

SECOND REGULAR SESSION

# HOUSE BILL NO. 2382

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES STEVENSON (Sponsor), RUESTMAN,  
MEINERS AND NASHEED (Co-sponsors).

Read 1st time March 10, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5354L.01I

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### AN ACT

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

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*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  
2 known as section 484.300, to read as follows:

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

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

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

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

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

44           5. (1) If a television advertisement for legal services includes amounts of particular  
45 past verdicts or settlements, then the full case name, and a complete, fair and accurate  
46 description of the case shall be included in the advertisement. Specific consent of the  
47 former client is necessary for each television advertisement and the advertisement shall  
48 prominently display and orally state the name of the actual lawyer who completed the  
49 majority of the legal work on the case. This statement shall be made in a type size and

50 manner that is reasonably legible to persons watching and sounded audibly in a clear and  
51 understandable manner to persons listening to the advertisement.

52 (2) If prior verdicts or settlements are referenced in a television advertisement, the  
53 following disclaimer shall be displayed in writing and orally stated: "Warning: Past  
54 verdicts or settlement amounts are not an indication that the advertiser can achieve similar  
55 results for you or that you have a valid claim.". This statement shall be made in a type size  
56 and manner that is reasonably legible to persons watching and sounded audibly in a clear  
57 and understandable manner to persons listening to the advertisement.

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

62 6. Any lawyer, law firm, or other entity conducting television advertising in  
63 Missouri for legal services shall display in writing and state orally the location of the  
64 principal office of the lawyer, law firm, or entity sponsoring the advertisement. If the  
65 principal domicile of the lawyer, law firm, or entity advertising legal services is not in  
66 Missouri, the advertisement shall clearly indicate in writing and state orally that the  
67 lawyer, law firm, or entity does not have a license to practice law in Missouri, and shall  
68 specifically state the name of the lawyer or lawyers licensed to practice law and actively  
69 practicing law in Missouri who will participate in all cases obtained through use of the  
70 advertisement. The statements required by this subsection shall be made in a type size and  
71 manner that is reasonably legible to persons watching and sounded audibly in a clear and  
72 understandable manner to persons listening to the advertisement.

73 7. A lawyer, law firm, or entity shall not, directly or indirectly, pay all or a part of  
74 the cost of a television advertisement for legal services unless such advertisement discloses  
75 the name and address of such financing party, the relationship between the advertising  
76 party and the financing party, and whether the advertising party is likely to refer cases  
77 received through the advertisement to the financing party.

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

82 9. Any person who views television advertising that violates this section may bring  
83 a civil action against the lawyer, law firm or entity sponsoring the advertising for  
84 injunctive relief and damages of one thousand dollars for each violation contained in the

85 advertisement and for each time the advertisement is played, and may recover the expenses  
86 and costs of litigation, including expert witness fees and attorneys' fees.

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

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

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