

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee  
 2 Representative Andrade offered the following:

**Amendment (with title amendment)**

Remove lines 21-128 and insert:

Section 1. Section 501.139, Florida Statutes, is created  
to read:

501.139 Advertisements for legal services.-

(1) As used in this section, the term:

(a) "Advertisement for legal services" means any  
 representation disseminated in any manner through a media entity  
 for the purpose of soliciting prospective clients for legal  
 services. The term includes such solicitation by a person with  
 the intent to transfer data obtained from the consumer to one or  
 more attorneys for legal services.

(b) "Media entity" means a radio broadcast station, a

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17 television broadcast station, a cable television company, a  
18 newspaper company, a periodical company, a billboard company, an  
19 advertising agency, a digital media platform, or a bona fide  
20 news or public interest website operator.

21 (c) "Protected health information" has the same meaning as  
22 provided in 45 C.F.R. s. 160.103.

23 (d) "Solicit" means attempting to procure a client for  
24 legal services by initiating unsolicited personal, telephone, or  
25 real-time electronic contact or by advertising such services  
26 through print media, video or audio recorded advertisements, or  
27 electronic communications.

28 (2) A person or an entity that issues an advertisement for  
29 legal services may not do any of the following:

30 (a) Present the advertisement as a medical alert, health  
31 alert, drug alert, or public service announcement or use any  
32 substantially similar phrase that suggests to a reasonable  
33 consumer that the advertisement is offering professional or  
34 medical advice or advice from a state or federal governmental  
35 entity or an entity approved by or affiliated with a state or  
36 federal governmental entity.

37 (b) Display the logo of a state or federal governmental  
38 entity in a manner that suggests to a reasonable consumer that  
39 the advertisement is presented by a state or federal  
40 governmental entity or by an entity approved by or affiliated  
41 with a state or federal governmental entity.

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42 (c) Use the term "recall" when referring to a product that  
43 has not been recalled in accordance with applicable state or  
44 federal regulations.

45 (3) A person or an entity that issues an advertisement for  
46 legal services to solicit clients who may allege injury from a  
47 prescription drug or medical device approved by the United  
48 States Food and Drug Administration shall include all of the  
49 following in the advertisement:

50 (a) The statement, "This is a paid advertisement for legal  
51 services," which must appear at the beginning of the  
52 advertisement.

53 (b) The identity of the sponsor of the advertisement.

54 (c) Either the identity of the attorney or the law firm  
55 that will be primarily responsible for providing the solicited  
56 legal services to a consumer who engages the attorney or law  
57 firm in response to the advertisement or an explanation of how a  
58 responding consumer's case will be referred to an attorney or a  
59 law firm if the sponsor of the advertisement is not licensed to  
60 practice law.

61 (d) A statement that the prescription drug or medical  
62 device approved by the United States Food and Drug  
63 Administration remains approved unless it has been recalled in  
64 accordance with applicable state or federal regulations.

65 (e) The statement, "Consult your physician before making  
66 any decision regarding prescribed medication or medical

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67 treatment."

68 (4) The statements required to appear in an advertisement  
69 under this section must be made in both written and verbal  
70 formats, except that a print-only advertisement may include the  
71 statements in written format only and an audio-only  
72 advertisement may include the statements in verbal format only.

73 (a) Required written statements must appear in a clear and  
74 conspicuous font and manner and, for visual advertisements, must  
75 appear on screen for a sufficient length of time for a  
76 reasonable consumer to read the statement. A written statement  
77 is presumed to comply with the requirements of this subsection  
78 if it appears in the same font style and size and for the same  
79 duration as a printed reference to the telephone number or  
80 website that a consumer is to use to contact the entity for the  
81 advertised legal services, provided that such duration is at  
82 least 10 seconds.

83 (b) Required verbal statements must be audible,  
84 intelligible, and presented with equal prominence and speed as  
85 the other parts of the advertisement. A verbal statement is  
86 presumed to comply with the requirements of this subsection if  
87 it is made at approximately the same volume and uses  
88 approximately the same number of words per minute as used when  
89 presenting other information in the advertisement which is not  
90 required under this section.

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91 (5) The person or entity that issues an advertisement for  
92 legal services is solely responsible for ensuring that such  
93 advertisement complies with this section, and a media entity may  
94 not be held liable or subjected to any penalty for producing,  
95 distributing, transmitting, displaying, publishing, or otherwise  
96 disseminating another person's or entity's advertisement for  
97 legal services which violates this section.

98 (6) This section does not apply to an advertisement that  
99 has been reviewed and approved by an ethics or disciplinary  
100 committee of The Florida Bar in accordance with its rules of  
101 professional conduct.

102 (7) A person or an entity may not use, cause to be used,  
103 obtain, sell, transfer, or disclose a consumer's protected  
104 health information to another person or entity for the purpose  
105 of soliciting the consumer for legal services without written  
106 authorization from that consumer. This subsection does not apply  
107 to the use or disclosure of protected health information to an  
108 individual's legal representative in the course of any judicial  
109 or administrative proceeding or as otherwise permitted or  
110 required by law.

111 (8) A violation of this section is deemed a deceptive and  
112 unfair trade practice subject to enforcement under part II of  
113 this chapter.

114 (9) This section does not limit or otherwise affect the  
115 authority of The Florida Bar to regulate the practice of law,

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116 enforce its rules of professional conduct, or discipline any  
117 person admitted to practice law in this state.

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**T I T L E   A M E N D M E N T**

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Remove lines 3-16 and insert:

122

creating s. 501.139, F.S.; defining terms; specifying

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prohibited practices relating to advertisements for

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legal services; requiring persons and entities that

125

issue advertisements for legal services to solicit

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certain clients to include specified information and

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statements in such advertisements; providing for both

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written and verbal statements in advertisements for

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legal services; providing requirements for such

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written and verbal statements; providing that the

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person or entity that issues an advertisement is

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solely responsible for ensuring its compliance with

133

specified provisions; providing media entities with

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immunity from liability for disseminating another

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person's or entity's advertisement that violates

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specified provisions; providing applicability;

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prohibiting the use, obtaining, sale, transfer, or

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disclosure of a consumer's protected health

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information for a specified purpose without written

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authorization; providing an exception; providing that

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Bill No. HB 1205 (2023)

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141 certain violations are deemed deceptive and unfair  
142 trade practices; providing construction; providing an  
143 effective