9 ~~cause for discipline by the~~ *The State Bar shall impose a civil*  
10 *penalty of two thousand dollars (\$2,000) for a violation of this*  
11 *section by a member, with penalty revenues to be deposited in the*  
12 *treasury of the State Bar.*

13 SEC. 2. Section 6158.3 of the Business and Professions Code  
14 is amended to read:

15 6158.3. In addition to any disclosure required by ~~Section~~  
16 ~~Sections~~ 6157.2, ~~Section~~ 6157.3, ~~Section~~ and 6157.6, and the Rules  
17 of Professional Conduct, the following disclosure shall appear in  
18 advertising by electronic media. Use of the following disclosure  
19 alone may not rebut any presumption created in Section 6158.1.  
20 If an advertisement in the electronic media conveys a message  
21 portraying a result in a particular case or cases, the advertisement  
22 must state, in either an oral or printed communication, either of  
23 the following disclosures: The advertisement must adequately  
24 disclose the factual and legal circumstances that justify the result  
25 portrayed in the message, including the basis for liability and the  
26 nature of injury or damage sustained, or the advertisement must  
27 state that the result portrayed in the advertisement was dependent  
28 on the facts of that case, and that the results will differ if based on  
29 different facts.

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