

AMENDED IN ASSEMBLY MARCH 13, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 637

Introduced by Assembly Member Flora

February 13, 2025

An act to ~~amend Section 1072 of the Insurance Code, relating to insurance;~~ *add Section 17533.1 to the Business and Professions Code, and to add Section 757.5 to the Insurance Code, relating to advertising.*

LEGISLATIVE COUNSEL’S DIGEST

AB 637, as amended, Flora. ~~Withdrawal of insurers. Advertising: false or misleading commercial disaster communication.~~

Existing law generally regulates advertising and, among other things, makes it unlawful for any person, firm, corporation, or association that is a nongovernmental entity to use a seal, emblem, insignia, trade or brand name, or any other term, symbol, or content that reasonably could be interpreted or construed as implying any federal, state, or local government, military veteran entity, or military or veteran service organization connection, approval, or endorsement of any product or service by any means, except as specified. Existing law authorizes the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor to bring an action to enjoin a violation of these advertising provisions or impose a civil penalty of up to \$2,500 for each violation. Existing law also imposes a civil penalty of up to \$6,000 for an intentional violation of an injunction. Existing law makes a violation of these advertising provisions a misdemeanor.

This bill would make it unlawful for any person to make or disseminate a false or misleading commercial disaster communication, as defined and specified. Under the bill, a potentially false or misleading

communication would not be deemed false or misleading if it conspicuously features a specified disclosure statement and identifies the name and incorporation status of the person providing the goods or services. The bill would impose these requirements on a communication made on or after the date of a proclamation of a state of emergency up to 60 calendar days after the state of emergency, as specified. The bill would authorize a person harmed as a result of a violation of this provision, the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor to bring an action for a violation, as specified. The bill would additionally authorize the Insurance Commissioner and the Department of Consumer Affairs to bring an action for specified violations of this provision. The bill would impose a civil penalty of up to \$2,500 for an initial violation of this provision and up to \$5,000 for each subsequent violation. The bill would make the remedies and penalties created by the bill cumulative to other remedies and penalties available under existing law. The bill would specify that a violation of this provision is not a crime.

~~Existing law generally regulates insurance and creates the Department of Insurance, headed by the Insurance Commissioner. Existing law requires the commissioner to examine the books and records of an insurer, and if the commissioner finds no outstanding liabilities to residents of this state and other specified conditions, the commissioner is required to cancel the insurer's certificates of authority and permit the insurer to withdraw.~~

~~This bill would make nonsubstantive, technical changes to these provisions.~~

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Disasters, including wildfires, extreme weather events, and
- 4 earthquakes, have pronounced impacts on our state and are
- 5 increasing in frequency. These disasters affect Californians living
- 6 in every corner of our state.
- 7 (b) Californians affected by a disaster are faced with the
- 8 daunting task of restarting their lives, often after losing their home
- 9 and all of their possessions. In many cases, people affected by a

1 *disaster are living in temporary accommodations, may not be able*
2 *to go to work, may be living off of their savings, and may be feeling*
3 *tremendous pressure to begin the process of rebuilding their lives.*

4 *(c) Experiences have taught government and law enforcement*
5 *officials that the wake of a disaster is often rife with scams and*
6 *bad actors who are intent upon capitalizing on the misfortune of*
7 *others.*

8 *(d) False and misleading advertising is a significant problem*
9 *associated with the disaster recovery process. Bad actors attempt*
10 *to trick consumers into using their services through advertising*
11 *that appears to be an official government communication or by*
12 *disguising for-profit offers as being advertisements of a*
13 *not-for-profit organization.*

14 *(e) Survivors of a disaster must be free to make informed*
15 *decisions, based upon fair and objective information. Therefore,*
16 *it is necessary to impose restrictions upon deceptive advertising*
17 *to curtail this practice during periods of declared emergency.*

18 *SEC. 2. Section 17533.1 is added to the Business and*
19 *Professions Code, to read:*

20 *17533.1. (a) For purposes of this section, the following*
21 *definitions shall apply:*

22 *(1) "Commercial disaster communication" means any*
23 *communication targeted at, or that may reasonably be expected*
24 *to be observed by, any person residing within, or displaced from,*
25 *an area subject to a declared state of emergency and that meets*
26 *either of the following:*

27 *(A) Advertises goods or services related to the losses caused by*
28 *the declared disaster and that are to be provided by any person*
29 *that operates in a for-profit manner.*

30 *(B) Uses the name of any specific geographic area that is named*
31 *in a declared state of emergency.*

32 *(2) "Conspicuous" or "conspicuously" means displayed apart*
33 *from other print contained in the commercial disaster*
34 *communication and in not less than 12-point boldface type in*
35 *capital letters that is at least 2 point boldface type sizes larger*
36 *than the next largest print on the commercial disaster*
37 *communication, and in contrasting type, layout, font, or color in*
38 *a manner that clearly calls attention to the language.*

39 *(3) "False or misleading" means any commercial*
40 *communication that does either of the following:*

1 (A) Gives the impression of being made by, or approved by, a
2 governmental entity, including any communication that does either
3 of the following:

4 (i) Violates Section 17533.6, including by falsely implying
5 connection, approval, or endorsement of any governmental entity,
6 or by using any name or symbol thereof.

7 (ii) Utilizes any image of the state flag or state seal, or any
8 symbol that is intended to appear, or may be reasonably interpreted
9 to appear, like any symbol used by a governmental entity when no
10 governmental entity has approved the communication.

11 (B) Gives the impression of being made by, or approved by, a
12 not-for-profit organization, including any communication that
13 does either of the following:

14 (i) Falsely implies connection, approval, or endorsement of any
15 not-for-profit organization, or that uses any symbol associated
16 with a not-for-profit organization without the approval of the
17 organization.

18 (ii) Utilizes terms like “aid,” “assistance,” “benefit,” “relief,”
19 or other language that is intended to appear, or may be reasonably
20 interpreted to appear, as an offer for goods or services by a
21 not-for-profit organization when the communication has not been
22 approved by a not-for-profit organization.

23 (4) “Governmental entity” means any office, officer, department,
24 division, bureau, board, or commission within federal, state, or
25 local government.

26 (5) (A) “Not-for-profit organization” means either of the
27 following:

28 (i) A state-recognized or federally recognized disaster relief
29 organization.

30 (ii) An organization that provides disaster-related goods or
31 services at or below cost.

32 (B) “Not-for-profit organization” does not include an
33 organization offering goods or services on a contingency fee basis.

34 (6) “Person” means any person, corporation, firm, partnership,
35 joint stock company, or any other association or organization, or
36 an employee, agent, or independent contractor employed or
37 authorized by that person.

38 (7) “State of emergency” has the same meaning as that term is
39 defined in Section 8558 of the Government Code.

1 (8) "Symbol" means any device, image, mark, seal, emblem,
2 or insignia.

3 (b) It is unlawful for any person to make or disseminate in this
4 state by any means any false or misleading commercial disaster
5 communication.

6 (c) A commercial disaster communication shall not be deemed
7 to be false or misleading pursuant to this section if:

8 (1) With respect to communications that are potentially false
9 or misleading pursuant to subparagraph (A) of paragraph (3) of
10 subdivision (a), all of the following are met:

11 (A) The communication conspicuously features the following
12 disclosure: "THIS PRODUCT OR SERVICE HAS NOT BEEN
13 APPROVED OR ENDORSED BY ANY GOVERNMENTAL
14 AGENCY AND THIS OFFER IS NOT BEING MADE BY AN
15 AGENCY OF THE GOVERNMENT. THIS IS AN
16 ADVERTISEMENT."

17 (B) The communication conspicuously identifies the name and
18 incorporation status of the person providing the goods or services.

19 (C) The communication is otherwise compliant with the
20 requirements of this chapter.

21 (2) With respect to communications that are potentially false
22 or misleading pursuant to subparagraph (B) of paragraph (3) of
23 subdivision (a), all of the following are met:

24 (A) The communication conspicuously features the following
25 disclosure: "THIS PRODUCT OR SERVICE HAS NOT BEEN
26 APPROVED OR ENDORSED BY ANY NOT-FOR-PROFIT
27 ORGANIZATION AND THIS OFFER IS NOT BEING MADE BY
28 ANY NOT-FOR-PROFIT ORGANIZATION. THIS IS AN
29 ADVERTISEMENT."

30 (B) The communication conspicuously identifies the name and
31 incorporation status of the person providing the goods or services.

32 (C) The communication is otherwise compliant with the
33 requirements of this chapter.

34 (d) This section applies to any commercial disaster
35 communication made on or after the date of a proclamation of a
36 state of emergency until 60 calendar days after the termination of
37 the state of emergency, but shall not apply for more than 180
38 calendar days for any one state of emergency.

39 (e) The Attorney General or any district attorney, county
40 counsel, city attorney, or city prosecutor may bring an action

1 against any person who violates this section. The Insurance
2 Commissioner may bring an action against any person who violates
3 this section with respect to a communication relating to an
4 insurance licensee or to the business of insurance. The Department
5 of Consumer Affairs may bring an action against any person who
6 violates this section with respect to a communication relating to
7 a licensee of the department or matters under the jurisdiction of
8 the department.

9 (f) Any person who violates or proposes to violate this section
10 may be enjoined by any court of competent jurisdiction. The court
11 may make such orders or judgments, including the appointment
12 of a receiver, as may be necessary to prevent the use or employment
13 by any person of any practices that violate this section or that may
14 be necessary to restore to a person in interest any money or
15 property, real or personal, that may have been acquired by means
16 of any practice declared unlawful by this section. The court may
17 order a person who violates this section to refund all of the moneys
18 paid by the victim. The court shall impose a civil penalty of not
19 more than two thousand five hundred dollars (\$2,500) for an initial
20 violation of this section and not more than five thousand dollars
21 (\$5,000) for each subsequent communication in violation of this
22 section. The civil penalty shall be payable to the general fund of
23 whichever governmental entity brought the action to assess the
24 civil penalty.

25 (g) Any person who is harmed as a result of a violation of this
26 section may bring an action for violation of this section and shall
27 be entitled to recover, in addition to any other available remedies,
28 damages in an amount equal to three times the amount solicited.

29 (h) The remedies and penalties provided by this section are
30 cumulative to each other and to the remedies or penalties available
31 under all other laws of this state.

32 (i) Notwithstanding Section 17534, a violation of this section
33 is not a crime.

34 SEC. 3. Section 757.5 is added to the Insurance Code, to read:
35 757.5. It is unlawful for any person to make a false or
36 misleading communication in violation of Section 17533.1 of the
37 Business and Professions Code related to the business of insurance.
38 The commissioner may bring an action against any person who
39 violates this section in the manner provided in Section 17533.1 of
40 the Business and Professions Code.

1 ~~SECTION 1. Section 1072 of the Insurance Code is amended~~
2 ~~to read:~~

3 ~~1072. The commissioner shall make, or cause to be made by~~
4 ~~the insurance authority of the State where the insurer is organized,~~
5 ~~an examination of the books and records of the insurer. If, upon~~
6 ~~such examination, the commissioner finds that the insurer has no~~
7 ~~outstanding liabilities to residents of this State and no policies in~~
8 ~~favor of the residents of this State uncanceled or the primary~~
9 ~~liabilities under which have not been reinsured and assumed by~~
10 ~~another admitted insurer, as required by Section 1071.5, the~~
11 ~~commissioner shall cancel the insurer's certificates of authority,~~
12 ~~if unexpired, and shall permit the insurer to withdraw. The~~
13 ~~commissioner may, in their discretion, waive any or all of the~~
14 ~~above requirements if, after such examination, the commissioner~~
15 ~~finds it to be in a solvent condition. The cost and expense of all~~
16 ~~such examinations shall be paid as prescribed in Section 736.~~