

SECOND REGULAR SESSION

# SENATE BILL NO. 1143

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAYER.

Read 1st time February 14, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5069S.011

## AN ACT

To amend chapter 484, RSMo, by adding thereto one new section relating to deceptive television advertisements for legal services.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 484, RSMo, is amended by adding thereto one new section, to be known as section 484.300, to read as follows:

**484.300. 1. Any lawyer, law firm, or other entity conducting television advertising in Missouri for legal services shall abide by the provisions of this section to prevent false or misleading television advertisements.**

**2. No television advertisement for legal services shall contain a false or misleading communication about the lawyer, law firm, or the legal services. A communication shall be false if it contains a material misrepresentation of fact or law. Misleading communications include but are not limited to the following conditions:**

**(1) Omits a fact which leads the statement, when considered as a whole, to be materially misleading;**

**(2) Is likely to create an unjustified expectation about results the lawyer can achieve;**

**(3) States or implies that the lawyer can achieve results by means that violate the Missouri Supreme Court Rules of Professional Conduct, or other rules or laws;**

**(4) Compares the quality of a lawyer's or a law firm's services with services of another lawyer or law firm, unless the comparison can be factually substantiated;**

**(5) Advertises for a specific type of case concerning which the lawyer has neither experience nor competence;**

22           (6) Contains any paid testimonial about or endorsement of the  
23 lawyer, without conspicuous identification of the fact that the payment  
24 has been made for the testimonial or endorsement;

25           (7) Contains any simulated portrayal of a lawyer, client, victim,  
26 scene, or event without conspicuous identification of the fact that it is  
27 a simulation;

28           (8) Provides an office address for an office staffed only part-time  
29 or by appointment only; or

30           (9) States that legal services are available on a contingent or no-  
31 recovery-no-fee basis without stating conspicuously that the client may  
32 be responsible for costs or expenses, if that is the case.

33           3. Any television advertisement for legal services shall contain  
34 the following language both stated orally and stated in writing:  
35 "Warning: The Missouri Supreme Court cautions that the choice of a  
36 lawyer is an important decision and should not be based solely upon  
37 advertisements." The written disclaimer shall be displayed for at least  
38 ten seconds at both the beginning and the end of the advertisement,  
39 and orally stated once at the beginning and once at the end of the  
40 advertisement. The statement shall be made in a type size and manner  
41 that is reasonably legible to persons watching and sounded audibly in  
42 a clear and understandable manner to persons listening to the  
43 advertisement.

44           4. If any advertiser of legal services routinely refers cases  
45 acquired by television advertising to lawyers not employed by the  
46 lawyer, law firm, or entity whose name appears prominently on the  
47 advertisement, then the advertisement shall display in writing and  
48 state orally the following: "Warning: Your case may be referred for  
49 handling to lawyers or law firms that are not employed by the (stating  
50 name of advertising law firm) law firm." This statement shall be made  
51 in a type size and manner that is reasonably legible to persons  
52 watching and sounded audibly in a clear and understandable manner  
53 to persons listening to the advertisement.

54           5. If a television advertisement for legal services includes  
55 amounts of particular past verdicts or settlements, then the full case  
56 name, and a complete, fair and accurate description of the case shall be  
57 included in the advertisement. Specific consent of the former client is  
58 necessary for each television advertisement and the advertisement

59 shall prominently display and orally state the name of the actual  
60 lawyer who completed the majority of the legal work on the case. This  
61 statement shall be made in a type size and manner that is reasonably  
62 legible to persons watching and sounded audibly in a clear and  
63 understandable manner to persons listening to the advertisement.

64 (1) If prior verdicts or settlements are referenced in a television  
65 advertisement, the following disclaimer shall be displayed in writing  
66 and orally stated: "Warning: Past verdicts or settlement amounts are  
67 not an indication that the advertiser can achieve similar results for you  
68 or that you have a valid claim." This statement shall be made in a type  
69 size and manner that is reasonably legible to persons watching and  
70 sounded audibly in a clear and understandable manner to persons  
71 listening to the advertisement.

72 (2) It shall be false or misleading advertising and a violation of  
73 this section for a television advertisement to state a combined dollar  
74 amount or aggregate amount that an advertiser of legal services claims  
75 to have achieved, including by way of example but not by way of  
76 limitation, "our firm has collected over a billion dollars for our clients."

77 6. Any lawyer, law firm, or other entity conducting television  
78 advertising in Missouri for legal services shall display in writing and  
79 state orally the location of the principal office of the lawyer, law firm,  
80 or entity sponsoring the advertisement. If the principal domicile of the  
81 lawyer, law firm, or entity advertising legal services is not in Missouri,  
82 the advertisement shall clearly indicate in writing and state orally that  
83 the lawyer, law firm, or entity does not have a license to practice law  
84 in Missouri, and shall specifically state the name of the lawyer or  
85 lawyers licensed to practice law and actively practicing law in Missouri  
86 who will participate in all cases obtained through use of the  
87 advertisement. The statements required by this subsection shall be  
88 made in a type size and manner that is reasonably legible to persons  
89 watching and sounded audibly in a clear and understandable manner  
90 to persons listening to the advertisement.

91 7. A lawyer, law firm, or entity shall not, directly or indirectly,  
92 pay all or a part of the cost of a television advertisement for legal  
93 services unless such advertisement discloses the name and address of  
94 such financing party, the relationship between the advertising party  
95 and the financing party, and whether the advertising party is likely to

96 refer cases received through the advertisement to the financing party.

97           8. The only entities or organizations that are authorized to  
98 advertise on television as a lawyer referral and information service and  
99 refer potential clients or cases to lawyers or law firms shall be  
100 qualified lawyer referral services as defined by Rule 4-9.1 of the  
101 Missouri Supreme Court Rules of Professional Conduct.

102           9. Any person who views television advertising that violates this  
103 section may bring a civil action against the lawyer, law firm or entity  
104 sponsoring the advertising for injunctive relief and damages of one  
105 thousand dollars for each violation contained in the advertisement and  
106 for each time the advertisement is played, and may recover the  
107 expenses and costs of litigation, including expert witness fees and  
108 attorneys' fees.

109           10. The provisions of this section shall not apply to advertising  
110 done by a qualified lawyer referral service as defined by Rule 4-9.1 of  
111 the Missouri Supreme Court Rules of Professional Conduct.

112           11. This section shall not apply to circumstances in which the  
113 name of a lawyer or law firm appears on a television advertisement  
114 solely as a donor or sponsor for a charitable or community cause.

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