

ASSEMBLY BILL

No. 686

Introduced by Assembly Member Daly

February 25, 2015

An act to add Section 6126.8 to the Business and Professions Code, relating to attorneys.

LEGISLATIVE COUNSEL'S DIGEST

AB 686, as introduced, Daly. Unauthorized practice of law: referrals.

The State Bar Act provides for the licensure and regulations of attorneys by the State Bar of California, a public corporation. The act prohibits persons who are not active members of the State Bar from practicing law in California, defined as including, among other things, advertising or holding himself or herself out as entitled to practice law or literally translating from English into another language, in any document, any words that imply that he or she is an attorney. The law makes a violation of this prohibition a misdemeanor.

This bill would expand that prohibition to include referring a person injured in the course of employment to a lawyer or law firm for professional services in connection with the injury. The bill would impose a civil penalty of up to \$2,500 per day for each referral and require the State Bar to assess and collect the penalty in a civil action, as specified. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 6126.8 is added to the Business and
2 Professions Code, to read:
3 6126.8. (a) It is a violation of subdivision (a) of Section 6126
4 for any person who is not licensed to practice law in this state to
5 receive a fee or any other form of compensation from a lawyer,
6 law firm, or agent or employee of a lawyer or law firm for referring
7 a person injured in the course of employment to a lawyer or law
8 firm for professional services in connection with the injury.
9 (b) (1) In addition to any other remedies and penalties
10 prescribed in this article, a person who violates this section shall
11 be subject to a civil penalty not to exceed two thousand five
12 hundred dollars (\$2,500) per day for each violation, to be assessed
13 and collected in a civil action brought by the State Bar.
14 (2) The court shall grant a prevailing plaintiff reasonable
15 attorney’s fees and costs.
16 (3) A civil action brought under this section shall be commenced
17 within four years after the cause of action accrues.
18 (4) In a civil action brought by the State Bar under this section,
19 the civil penalty collected shall be paid to the State Bar and
20 allocated to the civil enforcement of violations of subdivision (a)
21 of Section 6126, including actions brought under this section.
22 SEC. 2. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

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