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AB-637 False or misleading commercial disaster communication. (2025-2026)

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AMENDED IN ASSEMBLY APRIL 21, 2025

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 637

Introduced by Assembly Member Flora

February 13, 2025

An act to add Section ~~17533.1 to the Business and Professions Code, and to add Section 757.5~~ **790.20** to the Insurance Code, relating to ~~advertising~~ **insurance**.

LEGISLATIVE COUNSEL'S DIGEST

AB 637, as amended, Flora. ~~Advertising-false~~ **False** or misleading commercial disaster communication.

Existing law generally regulates the rules governing insurance and insurance contracts. Existing law prohibits a person from engaging in any trade practices that are defined as unfair methods of competition or unfair or deceptive acts or practices in the business of insurance, including publicly making or disseminating in a publication or advertising device, among others, a statement containing an untrue, deceptive, or misleading statement regarding the business of insurance, and makes a person who engages in those practices liable to the state for a civil penalty not to exceed \$5,000 or \$10,000, as specified.

This bill would authorize a court to increase a civil penalty by up to \$2,500 for a commercial disaster communication, as defined, that otherwise constitutes a violation of the above-described provisions. The bill would authorize the increase for a commercial disaster communication made on or after the date of a proclamation of a state of emergency or catastrophic disaster, as defined, until 60 calendar days after the termination of the state of emergency or catastrophic disaster, but prohibits the increase for applying more than 180 calendar days for any one state of emergency or catastrophic disaster.

The bill would make related findings and declarations.

~~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.~~

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

- (a) Disasters, including wildfires, extreme weather events, and earthquakes, have pronounced impacts on our state and are increasing in frequency. These disasters affect Californians living in every corner of our state.
- (b) Californians affected by a disaster are faced with the daunting task of restarting their lives, often after losing their home and all of their possessions. In many cases, people affected by a disaster are living in temporary accommodations, may not be able to go to work, may be living off of their savings, and may be feeling tremendous pressure to begin the process of rebuilding their lives.
- (c) Experiences have taught government and law enforcement officials that the wake of a disaster is often rife with scams and bad actors who are intent upon capitalizing on the misfortune of others.
- (d) False and misleading advertising is a significant problem associated with the disaster recovery process. Bad actors attempt to trick consumers into using their services through advertising that appears to be an official government communication or by disguising for-profit offers as being advertisements of a not-for-profit organization.
- (e) Survivors of a disaster must be free to make informed decisions, based upon fair and objective information. Therefore, it is necessary to ~~impose~~ *strengthen* restrictions upon deceptive advertising *in the business of insurance* to curtail this practice during periods of declared emergency.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(4)"Governmental entity" means any office, officer, department, division, bureau, board, or commission within federal, state, or local government.~~

~~(5)(A)"Not-for-profit organization" means either of the following:~~

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

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

~~(B)"Not-for-profit organization" does not include an organization offering goods or services on a contingency fee basis.~~

~~(6)"Person" means any person, corporation, firm, partnership, joint stock company, or any other association or organization, or an employee, agent, or independent contractor employed or authorized by that person.~~

~~(7)"State of emergency" has the same meaning as that term is defined in Section 9558 of the Government Code.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(e)The Attorney General or any district attorney, county counsel, city attorney, or city prosecutor may bring an action against any person who violates this section. The Insurance Commissioner may bring an action against any person who violates this section with respect to a communication relating to an insurance licensee or to the business of insurance. The Department of Consumer Affairs may bring an action against any person who violates this section with respect to a communication relating to a licensee of the department or matters under the jurisdiction of the department.~~

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

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

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

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

~~SEC. 3.Section 757.5 is added to the Insurance Code, to read:~~

~~757.5.It is unlawful for any person to make a false or misleading communication in violation of Section 17533.1 of the Business and Professions Code related to the business of insurance. The commissioner may bring an action against any person who violates this section in the manner provided in Section 17533.1 of the Business and Professions Code.~~

SEC. 2. *Section 790.20 is added to the Insurance Code, immediately following Section 790.15, to read:*

790.20. *(a) A court may increase, by up to two thousand five hundred dollars (\$2,500), a civil penalty imposed under this article for a commercial disaster communication that otherwise constitutes a violation of subdivision (b) of Section 790.03.*

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

(c) For purposes of this section, the following definitions apply:

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

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

(B) Uses the name of any specific geographic area that is named in a declared state of emergency or catastrophic disaster.

(2) "State of emergency" has the same meaning as in Section 8558 of the Government Code.

(3) "Catastrophic disaster" has the same meaning as in Section 15001.