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Attorneys for Plaintiff/Petitioner
CITY OF LINCOLN

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF PLACER

CITY OF LINCOLN, a California municipal
corporation, CITY OF LINCOLN, by and for
the People of the State of California,

Plaintiff/Petitioner,

v.

THE GATHERING INN, a California public
benefit non-profit corporation; CALIFORNIA
DEPARTMENT OF SOCIAL SERVICES, a
California state agency, HORNE LLP, a
Delaware limited liability partnership, and
DOES 1 through 15 inclusive,

Defendants/Respondents.

Case No. S-CV-0053711
Hon. Trisha J. Hirashima

**DECLARATION OF CHRISTOPHER
M. PISANO IN SUPPORT OF CITY OF
LINCOLN'S OPPOSITION TO THE
GATHERING INN'S DEMURRER**

[Filed concurrently with:

- 1. City's Opposition to Demurrer; and*
- 2. Request for Judicial Notice.]*

Date: 2/11/2025
Time: 8:25 a.m.
Dept.: 42
Action Filed: September 30, 2024
Trial Date: None yet set.

DECLARATION OF CHRISTOPHER M. PISANO

I, Christopher M. Pisano, declare as follows:

1. I am an attorney at law, licensed to practice before all court of the State of California. I am a partner with Best Best & Krieger LLP, attorneys of record for the City of Lincoln ("Plaintiff") in this action. I have personal knowledge of the facts set forth below and if called upon to do so, could competently testify to them.

2. I make this declaration in support of Plaintiff's Opposition to The Gathering Inn's Demurrer to the City of Lincoln's First Amended Complaint.

3. Under my direction and supervision, my office staff reached out to Legislative Intent Service, Inc. ("LIS") to order legislative history of the statutory language that now exists in Business and Professions Code Section 17204. This language appears to have been enacted as part of Senate Bill 1725, and we requested that LIS provide us with legislative history regarding that bill. Attached hereto as Exhibit "1" is a true and correct copy of the legislative history that we received. Attached hereto as Exhibit "2" is a true and correct copy of a Declaration of Anna Maria Berezky-Anderson with LIS.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 13th day of January, 2025 in Los Angeles, California.



Christopher M. Pisano

EXHIBIT 1

SENATE BILL

No. 1725

Introduced by Senator Robbins

February 14, 1974

An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific or preventive relief.

LEGISLATIVE COUNSEL'S DIGEST

SB 1725, as introduced, Robbins. Unfair competition.

Authorizes city attorney to prosecute actions in unfair competition cases.

Provides that in such case one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered.

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

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

1 SECTION 1. Section 3369 of the Civil Code is
2 amended to read:

3 3369. 1. Neither specific nor preventive relief can be
4 granted to enforce a penalty or forfeiture in any case, nor
5 to enforce a penal law, except in a case of nuisance or
6 unfair competition.

7 2. Any person performing or proposing to perform an
8 act of unfair competition within this state may be
9 enjoined in any court of competent jurisdiction.

10 3. As used in this section, unfair competition shall
11 mean and include unlawful, unfair or fraudulent business
12 practice and unfair, deceptive, untrue or misleading
13 advertising and any act denounced by Business and
14 Professions Code Sections 17500 to 17535, inclusive.

15 4. As used in this section, the term person shall mean
16 and include natural persons, corporations, firms,

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ASSEMBLY

1 partnerships, joint stock companies, associations and
2 other organizations of persons.

3 5. Actions for injunction under this section may be
4 prosecuted by the Attorney General or any district
5 attorney *or city attorney* in this state in the name of the
6 people of the State of California upon their own
7 complaint or upon the complaint of any board, officer,
8 person, corporation or association or by any person acting
9 for the interests of itself, its members or the general
10 public.

11 SEC. 2. Section 3370.1 of the Civil Code is amended to
12 read:

13 3370.1. Any person who violates any provision of this
14 chapter shall be liable for a civil penalty not to exceed two
15 thousand five hundred dollars (\$2,500) for each violation,
16 which shall be assessed and recovered in a civil action
17 brought in the name of the people of the State of
18 California by the Attorney General or by any district
19 attorney *or any city attorney* in any court of competent
20 jurisdiction. If brought by the Attorney General, one-half
21 of the penalty collected shall be paid to the treasurer of
22 the county in which the judgment was entered, and
23 one-half to the State General Fund. *If brought by a city*
24 *attorney, one-half of the penalty collected shall be paid to*
25 *the treasurer of the city in which the judgment was*
26 *entered.*

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AMENDED IN SENATE APRIL 24, 1974

SENATE BILL

No. 1725

Introduced by Senator Robbins

February 14, 1974

An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific or preventive relief.

LEGISLATIVE COUNSEL'S DIGEST

SB 1725, as amended, Robbins. Unfair competition.

Authorizes city attorney of a city having a population in excess of 2,000,000 to prosecute actions in unfair competition cases.

Provides that in such case one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered.

Provides that if action is prosecuted by district attorney, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund.

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

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

- 1 SECTION 1. Section 3369 of the Civil Code is
- 2 amended to read:
- 3 3369. 1. Neither specific nor preventive relief can be
- 4 granted to enforce a penalty or forfeiture in any case, nor
- 5 to enforce a penal law, except in a case of nuisance or
- 6 unfair competition.
- 7 2. Any person performing or proposing to perform an
- 8 act of unfair competition within this state may be
- 9 enjoined in any court of competent jurisdiction.

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ASSEMBLY 3B



1 3. As used in this section, unfair competition shall
2 mean and include unlawful, unfair or fraudulent business
3 practice and unfair, deceptive, untrue or misleading
4 advertising and any act denounced by Business and
5 Professions Code Sections 17500 to 17535, inclusive.

6 4. As used in this section, the term person shall mean
7 and include natural persons, corporations, firms,
8 partnerships, joint stock companies, associations and
9 other organizations of persons.

10 5. Actions for injunction under this section may be
11 prosecuted by the Attorney General or any district
12 attorney or city attorney *of a city having a population in*
13 *excess of 2,000,000* in this state in the name of the people
14 of the State of California upon their own complaint or
15 upon the complaint of any board, officer, person,
16 corporation or association or by any person acting for the
17 interests of itself, its members or the general public.

18 SEC. 2. Section 3370.1 of the Civil Code is amended to
19 read:

20 3370.1. Any person who violates any provision of this
21 chapter shall be liable for a civil penalty not to exceed two
22 thousand five hundred dollars (\$2,500) for each violation,
23 which shall be assessed and recovered in a civil action
24 brought in the name of the people of the State of
25 California by the Attorney General or by any district
26 attorney or any city attorney *of a city having a population*
27 *in excess of 2,000,000* in any court of competent
28 jurisdiction. If brought by the Attorney General or
29 *district attorney*, one-half of the penalty collected shall
30 be paid to the treasurer of the county in which the
31 judgment was entered, and one-half to the State General
32 Fund. If brought by a city attorney, one-half of the
33 penalty collected shall be paid to the treasurer of the city
34 in which the judgment was entered.

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AMENDED IN SENATE MAY 14, 1974
AMENDED IN SENATE APRIL 24, 1974

SENATE BILL

No. 1725

Introduced by Senator Robbins

February 14, 1974

An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific or preventive relief.

LEGISLATIVE COUNSEL'S DIGEST

SB 1725, as amended, Robbins. Unfair competition.
Authorizes city attorney of a city having a population in excess of 2,000,000 to prosecute actions in unfair competition cases.

Provides that in such case one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered *and one-half to the treasurer of the county in which the judgment was entered.*

Provides that if action is prosecuted by district attorney, ~~one-half~~ of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered; ~~and one-half to the State General Fund.~~

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

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

1 SECTION 1. Section 3369 of the Civil Code is
2 amended to read:
3 3369. 1. Neither specific nor preventive relief can be
4 granted to enforce a penalty or forfeiture in any case, nor
5 to enforce a penal law, except in a case of nuisance or
6 unfair competition.

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LEGISLATIVE INTENT SERVICE (800) 666-1917



ASSEMBLY 55

1 2. Any person performing or proposing to perform an
2 act of unfair competition within this state may be
3 enjoined in any court of competent jurisdiction.

4 3. As used in this section, unfair competition shall
5 mean and include unlawful, unfair or fraudulent business
6 practice and unfair, deceptive, untrue or misleading
7 advertising and any act denounced by Business and
8 Professions Code Sections 17500 to 17535, inclusive.

9 4. As used in this section, the term person shall mean
10 and include natural persons, corporations, firms,
11 partnerships, joint stock companies, associations and
12 other organizations of persons.

13 5. Actions for injunction under this section may be
14 prosecuted by the Attorney General or any district
15 attorney or city attorney of a city having a population in
16 excess of 2,000,000 in this state in the name of the people
17 of the State of California upon their own complaint or
18 upon the complaint of any board, officer, person,
19 corporation or association or by any person acting for the
20 interests of itself, its members or the general public.

21 SEC. 2. Section 3370.1 of the Civil Code is amended to
22 read:

23 3370.1. Any person who violates any provision of this
24 chapter shall be liable for a civil penalty not to exceed two
25 thousand five hundred dollars (\$2,500) for each violation,
26 which shall be assessed and recovered in a civil action
27 brought in the name of the people of the State of
28 California by the Attorney General or by any district
29 attorney or any city attorney of a city having a population
30 in excess of 2,000,000 in any court of competent
31 jurisdiction. If brought by the Attorney General or
32 ~~district attorney~~, one-half of the penalty collected shall
33 be paid to the treasurer of the county in which the
34 judgment was entered, and one-half to the State General
35 Fund. *If brought by a district attorney, the penalty*
36 *collected shall be paid to the treasurer of the county in*
37 *which the judgment was entered.* If brought by a city
38 attorney, one-half of the penalty collected shall be paid to
39 the treasurer of the city in which the judgment was
40 entered, and one-half to the treasurer of the county in

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SB 1725

1 *which the judgment was entered.*

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LEGISLATIVE INTENT SERVICE (800) 666-1917



ASIR 75

AMENDED IN SENATE JUNE 27, 1974
AMENDED IN SENATE MAY 14, 1974
AMENDED IN SENATE APRIL 24, 1974

SENATE BILL

No. 1725

Introduced by Senator Robbins

February 14, 1974

An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific or preventive relief.

LEGISLATIVE COUNSEL'S DIGEST

SB 1725, as amended, Robbins. Unfair competition.

Authorizes city attorney of a city having a population in excess of ~~2,000,000~~ 750,000 to prosecute actions in unfair competition cases.

Provides that in such case one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered.

Provides that if action is prosecuted by district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered.

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

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

- 1 SECTION 1. Section 3369 of the Civil Code is
- 2 amended to read:
- 3 3369. 1. Neither specific nor preventive relief can be
- 4 granted to enforce a penalty or forfeiture in any case, nor
- 5 to enforce a penal law, except in a case of nuisance or
- 6 unfair competition.

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ASSEMBLY 88

1 2. Any person performing or proposing to perform an
2 act of unfair competition within this state may be
3 enjoined in any court of competent jurisdiction.

4 3. As used in this section, unfair competition shall
5 mean and include unlawful, unfair or fraudulent business
6 practice and unfair, deceptive, untrue or misleading
7 advertising and any act denounced by Business and
8 Professions Code Sections 17500 to 17535, inclusive.

9 4. As used in this section, the term person shall mean
10 and include natural persons, corporations, firms,
11 partnerships, joint stock companies, associations and
12 other organizations of persons.

13 5. Actions for injunction under this section may be
14 prosecuted by the Attorney General or any district
15 attorney or city attorney of a city having a population in
16 excess of ~~2,000,000~~ 750,000 in this state in the name of the
17 people of the State of California upon their own
18 complaint or upon the complaint of any board, officer,
19 person, corporation or association or by any person acting
20 for the interests of itself, its members or the general
21 public.

22 SEC. 2. Section 3370.1 of the Civil Code is amended to
23 read:

24 3370.1. Any person who violates any provision of this
25 chapter shall be liable for a civil penalty not to exceed two
26 thousand five hundred dollars (\$2,500) for each violation,
27 which shall be assessed and recovered in a civil action
28 brought in the name of the people of the State of
29 California by the Attorney General or by any district
30 attorney or any city attorney of a city having a population
31 in excess of ~~2,000,000~~ 750,000 in any court of competent
32 jurisdiction. If brought by the Attorney General, one-half
33 of the penalty collected shall be paid to the treasurer of
34 the county in which the judgment was entered, and
35 one-half to the State General Fund. If brought by a
36 district attorney, the penalty collected shall be paid to the
37 treasurer of the county in which the judgment was
38 entered. If brought by a city attorney, one-half of the
39 penalty collected shall be paid to the treasurer of the city
40 in which the judgment was entered, and one-half to the



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SB 1725

1 treasurer of the county in which the judgment was
2 entered.

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ASR 100

AMENDED IN ASSEMBLY AUGUST 23, 1974

AMENDED IN SENATE JUNE 27, 1974

AMENDED IN SENATE MAY 14, 1974

AMENDED IN SENATE APRIL 24, 1974

SENATE BILL

No. 1725

Introduced by Senator Robbins

February 14, 1974

An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific or preventive relief.

LEGISLATIVE COUNSEL'S DIGEST

SB 1725, as amended, Robbins. Unfair competition.

Authorizes city attorney of a city having a population in excess of 750,000 to prosecute actions in unfair competition cases.

Authorizes city prosecutor, with the consent of the district attorney, in any city or city and county having a full-time city prosecutor to prosecute actions in unfair competition cases.

Provides that in such case one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered.

Provides that if action is prosecuted by district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered.

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

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LEGISLATIVE INTENT SERVICE (800) 666-1917



ASRP 411b

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

1 SECTION 1. Section 3369 of the Civil Code is
2 amended to read:

3 3369. 1. Neither specific nor preventive relief can be
4 granted to enforce a penalty or forfeiture in any case, nor
5 to enforce a penal law, except in a case of nuisance or
6 unfair competition.

7 2. Any person performing or proposing to perform an
8 act of unfair competition within this state may be
9 enjoined in any court of competent jurisdiction.

10 3. As used in this section, unfair competition shall
11 mean and include unlawful, unfair or fraudulent business
12 practice and unfair, deceptive, untrue or misleading
13 advertising and any act denounced by Business and
14 Professions Code Sections 17500 to 17535, inclusive.

15 4. As used in this section, the term person shall mean
16 and include natural persons, corporations, firms,
17 partnerships, joint stock companies, associations and
18 other organizations of persons.

19 5. Actions for injunction under this section may be
20 prosecuted by the Attorney General or any district
21 ~~attorney or city attorney of a city having a population in~~
22 ~~excess of 750,000 in this state in the name of the attorney~~
23 *and, with the consent of the district attorney, by a city*
24 *prosecutor in any city or city and county having a*
25 *full-time city prosecutor in the name of the people of the*
26 State of California upon their own complaint or upon the
27 complaint of any board, officer, person, corporation or
28 association or by any person acting for the interests of
29 itself, its members or the general public.

30 SEC. 2. Section 3370.1 of the Civil Code is amended to
31 read:

32 3370.1. Any person who violates any provision of this
33 chapter shall be liable for a civil penalty not to exceed two
34 thousand five hundred dollars (\$2,500) for each violation,
35 which shall be assessed and recovered in a civil action
36 brought in the name of the people of the State of
37 California by the Attorney General or by any district
38 ~~attorney or any city attorney of a city having a population~~



1 ~~in excess of 750,000 in any court of competent attorney~~
2 ~~and, with the consent of the district attorney, by a city~~
3 ~~prosecutor in any city or city and county having a~~
4 ~~full-time city prosecutor in any court of competent~~
5 jurisdiction. If brought by the Attorney General, one-half
6 of the penalty collected shall be paid to the treasurer of
7 the county in which the judgment was entered, and
8 one-half to the State General Fund. If brought by a
9 district attorney, the penalty collected shall be paid to the
10 treasurer of the county in which the judgment was
11 entered. If brought by a city ~~attorney~~ prosecutor,
12 one-half of the penalty collected shall be paid to the
13 treasurer of the city in which the judgment was entered,
14 and one-half to the treasurer of the county in which the
15 judgment was entered.

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AMENDED IN CONFERENCE
SENATE AUGUST 31, 1974; ASSEMBLY AUGUST 29, 1974

AMENDED IN ASSEMBLY AUGUST 23, 1974

AMENDED IN SENATE JUNE 27, 1974

AMENDED IN SENATE MAY 14, 1974

AMENDED IN SENATE APRIL 24, 1974

SENATE BILL

No. 1725

Introduced by Senator Robbins

February 14, 1974

An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific or preventive relief.

LEGISLATIVE COUNSEL'S DIGEST

SB 1725, as amended, Robbins. Unfair competition.

Authorizes city attorney of a city having a population in excess of 750,000 to prosecute actions in unfair competition cases.

Authorizes city prosecutor, with the consent of the district attorney, in any city or city and county having a full-time city prosecutor to prosecute actions in unfair competition cases.

Provides that in such ~~case~~ cases one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered.

Provides that if action is prosecuted by district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered.

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

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LEGISLATIVE INTENT SERVICE



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ASR 144

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

1 SECTION 1. Section 3369 of the Civil Code is
2 amended to read:

3 3369. 1. Neither specific nor preventive relief can be
4 granted to enforce a penalty or forfeiture in any case, nor
5 to enforce a penal law, except in a case of nuisance or
6 unfair competition.

7 2. Any person performing or proposing to perform an
8 act of unfair competition within this state may be
9 enjoined in any court of competent jurisdiction.

10 3. As used in this section, unfair competition shall
11 mean and include unlawful, unfair or fraudulent business
12 practice and unfair, deceptive, untrue or misleading
13 advertising and any act denounced by Business and
14 Professions Code Sections 17500 to 17535, inclusive.

15 4. As used in this section, the term person shall mean
16 and include natural persons, corporations, firms,
17 partnerships, joint stock companies, associations and
18 other organizations of persons.

19 5. Actions for injunction under this section may be
20 prosecuted by the Attorney General or any district
21 attorney *or any city attorney of a city having a population*
22 *in excess of 750,000*, and, with the consent of the district
23 attorney, by a city prosecutor in any city or city and
24 county having a full-time city prosecutor in the name of
25 the people of the State of California upon their own
26 complaint or upon the complaint of any board, officer,
27 person, corporation or association or by any person acting
28 for the interests of itself, its members or the general
29 public.

30 SEC. 2. Section 3370.1 of the Civil Code is amended to
31 read:

32 3370.1. Any person who violates any provision of this
33 chapter shall be liable for a civil penalty not to exceed two
34 thousand five hundred dollars (\$2,500) for each violation,
35 which shall be assessed and recovered in a civil action
36 brought in the name of the people of the State of
37 California by the Attorney General or by any district
38 attorney *or any city attorney of a city having a population*



1 *in excess of 750,000*, and, with the consent of the district
2 attorney, by a city prosecutor in any city or city and
3 county having a full-time city prosecutor in any court of
4 competent jurisdiction. If brought by the Attorney
5 General, one-half of the penalty collected shall be paid to
6 the treasurer of the county in which the judgment was
7 entered, and one-half to the State General Fund. If
8 brought by a district attorney, the penalty collected shall
9 be paid to the treasurer of the county in which the
10 judgment was entered. If brought by a city *attorney or*
11 *city* prosecutor, one-half of the penalty collected shall be
12 paid to the treasurer of the city in which the judgment
13 was entered, and one-half to the treasurer of the county
14 in which the judgment was entered.

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section, the court may also make an order authorizing the release of information concerning such care to probation officers, parole officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the minor under order, commitment, or approval of the court.

(f) Nothing in this section shall be construed as limiting the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the minor by order of the court, in providing any medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state.

(g) The mother of any person described in this section may authorize the performance of medical, surgical, dental, or other remedial care provided for in this section notwithstanding the fact that she is unmarried and under the age of 18 years.

CHAPTER 746

An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific or preventive relief.

[Approved by Governor September 18, 1974. Filed with Secretary of State September 18, 1974.]

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

SECTION 1. Section 3369 of the Civil Code is amended to read:

3369. 1. Neither specific nor preventive relief can be granted to enforce a penalty or forfeiture in any case, nor to enforce a penal law, except in a case of nuisance or unfair competition.

2. Any person performing or proposing to perform an act of unfair competition within this state may be enjoined in any court of competent jurisdiction.

3. As used in this section, unfair competition shall mean and include unlawful, unfair or fraudulent business practice and unfair, deceptive, untrue or misleading advertising and any act denounced by Business and Professions Code Sections 17500 to 17535, inclusive.

4. As used in this section, the term person shall mean and include natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.

5. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney or any city attorney of a city having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the

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(800) 666-1917

LEGISLATIVE INTENT SERVICE



complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.

SEC. 2. Section 3370.1 of the Civil Code is amended to read:

3370.1. Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor in any court of competent jurisdiction. If brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund. If brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

CHAPTER 747

An act to add and repeal Section 99267.5 of the Public Utilities Code, relating to public transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 18, 1974. Filed with Secretary of State September 18, 1974.]

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

SECTION 1. Section 99267.5 is added to the Public Utilities Code, to read:

99267.5. Notwithstanding any other provision of this chapter, if federal funds or assistance grants are made available on a matching basis for the operating expenditures of public transportation systems, any operator may budget and expend for operating purposes funds received under this article in an amount sufficient to enable the operator to receive the maximum amount of federal funds or assistance grants available for such purposes.

This section shall remain in effect only until June 30, 1977, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1977, deletes or extends such date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

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LEGISLATIVE INTENT SERVICE (800) 666-1917



CALIFORNIA LEGISLATURE

AT SACRAMENTO

1973-74 REGULAR SESSION

SENATE FINAL HISTORY

SHOWING ACTION TAKEN IN THIS SESSION ON ALL SENATE BILLS,
CONSTITUTIONAL AMENDMENTS, CONCURRENT, JOINT RESOLUTIONS
AND SENATE RESOLUTIONS

CONVENED JANUARY 8, 1973

ADJOURNED SINE DIE NOVEMBER 30, 1974

DAYS IN SESSION..... 254
CALENDAR DAYS..... 635

LT. GOVERNOR JOHN L. HARMER
President of the Senate

SENATOR JAMES R. MILLS
President pro Tempore

Compiled Under the Direction of
DARRYL R. WHITE
Secretary of the Senate

By
DAVID H. KNEALE
History Clerk

LEGISLATIVE INTENT SERVICE (800) 666-1917



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ASR 199

S.B. No. 1723—Rodda.

An act to add Part 3.5 (commencing with Section 1140) to Division 2 of the Labor Code, relating to labor, and making an appropriation therefor.

1974

Feb. 14—Introduced. Read first time. To print.

Feb. 19—From print.

Feb. 20—To Com. on I.R.

June 6—Hearing postponed by committee. From committee with author's amendments. Read second time. Amended. Re-referred to committee.

June 13—Set, second hearing. Failed passage in committee.

Nov. 30—From committee without further action.

S.B. No. 1724—Rodda.

An act to add Part 3.5 (commencing with Section 1140) to Division 2 of the Labor Code, relating to agricultural labor relations.

1974

Feb. 14—Introduced. Read first time. To print.

Feb. 19—From print.

Feb. 20—To Com. on I.R.

Nov. 30—From committee without further action.

S.B. No. 1725—Robbins.

An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific or preventive relief.

1974

Feb. 14—Introduced. Read first time. To print.

Feb. 19—From print.

Feb. 20—To Com. on JUD.

April 24—From committee with author's amendments. Read second time. Amended. Re-referred to committee.

April 30—Set, first hearing. Hearing canceled at the request of author.

May 13—From committee: Do pass as amended. (Ayes 10. Noes 0.)

May 14—Read second time. Amended. To third reading.

June 27—Read third time. Amended. To third reading.

Aug. 5—Read third time. Passed. To Assembly. (Ayes 32. Noes 0. Page 11937.)

Aug. 6—In Assembly. Read first time. To Com. on JUD.

Aug. 23—From committee: Do pass as amended. (Ayes 8. Noes 0.) Read second time. Amended. To third reading.

Aug. 26—Read third time. Passed. To Senate. (Ayes 65. Noes 0. Page 17385.)

Aug. 26—In Senate. To unfinished business.

Aug. 27—Senate refuses to concur in Assembly amendments. To unfinished business. (Ayes 0. Noes 18.) Senate appoints Conference Committee: Senators Robbins, Roberti, Beilenson.

Aug. 28—Assembly appoints Conference Committee: Messrs. Keysor, Alatorre, Antonovich.

Aug. 29—Assembly adopts conference report. (Ayes 68. Noes 0. Page 18037.)

Aug. 31—Senate adopts conference report. (Ayes 37. Noes 0. Page 14234.) To enrollment.

Sept. 6—Enrolled. To Governor at 2 p.m.

Sept. 18—Approved by Governor.

Sept. 18—Chaptered by Secretary of State. Chapter 746, Statutes of 1974.

S.B. No. 1726—Mills.

An act to amend Section 2108 of the Streets and Highways Code, relating to highways.

1974

Feb. 14—Introduced. Read first time. To print.

Feb. 19—From print.

Feb. 20—To Com. on TRANS.

June 10—Set, first hearing. Hearing canceled at the request of author.

Nov. 30—From committee without further action.



SB 1725 (Robbins)
As amended April 24
Civil Code

UNFAIR COMPETITION ACTIONS
-LOS ANGELES CITY ATTORNEY-

Source: City of Los Angeles

Prior Legislation: None

Support: Unknown

Opposition: No Known

DIGEST

Authorizes a city attorney of a city whose population exceeds 2 million to prosecute actions in unfair competition cases in the name of the people of the State of California (Sec. 3369, Civ. C.).

Provides that, in each such case, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment is entered (Sec. 3370.1, Civ. C.).

Requires that one-half of the penalty collected in an action for unfair competition be paid to the treasurer of the county in which the judgment is entered and one-half to the State General Fund if the action is brought by a district attorney (Sec. 3370.1, Civ. C.).

PURPOSE

Permit the Los Angeles City Attorney to prosecute unfair competition cases.

COMMENT

1. Presently the Attorney General and the district attorney are authorized to prosecute unfair

(More)

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ASRP 22b

competition cases in the name of the people 1
of the State of California. These actions 7
may be brought upon the complaint of the 2
Attorney General or the district attorney 5
or upon the complaint of any person or organ-
ization acting either in their own interests
or for members of the public. (Sec. 3369,
Civ. C.)

If the Attorney General brings the action,
one-half of the penalty is paid to the treasurer
of the county in which judgment was entered and
one-half to the State General Fund. The penalty
may not exceed \$2,500 for each violation. (Sec.
3370.1, Civ. C.)

2. This bill adds the city attorney of a city whose
population exceeds 2 million as the third govern-
mental entity authorized to prosecute unfair
competition cases. At the present time, the
City of Los Angeles is the only city in this
state with a population in excess of 2 million.
3. The bill states that, if a successful action is
brought by a city attorney, one-half of the
penalty collected shall be paid to the treasurer
of the city in which the judgment was entered.

THIS BILL DOES NOT SPECIFY WHERE THE OTHER
ONE-HALF OF THE PENALTY SHALL BE PAID.
SHOULD NOT THE BILL BE AMENDED TO SO STATE?

4. Under existing law, when a district attorney
brings an action for unfair competition, the
entire penalty is paid to the county treasury.
Under this bill, one-half would be paid to the
county treasury and one-half would be paid to
the State General Fund. (Sec. 3370.1, Civ. C.)

WHY IS THIS CHANGE NECESSARY?



SENATE COMMITTEE ON JUDICIARY

BACKGROUND INFORMATION

SB 1725

1. Source

- (a) What group, organization, governmental agency, or other person, if any, requested the introduction of the bill?

City of Los Angeles

- (b) Which groups, organizations, or governmental agencies have contacted you in support of, or in opposition to, your bill?

City Attorneys' Office, City of Los Angeles
City of Los Angeles

- (c) If a similar bill has been introduced at a previous session of the Legislature, what was its number and the year of its introduction?

2. Purpose

What problem or deficiency under existing law does the bill seek to remedy?

At present, the District Attorneys and the Attorney General are permitted to seek injunctive and civil relief for acts of unfair competition. This bill would allow city attorneys to prosecute such cases also. Additionally, one half of the penalty collected would be paid to the city treasurer. This bill is a logical extension of present law and would put the city in a stronger position in enforcing consumer protection laws. As such it fills a void which was probably an unintentional omission. If you have any further background information or material relating to the bill, please enclose a copy of it or state where the information or material is available.

PLEASE COMPLETE THIS FORM AND RETURN IT TO THE SENATE COMMITTEE ON JUDICIARY, ROOM 2046 AS SOON AS POSSIBLE. IN ANY CASE, PLEASE RETURN IT NOT LATER THAN 14 DAYS AFTER RECEIPT.

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4

SP-1

ASIR 22B

REPORT

REC'D
2219
Feb 4 LFL

ITEM No. 2

Date: December 10, 1973.

This report is submitted for informational purposes only, to assist the Committee in their consideration of this item.

SOURCE OF ITEM:

Letter from the City Attorney dated October 19, 1973.

SUMMARY:

Currently Section 3369 of the California Civil Code permits the District Attorney and the Attorney General to seek injunctive and civil relief for acts of unfair competition. Under this statute unfair competition is defined to mean and include: "unlawful, unfair or fraudulent business practice and unfair, deceptive, untrue or misleading advertising...."

The City Attorney recommends that the City sponsor legislation to give a city attorney power to bring similar actions:

STAFF COMMENTS:

Such legislation would, as pointed out by the City Attorney, place the City Attorney's office and the City itself in a stronger position in enforcing consumer protection laws.

The civil penalty for violation of this statute may not exceed \$2,500 for each violation.

In 1972 state statutes were amended to permit a city attorney to seek injunctive relief in false advertising cases. This proposal is a logical extension of that expansion of the law.

In addition we recommend that an amendment be sought to Section 3370.1 of the Civil Code to provide that one half the penalty collected be paid to the treasurer of the city, when the action was brought by a city attorney or city prosecutor.

This is in line with similar provisions in the Business and Professions Code relative to consumer fraud.

This matter was defeated in Council on December 4, 1973, then reconsidered on December 5, and re-referred to the Committee on Proposed Legislation.

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SP-2

ASRP 224

1-11-73
OFFICE OF
CITY ATTORNEY
CITY HALL
LOS ANGELES, CALIFORNIA 90012



BURT PINES
CITY ATTORNEY

October 19, 1973

#2219
RECEIVED

OCT 19 1973

Chief Legislative Analyst

Committee on Proposed Legislation
C/O Kenneth G. Spiker, Secretary
Room 255, City Hall

Re: Suggestions for 1974 Legislative
Program

Gentlemen:

As further recommendations from the City Attorney for the city's 1974 legislative program, it is recommended that the city sponsor amendments to Section 3369 of the Civil Code and ~~Section 17503 of the Business and Professions Code~~ for the reasons set forth in the attached memorandum prepared in the Criminal Division of this office.

As can be seen, these amendments would place the City Attorney's Office, and thus the city itself, in a stronger and more effective position in enforcing consumer protection laws. As you are aware, changes in the law effective last March made it possible for a city attorney to seek an injunction in false advertising cases. The amendments here proposed can be considered as designed to conform other provisions of the codes to the policy decision already made by the Legislature.

Should there be a need for additional information, there should be no hesitation in directly approaching

(800) 666-1917

LEGISLATIVE INTENT SERVICE

SP-3

ASR 225

Committee on Proposed Legislation
C/O Kenneth G. Spiker, Secretary

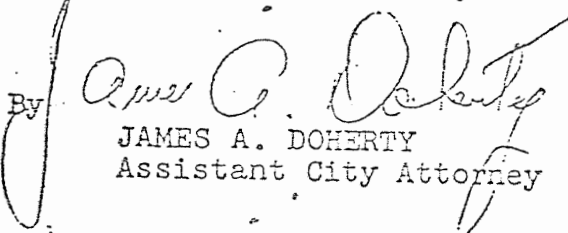
#2217
-2

Mr. David Perez or Mr. John Wilson of our Criminal Division. It will not be necessary to route such inquiries through the Civil Division.

Very truly yours,

BURT PINES, City Attorney

By


JAMES A. DOHERTY
Assistant City Attorney

JAD:mc
Encl.

LEGISLATIVE INTENT SERVICE (800) 666-1917



SP-4

SEP 206

#2217

October 1, 1973

MEMO TO: DAVID PEREZ
Senior Assistant City Attorney

FROM: JOHN R. WILSON
Deputy City Attorney

SUBJECT: Legislative Changes

There are two areas of legislation that I
would recommend for ammendment:

1. CC 3369 - Allows the District Attorney
and the Attorney General to seek injunctive
and civil relief for acts of unfair
competition. The City Attorney has not been
included with powers to bring similiar actions.
We should be.
2. B&P 17503 - Requiring advertiser to prove
advertising claim. The attorney General,
District Attorney and the State Bureau
of Consumer Affairs have this power.
The City Attorney doesn't.

JRW:bd

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SP-5
ASR 226

TITLE 3. SPECIFIC AND PREVENTIVE RELIEF

CHAPTER I. GENERAL PRINCIPLES

Sec.

2370.1 Violations; penalty; action for recovery [New].

§ 3369. Unavailability to enforce penalty, forfeiture, or penal law; exceptions; nuisance; unfair competition; definitions; injunctions, who may prosecute.

1. Neither specific nor preventive relief can be granted to enforce a penalty or forfeiture in any case, nor to enforce a penal law, except in a case of nuisance or unfair competition.

2. Any person performing or proposing to perform an act of unfair competition within this state may be enjoined in any court of competent jurisdiction.

3. As used in this section, unfair competition shall mean and include unlawful, unfair or fraudulent business practice and unfair, deceptive, untrue or misleading advertising and any act denounced by Business and Professions Code Sections 17500 to 17535, inclusive.

4. As used in this section, the term person shall mean and include natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.

5. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public.
(Amended by Stats.1972, c. 1084, p. —, § 1.)

Law Review Commentaries
Consumer class action in California—
some practical aspects. Alan Goldhamer
(1970) 45 Los Angeles Bar Bull. 205.
Consumer fraud in the San Diego district
attorney's office. M. James Lorenz
(1971) 8 San Diego L.Rev. 47.
Retail selling industry: An empirical
study (1959) 11 U.C.L.A.Law Rev. 890.
Individual action and the class action.
(1971) 4 U.C.D.Law Rev. 37.
Injunction as available remedy to protect
consumer. (1971) 4 U.C.D.Law Rev. 49.
Role of California's attorney general and
district attorneys in protecting the consum-
er. (1971) 4 U.C.D.Law Rev. 35.
The case for relief from due-on-sale pro-
visions. (1971) 22 Hast.L.J. 431.
1972 Amendment. Inserted the word
"deceptive" in subd. (3).

Supplementary Index to Notes

Future conduct 5.5

2. Construction and application

Equitable relief authorized by this section is not circumscribed by any prerequisite that conduct in question be limited to field of business competition. *Payne v. United California Bank* (1972) 100 Cal.Rptr. 672, 23 C.A.3d 850.

3. Law governing

Impracticability of drafting, supervising and enforcing an injunctive order with respect to class action by farm workers who sought an injunction to prohibit defendants' employment by noncitizen not licensed to employment in the United States and the plethora of cases such action would undoubtedly spawn were proper factors to be considered in determining appropriateness of injunctive relief. *Larez v.*

Oberti (1972) 100 Cal.Rptr. 57, 23 C.A.3d 217.

5.5 Future conduct

Under this section providing for enjoining of unfair competition and defining the same as meaning, and including "unlawful, unfair or fraudulent business practices" courts may enjoin on-going wrongful business conduct in whatever context such activity may occur; "unfair competition" within this section is not limited to deceptive or fraudulent conduct. Barquis v. Merchants Collection Ass'n of Oakland, Inc. (1972) 161 Cal.Rptr. 745, 498 P.2d 517, 7 C.2d 94.

This section providing that person performing or proposing to perform act of unfair competition within state may be enjoined in any court of competent jurisdiction and Bus. & Prof.C. § 17555 providing in effect that person, association or organization which violates or proposes to violate Bus. & Prof.C. § 17550 et seq. prohibiting misleading and untrue advertisements and statements may be enjoined by any court of competent jurisdiction are designed to restrain "future conduct" likely to deceive or mislead public. *Payne v. United California Bank* (1972) 100 Cal.Rptr. 572, 23 C.A.3d 850.

8. Unfair competition—In general

If collection agency engages in pattern or practice of willfully commencing actions in improper counties with knowledge that such counties are improper and for the purpose of impairing adversaries' ability to defend, such constitutes an "unlawful business practice" which may be enjoined under this section relating to unfair competition. *Eargols v. Merchants Collection Ass'n of Oakland, Inc.* (1972) 191 Cal.Rptr. 145, 464 P.2d 817, 7 Cal.3d 341.

Plaintiff savings and loan association was entitled to maintain unfair competition action against defendant association

Underline indicates changes or additions by amendment

on account of defendant's allegedly similar name, and loan commissioner's denial of defendant's application for a loan and plaintiff had not seen view of commissioner's decision in Southern Federal Sav. & L. Co. v. Los Angeles v. Trans-Cos. Ass'n of Oxnard (1971) 15 C.A.3d 265.

The first user of trade name maintain or improve its reputation will be attached to second phrase first used by it and of confusion exists between injury cognizable in equity is sufficiently imminent to give relief, regardless of whether user is acting in good faith. *Can. Trial Lawyers Ass'n* (1923), 14 C.A.3d 235.

9. — Nature and scope,
tion

As used in this section, fair competition and defining meaning and including "un or fraudulent business competition" is not confined to practices resulting in injury to consumers. *Barquis v. Marsh Ass'n of Oakland, Inc.*, 652 F.2d 1145, 436 P.2d 817, 1 C.3d 94.

Collection by bank, which of vacuum cleaners under system, of certain financing involving sales contracts before bank agreed to finance, assertedly created by means of station and unfair and false practices, did not constitute conduct eminently unfair under C. § 17325 providing that petition or organization violating to violate Bus. & Prof. C. § prohibiting misleading advertisements and statements made by any court of competent jurisdiction, provided that performance of such act was not unfair competition which was joined in any court of competition. *Payne v. United C.* (1972) 100 Cal.Rptr. 672, 22 C.

Injunctive relief against confusion is limited to a narrow junction requiring appropriate to prevent public confusion and to prevent use of the title or musical composition. Tom Disney Productions (1971) 55 C 13 C.A.3d 225.

10. — Tests applied, unfair

That which constitutes "unfair or fraudulent practice" within this section is, in fact, the essential test being: public is likely to be deceived.

§ 3370. Unfair competition:

Law Review Commentaries
Individual action and the cl
(1971) 4 U.C.D. Law Rev. 37.

§ 3370.1 Violations; penalty:

Any person who violates an
penalty not to exceed two thousand dollars
which shall be assessed and paid by the
people of the State of California.
In any court of competent jurisdiction
half of the penalty collected shall be
the judgment was entered, and the
(Added by Stats.1972, c. 1081, p. 1)

Asterisks * * * indicate deleted

CIVIL CODE

§ 3370.1

on account of defendant's assumption of allegedly similar name, although savings and loan commissioner had approved defendant's application for change of name and plaintiff had not sought judicial review of commissioner's order. *Coast & Southern Federal Sav. & Loan Ass'n of Los Angeles v. Trans-Coast Sav. & Loan Ass'n of Oxnard* (1971) 93 Cal.Rptr. 791, 16 C.A.3d 205.

The first user of trade name is entitled to maintain or improve its reputation or good will attached to secondary meaning of phrase first used by it and when likelihood of confusion exists between trade names, injury cognizable in equity has occurred or is sufficiently imminent to justify preventive relief, regardless of whether second user is acting in good faith. *Hall v. American Trial Lawyers Ass'n* (1971) 92 Cal.Rptr. 223, 14 C.A.3d 239.

9. — Nature and scope, unfair competition

As used in this section prohibiting unfair competition and defining the same as meaning and including "unlawful, unfair or fraudulent business practices," "unfair competition" is not confined to practices involving competitive injury but extends to practices resulting in injury to consumers. *Barquis v. Merchants Collection Ass'n of Oakland, Inc.* (1972) 191 Cal.Rptr. 745, 495 P.2d 817, 7 C.3d 94.

Collection by bank, which financed sales of vacuum cleaners under certain credit system, on certain financing agreements involving sales contracts entered into before bank agreed to finance sales and assertedly created by means of misrepresentation and unfair and unlawful business practices, did not constitute kind of deceptive conduct enjoined under Bus. & Prof. C. § 17335 providing that person, association or organization violating or proposing to violate Bus. & Prof. C. § 17335 et seq. prohibiting misleading and untrue advertisements and statements may be enjoined under this section providing that person unfair competition within state may be enjoined in any court of competent jurisdiction. *Payne v. United California Bank* (1972) 169 Cal.Rptr. 572, 23 C.A.3d 559.

Injunctive relief against unfair competition is limited to a narrowly drawn injunction requiring appropriate precautions to prevent public confusion and cannot totally prevent use of the title of a literary or musical composition. *Tomlin v. Walt Disney Productions* (1971) 95 Cal.Rptr. 113, 13 C.A.3d 226.

10. — Tests applied, unfair competition

That which constitutes "unfair competition" or "unfair or fraudulent business practice" within this section is question of fact, the essential test being whether the public is likely to be deceived. *Payne v.*

§ 3370. Unfair competition; additional acts constituting

Law Review Commentaries

Individual action and the class action.

(1971) 4 U.C.D. Law Rev. 37.

§ 3370.1 Violations; penalty; action for recovery

Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney in any court of competent jurisdiction. If brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund.

Added by Stats.1972, c. 1084, p. —, § 2)

Astarisks * * * Indicate deletions by amendment

#2219

LEGISLATIVE INTENT SERVICE (800) 866-1917

SB 1725 May 7, 1974

SUPPORT:

Gion Morrow - City Attorney - City of Los Angeles
Bill Deiser - League of Calif. Citiea
John Witzel - City of San Diego

LEGISLATIVE INTENT SERVICE (800) 666-1917



SP-8
ASR 300

May 15, 1974

Mr. John W. Witt, City Attorney
City of San Diego
City Administration Building
San Diego, California 92101

Dear Mr. Witt:

Thank you for your letter of April 29 regarding
Senate Bill 1725 relating to unfair competition.

This bill received a favorable recommendation
from the committee at the last hearing. However,
prior to its passage, its author amended the bill
to make it applicable only to the City of Los Angeles.

We appreciate receiving comments on legislation
pending before us by city attorneys in this state.

Sincerely,

Bion M. Gregory
Chief Counsel

BMG:ljs

LEGISLATIVE INTENT SERVICE (800) 666-1917



SP-9
ASRP 33b

ROBERT S. TEAZE
ASST. CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

JOHN W. WITT
CITY ATTORNEY

CITY ADMINISTRATION BUILDING
SAN DIEGO, CALIFORNIA 92101
(714) 236-6230

April 29, 1974

The Honorable Alfred H. Song
Chairman, Senate Judiciary Committee
State Capitol Building
Sacramento, California 95814

Dear Senator Song:

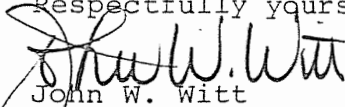
Consumer protection is a program of particularly great importance to San Diegans, as I'm sure it is to other Californians, as well. The Consumer Protection Unit of the San Diego City Attorney's office is an important and effective arm of San Diego local government's strong effort to assist consumers and legitimate businessmen in their fight to resist unfair business practices, fraud and false advertising.

I am particularly pleased that Senator Alan Robbins of Los Angeles County has introduced Senate Bill 1725 which would authorize city attorneys to seek injunctive relief and civil penalties in cases involving unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising. I support the bill fully and I stand ready to assist you in seeking its adoption.

The San Diego City Attorney's office in 1973 obtained restitution for consumer-victims in business fraud cases amounting to \$23,882.84 and prosecuted criminal cases in which fines totaling \$14,225 were also imposed. Over 1,600 consumer complaints were processed during Fiscal Year 1973. By the end of Fiscal 1974, another 1,942 will have been processed. Projections for Fiscal 1975 indicate that 2,135 consumer complaints will be processed that year. The attorneys assigned to my Consumer Protection Unit inform me that S.B. 1725 is absolutely necessary to the continued success of their efforts.

Since you are a concerned member of our State Senate, I know it is unnecessary to inform you of its importance. I want you to know, however, that I join the League of California Cities, my brother City Attorney Burt Pines of Los Angeles and others active in consumer affairs in wholehearted support of S.B. 1725.

Respectfully yours,


John W. Witt
City Attorney

JWW:as



SP-10

ASBP 330

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

JOHN W. WITT
CITY ATTORNEY

CITY ADMINISTRATION BUILDING
SAN DIEGO, CALIFORNIA 92101
(714) 236-6220

581725

May 20, 1974

The Honorable Alan Robbins
State Senator
State Capitol Building
Sacramento, California 95814

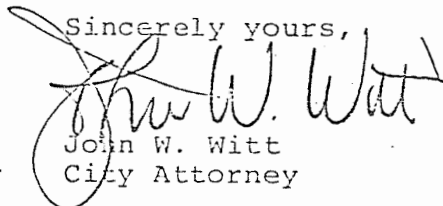
Dear Senator Robbins:

On April 29 I wrote you indicating my unlimited support of Senate Bill 1725, a measure introduced by you, which would add authority for City Attorneys to file civil actions in certain consumer protection cases. Subsequently, I was informed the bill was amended to grant such authority only to City Attorneys of cities exceeding two million in population. Among California City Attorneys, only Mr. Pines of Los Angeles could support such an amendment.

I have been informed, however, that you have agreed in principle to further amendment which would reduce the population floor for the authorization to a figure more closely aligned with population figures of large California cities other than Los Angeles. I am certain that you appreciate that my support of S.B. 1725 depends on the two million population figure being eliminated or reduced to permit my office to have the authority contemplated in the bill.

Your assistance is greatly appreciated.

Sincerely yours,


John W. Witt
City Attorney

JWW:as
cc See attached list

LEGISLATIVE INTENT SERVICE (800) 666-1917



SP-11

ASR 33B

The Honorable Alan Robbins
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Alfred H. Song
Chairman, Senate Judiciary Committee
State Capitol Building
Sacramento, California 95814

The Honorable Nicholas C. Petris
Vice Chairman, Senate Judiciary Committee
State Capitol Building
Sacramento, California 95814

The Honorable W. Craig Biddle
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Clark L. Bradley
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable George Deukmejian
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Donald L. Grunsky
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable John W. Holmdahl
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Fred W. Marler, Jr.
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable George R. Moscone
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable David A. Roberti
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Robert S. Stevens
State Senator
State Capitol Building
Sacramento, California 95814



The Honorable Alan Short
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable James R. Mills
President Pro Tempore of the Senate
State Capitol Building
Sacramento, California 95814

The Honorable Jack Schrade
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable John Stull
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Bob Wilson
State Assemblyman
State Capitol Building
Sacramento, California 95814

The Honorable Wadie P. Deddeh
State Assemblyman
State Capitol Building
Sacramento, California 95814

The Honorable Lawrence Kapiloff
State Assemblyman
State Capitol Building
Sacramento, California 95814

The Honorable Peter R. Chacon
State Assemblyman
State Capitol Building
Sacramento, California 95814

The Honorable William A. Craven
State Assemblyman
State Capitol Building
Sacramento, California 95814

Richard Carpenter
Director of Legislative Affairs
and General Counsel
League of Calif. Cities
1103 "O" Street
Sacramento, Calif. 95814

Burt Pines
City Attorney
City of Los Angeles

John Witzel
Legislative Representative
City of San Diego
Sacramento, Calif.

Mayor Pete Wilson

LEGISLATIVE INTENT SERVICE (800) 666-1917



SP-13
ASR 335

SENATE COMMITTEE ON JUDICIARY

BACKGROUND INFORMATION

SB 1725

1. Source

- (a) What group, organization, governmental agency, or other person, if any, requested the introduction of the bill?

City of Los Angeles

- (b) Which groups, organizations, or governmental agencies have contacted you in support of, or in opposition to, your bill?

City Attorneys' Office, City of Los Angeles
City of Los Angeles

- (c) If a similar bill has been introduced at a previous session of the Legislature, what was its number and the year of its introduction?

2. Purpose

What problem or deficiency under existing law does the bill seek to remedy?

At present, the District Attorneys and the Attorney General are permitted to seek injunctive and civil relief for acts of unfair competition. This bill would allow city attorneys to prosecute such cases also. Additionally, one half of the penalty collected would be paid to the city treasurer. This bill is a logical extension of present law and would put the city in a stronger position in enforcing consumer protection laws. As such it fills a void which was probably an unintentional omission.

If you have any further background information or material relating to the bill, please enclose a copy of it or state where the information or material is available.

PLEASE COMPLETE THIS FORM AND RETURN IT TO THE SENATE COMMITTEE ON JUDICIARY, ROOM 2046 AS SOON AS POSSIBLE. IN ANY CASE, PLEASE RETURN IT NOT LATER THAN 14 DAYS AFTER RECEIPT.

LEGISLATIVE INTENT SERVICE (800) 666-1917

ASRR 386

REPORT
ITEM No. 2

Date: December 19, 1973.

REC
2219
Feb 4 LFL

This report is submitted for informational purposes only, to assist the Committee in their consideration of this item.

SOURCE OF ITEM:

Letter from the City Attorney dated October 19, 1973.

SUMMARY:

Currently Section 3369 of the California Civil Code permits the District Attorney and the Attorney General to seek injunctive and civil relief for acts of unfair competition. Under this statute unfair competition is defined to mean and include: "unlawful, unfair or fraudulent business practice and unfair, deceptive, untrue or misleading advertising...."

The City Attorney recommends that the City sponsor legislation to give a city attorney power to bring similar actions:

STAFF COMMENTS:

Such legislation would, as pointed out by the City Attorney, place the City Attorney's office and the City itself in a stronger position in enforcing consumer protection laws.

The civil penalty for violation of this statute may not exceed \$2,500 for each violation.

In 1972 state statutes were amended to permit a city attorney to seek injunctive relief in false advertising cases. This proposal is a logical extension of that expansion of the law.

In addition we recommend that an amendment be sought to Section 3370.1 of the Civil Code to provide that one half the penalty collected be paid to the treasurer of the city, when the action was brought by a city attorney or city prosecutor.

This is in line with similar provisions in the Business and Professions Code relative to consumer fraud.

This matter was defeated in Council on December 4, 1973, then reconsidered on December 5, and re-referred to the Committee on Proposed Legislation.

ASRR 337

OFFICE OF
CITY ATTORNEY
CITY HALL
LOS ANGELES, CALIFORNIA 90012

#2219



BURT PINES
CITY ATTORNEY

October 19, 1973

RECEIVED
OCT 19 1973

Chief Legislative Analyst

Committee on Proposed Legislation
C/O Kenneth G. Spiker, Secretary
Room 255, City Hall

Re: Suggestions for 1974 Legislative
Program

Gentlemen:

As further recommendations from the City Attorney for the city's 1974 legislative program, it is recommended that the city sponsor amendments to Section 3369 of the Civil Code and ~~Section 17503 of the Business and Professions Code~~ for the reasons set forth in the attached memorandum prepared in the Criminal Division of this office.

As can be seen, these amendments would place the City Attorney's Office, and thus the city itself, in a stronger and more effective position in enforcing consumer protection laws. As you are aware, changes in the law effective last March made it possible for a city attorney to seek an injunction in false advertising cases. The amendments here proposed can be considered as designed to conform other provisions of the codes to the policy decision already made by the Legislature.

Should there be a need for additional information, there should be no hesitation in directly approaching

LEGISLATIVE INTENT SERVICE (800) 666-1917

ASR 388

#2217
Committee on Proposed Legislation
C/O Kenneth G. Spiker, Secretary

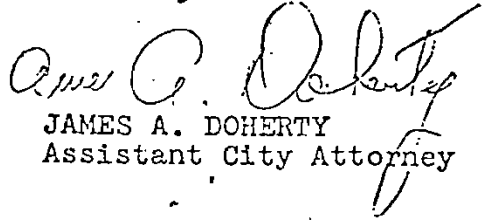
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Mr. David Perez or Mr. John Wilson of our Criminal Division. It will not be necessary to route such inquiries through the Civil Division.

Very truly yours,

BURT PINES, City Attorney

By


JAMES A. DOHERTY
Assistant City Attorney

JAD:mc
Encl.

LEGISLATIVE INTENT SERVICE (800) 666-1917

ASR 399

2219

October 1, 1973

MEMO TO: DAVID PEREZ
Senior Assistant City Attorney

FROM: JOHN R. WILSON
Deputy City Attorney

SUBJECT: Legislative Changes

There are two areas of legislation that I
would recommend for ammendment:

1. CC 3369 - Allows the District Attorney
and the Attorney General to seek injunctive
and civil relief for acts of unfair
competition. The City Attorney has not been
included with powers to bring similiar actions.
We should be.
2. B&P 17508 - Requiring advertiser to prove
advertising claim. The attorney General,
District Attorney and the State Bureau
of Consumer Affairs have this power.
The City Attorney doesn't.

JRW:bd

LEGISLATIVE INTENT SERVICE (800) 556-1917

ASR 400

TITLE 3. SPECIFIC AND PREVENTIVE RELIEF

CHAPTER 1. GENERAL PRINCIPLES

Sec.

3370.1 Violations; penalty; action for recovery [New].

§ 3369. Unavailability to enforce penalty, forfeiture, or penal law; exceptions; nuisance; unfair competition; definitions; injunctions, who may prosecute

1. Neither specific nor preventive relief can be granted to enforce a penalty or forfeiture in any case, nor to enforce a penal law, except in a case of nuisance or unfair competition.

2. Any person performing or proposing to perform an act of unfair competition within this state may be enjoined in any court of competent jurisdiction.

3. As used in this section, unfair competition shall mean and include unlawful, unfair or fraudulent business practice and unfair, deceptive, untrue or misleading advertising and any act denounced by Business and Professions Code Sections 17500 to 17535, inclusive.

4. As used in this section, the term person shall mean and include natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.

5. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person acting for the interests of itself, its members or the general public. (Amended by Stats.1972, c. 1084, p. —, § 1.)

Law Review Commentaries
Consumer class action in California—some practical aspects. Alan Goldhammer (1970) 45 Los Angeles Bar Bull. 225.
Consumer fraud and the San Diego district attorney's office. M. James Lorenz (1971) 6 San Diego L.Rev. 47.
Direct selling industry: An empirical study. (1963) 16 U.C.L.A.Law Rev. 590.
Individual action and the class action. (1971) 4 U.C.D.Law Rev. 37.
Injunction as available remedy to protect consumer. (1971) 4 U.C.D.Law Rev. 49.
Role of California's attorney general and district attorneys in protecting the consumer. (1971) 4 U.C.D.Law Rev. 55.
The case for relief from due-on-sale provisions. (1971) 22 Hast.L.J. 431.
1972 Amendment. Inserted the word "deceptive" in subd. (3).

Supplementary Index to Notes

Future conduct 5.5

2. Construction and application

Equitable relief authorized by this section is not circumscribed by any prerequisite that conduct in question be limited to field of business competition. Payne v. United California Bank (1972) 100 Cal.Rptr. 672, 23 C.A.3d 550.

3. Law governing

Impracticability of drafting, supervising and enforcing an injunctive order with respect to class action by farm workers who sought an injunction to prohibit defendants' employment of any nonresident not legally entitled to employment in the United States and the plenary of cases such action would undoubtedly shown were proper factors to be considered in determining appropriateness of injunctive relief. Larez v.

Oberti (1972) 100 Cal.Rptr. 57, 23 C.A.3d 217.

5.5 Future conduct

Under this section providing for enjoining of unfair competition and defining the same as meaning and including "unlawful, unfair or fraudulent business practice" courts may enjoin on-going wrongful business conduct in whatever context such activity may occur: "unfair competition" within this section is not limited to deceptive or fraudulent conduct. Barquis v. Merchants Collection Ass'n of Oakland, Inc. (1972) 161 Cal.Rptr. 745, 496 P.2d 817, 7 C.3d 94.

This section providing that person performing or proposing to perform act of unfair competition within state may be enjoined in any court of competent jurisdiction and Bus. & Prof.C. § 17535 providing in effect that person, association or organization which violates or proposes to violate Bus. & Prof.C. § 17500 et seq. prohibiting misleading and untrue advertisements and statements may be enjoined by any court of competent jurisdiction are designed to restrain "future conduct" likely to deceive or mislead public. Payne v. United California Bank (1972) 100 Cal.Rptr. 672, 23 C.A.3d 550.

8. Unfair competition—in general

If collection agency engages in pattern or practice of willfully commencing actions in improper counties with knowledge that such counties are improper and for the purpose of impairing adversaries' ability to defend, such constitutes an "unlawful business practice" which may be enjoined under this section relating to unfair competition. Barquis v. Merchants Collection Ass'n of Oakland, Inc. (1972) 161 Cal.Rptr. 745, 496 P.2d 817, 7 C.3d 94.

Plaintiff savings and loan association was entitled to maintain unfair competition action against defendant association

Underline indicates changes or additions by amendment

on account of defendant allegedly similar name, and loan commissioner's defendant's application for and plaintiff had not so view of commissioner's Southern Federal Sav. & Los Angeles v. Trans-Co Ass'n of Oxnard (1971) 9 16 C.A.3d 295.

The first user of trade name maintain or improve its name will attached to second phrase first used by it and of confusion exists between injury cognizable in equity is sufficiently imminent to give relief, regardless of user is acting in good faith. can Trial Lawyers Ass'n (1972) 225, 14 C.A.3d 255.

9. — Nature and scope, definition

As used in this section "unfair competition and definition meaning and including "unlawful, unfair or fraudulent business practice" is not confined to practices resulting in injury to consumers. Barquis v. Merchants Ass'n of Oakland, Inc. (1972) 161 Cal.Rptr. 745, 496 P.2d 817, 7 C.3d 94.

Collection by bank, which of vacuum cleaners under system, on certain financial involving sales contracts before bank agreed to finance, secretly created by means of notation and unfair and untrue practices, did not constitute deceptive conduct enjoinable under C. § 17535 providing that person or organization violating to violate Bus. & Prof.C. § 17500 et seq. prohibiting misleading and statements may be enjoined by any court of competent jurisdiction under this section providing performing or proposing to perform act of unfair competition within state may be enjoined in any court of competent jurisdiction. Payne v. United California Bank (1972) 100 Cal.Rptr. 672, 23 C.A.3d 550.

Injunctive relief against unfair competition is limited to a narrow injunction requiring appropriate to prevent public confusion and prevent use of the title or musical composition. Toy Disney Productions (1971) 95 C.3d 18 C.A.3d 225.

10. — Tests applied, unfair competition

That which constitutes "unfair competition" or "unfair or fraudulent business practice" within this section is, in fact, the essential test being public is likely to be deceived.

§ 3370. Unfair competition;

Law Review Commentaries
Individual action and the class action. (1971) 4 U.C.D.Law Rev. 37.

§ 3370.1 Violations; penalty;

Any person who violates any penalty not to exceed two thousand dollars which shall be assessed and paid by the people of the State of California in any court of competent jurisdiction half of the penalty collected at the judgment was entered, and (Added by Stats.1972, c. 1084, p. —, § 1.)

Asterisks • • • indicate deletion

#2219

CIVIL CODE

§ 3370.1

on account of defendant's assumption of allegedly similar name, although jurors and loan commissioner had approved defendant's application for change of name and plaintiff had not sought judicial review of commissioner's order. *Coast & Southern Federal Sav. & Loan Ass'n of Los Angeles v. Trans-Coast Sav. & Loan Ass'n of Oakland* (1971) 92 Cal.Rptr. 791, 16 C.A.3d 293.

The first user of trade name is entitled to maintain or improve its reputation or good will attached to secondary meaning of phrase first used by it and when likelihood of confusion exists between trade names, injury cognizable in equity has occurred or is sufficiently imminent to justify preventive relief, regardless of whether second user is acting in good faith. *Ball v. American Trial Lawyers Ass'n* (1971) 52 Cal.Rptr. 223, 14 C.A.3d 233.

9. — Nature and scope, unfair competition

As used in this section prohibiting unfair competition and defining the same as meaning and including "unlawful, unfair or fraudulent business practice," "unfair competition" is not confined to practices involving competitive injury but extends to practices resulting in injury to consumers. *Barquis v. Merchants Collection Ass'n of Oakland, Inc.* (1972) 101 Cal.Rptr. 745, 495 P.2d 817, 7 C.A.3d 94.

Collection by bank, which financed sales of vacuum cleaners under certain credit system, on certain financing agreements involving sales contracts entered into before bank agreed to finance sales and assertedly created by means of misrepresentation and unfair and unlawful business practices, did not constitute kind of deceptive conduct enforceable under Bus. & Prof. C. § 17535 providing that person, association or organization violating or proposing to violate Bus. & Prof. C. § 17509 et seq., prohibiting misleading and untrue advertisements and statements may be enjoined by any court of competent jurisdiction or under this section providing that person performing or proposing to perform act of unfair competition within state may be enjoined in any court of competent jurisdiction. *Payne v. United California Bank* (1972) 100 Cal.Rptr. 672, 23 C.A.3d 550.

Injunctive relief against unfair competition is limited to a narrowly drawn injunction requiring appropriate precautions to prevent public confusion and cannot totally prevent use of the title of a literary or musical composition. *Tomlin v. Walt Disney Productions* (1971) 95 Cal.Rptr. 113, 13 C.A.3d 226.

10. — Tests applied, unfair competition

That which constitutes "unfair competition" or "unfair or fraudulent business practice" within this section is question of fact, the essential test being whether the public is likely to be deceived. *Payne v.*

United California Bank (1972) 100 Cal.Rptr. 572, 23 C.A.3d 550.

Before trial court may conclude there is no unfairness or constructive fraud with respect to similarity of trade names of organizations, inquiry must be made on whether second user adopted the name over objection of first user, whether second user discussed possibility of confusion, whether it was commercially feasible for second user to have chosen some other name and yet achieve its ends, whether there were other combinations or names of equal utility and whether name or combination of words which was selected truthfully described the nature of the organization and its membership vis-a-vis the relevant public. *Ball v. American Trial Lawyers Ass'n* (1971) 52 Cal.Rptr. 223, 14 C.A.3d 233.

12. — Necessity of fraud, unfair competition

Finding of fraud is not a prerequisite to grant of relief for unfair competition. *Ball v. American Trial Lawyers Ass'n* (1971) 52 Cal.Rptr. 223, 14 C.A.3d 233.

13. — Evidence, unfair competition

Tire company's use in its radio and television commercials of music and revised lyrics from song associated with plaintiff and its selection of singer whose vocal rendition was imitation of plaintiff's did not constitute unfair competition under this section. *Sinatra v. Goodyear Tire & Rubber Co.* (C.A.1970) 435 F.2d 111.

Even though there be no competition between the parties, if public is likely to identify goods, services or activities of second user as coming from or being connected with first user because of second user's trade name, injury has occurred to the first user. *Ball v. American Trial Lawyers Ass'n* (1971) 52 Cal.Rptr. 223, 14 C.A.3d 233.

16. Injunctions

Capitol Records, Inc. v. Erickson (1969) 82 Cal.Rptr. 733, 2 C.A.3d 526 (main volume) 19 A.L.R.3d 553, certiorari denied 39 S.Ct. 2178, 358 U.S. 560, 26 L.Ed.2d 515.

Injunction requiring defendant farm operators to make some reasonable inquiry into citizenship or immigration status of employment applicants as a preliminary to hiring would not issue in class action wherein plaintiffs, on behalf of themselves and other migratory workers, alleged, inter alia, that defendants had knowingly employed illegal Mexican entrants, as it was more orderly, more efficient, and less burdensome to affected interests that national government supplied with an apparatus of offices, staff and computerized equipment, redeem its commitment implied by national immigration policy. *Diaz v. Ray-Ban Ranch* (1970) 51 Cal.Rptr. 443, 9 C.A.3d 531.

Consideration of injunctive relief to redress a tortious interference with one's livelihood requires a balancing of impeding social and individual interests. *Id.*

§ 3370. Unfair competition; additional acts constituting

Law Review Commentaries
Individual action and the class action.
(1971) 4 U.C.D. Law Rev. 37.

§ 3370.1 Violations; penalty; action for recovery

Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney in any court of competent jurisdiction. If brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State General Fund.
(Added by Stats.1972, c. 1054, p. —, § 2.)

Asterisks * * * Indicate deletions by amendment

SB 1725 (Robbins)
As amended April 24
Civil Code

S
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UNFAIR COMPETITION ACTIONS
-LOS ANGELES CITY ATTORNEY-

Source: City of Los Angeles

Prior Legislation: None

Support: Unknown

Opposition: No Known

DIGEST

Authorizes a city attorney of a city whose population exceeds 2 million to prosecute actions in unfair competition cases in the name of the people of the State of California (Sec. 3369, Civ. C.).

Provides that, in each such case, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment is entered (Sec. 3370.1, Civ. C.).

Requires that one-half of the penalty collected in an action for unfair competition be paid to the treasurer of the county in which the judgment is entered and one-half to the State General Fund if the action is brought by a district attorney (Sec. 3370.1, Civ. C.).

PURPOSE

Permit the Los Angeles City Attorney to prosecute unfair competition cases.

COMMENT

1. Presently the Attorney General and the district attorney are authorized to prosecute unfair

(More)

SB 1725 (Robbins)
Page Two

S
B

competition cases in the name of the people 1
of the State of California. These actions 7
may be brought upon the complaint of the 2
Attorney General or the district attorney 5
or upon the complaint of any person or organ-
ization acting either in their own interests
or for members of the public. (Sec. 3369,
Civ. C.)

If the Attorney General brings the action,
one-half of the penalty is paid to the treasurer
of the county in which judgment was entered and
one-half to the State General Fund. The penalty
may not exceed \$2,500 for each violation. (Sec.
3370.1, Civ. C.)

2. This bill adds the city attorney of a city whose
population exceeds 2 million as the third govern-
mental entity authorized to prosecute unfair
competition cases. At the present time, the
City of Los Angeles is the only city in this
state with a population in excess of 2 million.
3. The bill states that, if a successful action is
brought by a city attorney, one-half of the
penalty collected shall be paid to the treasurer
of the city in which the judgment was entered.

THIS BILL DOES NOT SPECIFY WHERE THE OTHER
ONE-HALF OF THE PENALTY SHALL BE PAID.
SHOULD NOT THE BILL BE AMENDED TO SO STATE?

4. Under existing law, when a district attorney
brings an action for unfair competition, the
entire penalty is paid to the county treasury.
Under this bill, one-half would be paid to the
county treasury and one-half would be paid to
the State General Fund. (Sec. 3370.1, Civ. C.)

WHY IS THIS CHANGE NECESSARY?

ASPP 444

SB 1725 May 7, 1974

SUPPORT:

Gion Morrow - City Attorney - City of Los Angeles
Bill Deiser - League of Calif. Citiea
John Witzel - City of San Diego

MAY 10 1974

Req. #10361

AMENDMENTS TO SENATE BILL NO. 1725

AS AMENDED IN SENATE APRIL 24, 1974

AMENDMENT 1

On page 2, lines 28 and 29, of the printed bill,
as amended in Senate April 24, 1974, strike out "or district
attorney"

AMENDMENT 2

On page 2, line 32, after the period insert:

If brought by a district attorney, the penalty collected
shall be paid to the treasurer of the county in which the
judgment was entered.

AMENDMENT 3

On page 2, line 34, after "entered" insert:

, and one-half to the treasurer of the county in which the
judgment was entered

May 15, 1974

Mr. John W. Witt, City Attorney
City of San Diego
City Administration Building
San Diego, California 92101

Dear Mr. Witt:

Thank you for your letter of April 29 regarding
Senate Bill 1725 relating to unfair competition.

This bill received a favorable recommendation
from the committee at the last hearing. However,
prior to its passage, its author amended the bill
to make it applicable only to the City of Las Angeles.

We appreciate receiving comments on legislation
pending before us by city attorneys in this state.

Sincerely,

Bion M. Gregory
Chief Counsel

BMG:ljs

(800) 666-1917

LEGISLATIVE INTENT SERVICE



ASRR 447

ROBERT A. LEE
ASST. CITY ATTORNEY

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

JOHN W. WITT
CITY ATTORNEY

CITY ADMINISTRATION BUILDING
SAN DIEGO, CALIFORNIA 92101
(714) 236-6220

April 29, 1974

The Honorable Alfred H. Song
Chairman, Senate Judiciary Committee
State Capitol Building
Sacramento, California 95814

Dear Senator Song:

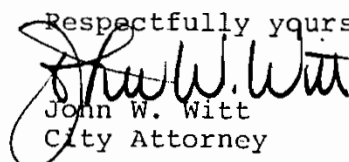
Consumer protection is a program of particularly great importance to San Diegans, as I'm sure it is to other Californians, as well. The Consumer Protection Unit of the San Diego City Attorney's office is an important and effective arm of San Diego local government's strong effort to assist consumers and legitimate businessmen in their fight to resist unfair business practices, fraud and false advertising.

I am particularly pleased that Senator Alan Robbins of Los Angeles County has introduced Senate Bill 1725 which would authorize city attorneys to seek injunctive relief and civil penalties in cases involving unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising. I support the bill fully and I stand ready to assist you in seeking its adoption.

The San Diego City Attorney's office in 1973 obtained restitution for consumer-victims in business fraud cases amounting to \$23,882.84 and prosecuted criminal cases in which fines totaling \$14,225 were also imposed. Over 1,600 consumer complaints were processed during Fiscal Year 1973. By the end of Fiscal 1974, another 1,942 will have been processed. Projections for Fiscal 1975 indicate that 2,135 consumer complaints will be processed that year. The attorneys assigned to my Consumer Protection Unit inform me that S.B. 1725 is absolutely necessary to the continued success of their efforts.

Since you are a concerned member of our State Senate, I know it is unnecessary to inform you of its importance. I want you to know, however, that I join the League of California Cities, my brother City Attorney Burt Pines of Los Angeles and others active in consumer affairs in wholehearted support of S.B. 1725.

Respectfully yours,


John W. Witt
City Attorney

JWW:as

ASRR 488

OFFICE
THE CITY ATTORNEY
CITY OF SAN DIEGO

JOHN W. WITT
CITY ATTORNEY

CITY ADMINISTRATION BUILDING
SAN DIEGO, CALIFORNIA 92101
(619) 236-6700

SB 1725

May 20, 1974

The Honorable Alan Robbins
State Senator
State Capitol Building
Sacramento, California 95814

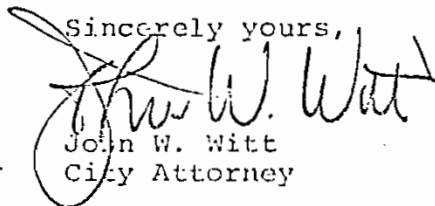
Dear Senator Robbins:

On April 29 I wrote you indicating my unlimited support of Senate Bill 1725, a measure introduced by you, which would add authority for City Attorneys to file civil actions in certain consumer protection cases. Subsequently, I was informed the bill was amended to grant such authority only to City Attorneys of cities exceeding two million in population. Among California City Attorneys, only Mr. Pines of Los Angeles could support such an amendment.

I have been informed, however, that you have agreed in principle to further amendment which would reduce the population floor for the authorization to a figure more closely aligned with population figures of large California cities other than Los Angeles. I am certain that you appreciate that my support of S.B. 1725 depends on the two million population figure being eliminated or reduced to permit my office to have the authority contemplated in the bill.

Your assistance is greatly appreciated.

Sincerely yours,


John W. Witt
City Attorney

JWW:as
cc See attached list

LEGISLATIVE INTENT SERVICE (800) 666-1917

ASRR 449

The Honorable Alan Robbins
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Alfred H. Song
Chairman, Senate Judiciary Committee
State Capitol Building
Sacramento, California 95814

The Honorable Nicholas C. Petris
Vice Chairman, Senate Judiciary Committee
State Capitol Building
Sacramento, California 95814

The Honorable W. Craig Biddle
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Clark L. Bradley
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable George Deukmojian
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Donald L. Grunsky
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable John W. Holmdahl
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Fred W. Marler, Jr.
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable George R. Moscone
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable David A. Roberti
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Robert S. Stevens
State Senator
State Capitol Building
Sacramento, California 95814



The Honorable Alan Short
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable James R. Mills
President Pro Tempore of the Senate
State Capitol Building
Sacramento, California 95814

The Honorable Jack Schrader
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable John Stull
State Senator
State Capitol Building
Sacramento, California 95814

The Honorable Bob Wilson
State Assemblyman
State Capitol Building
Sacramento, California 95814

The Honorable Wadie P. Deddeh
State Assemblyman
State Capitol Building
Sacramento, California 95814

The Honorable Lawrence Kapiloff
State Assemblyman
State Capitol Building
Sacramento, California 95814

The Honorable Peter R. Chacon
State Assemblyman
State Capitol Building
Sacramento, California 95814

The Honorable William A. Craven
State Assemblyman
State Capitol Building
Sacramento, California 95814

Richard Carpenter
Director of Legislative Affairs
and General Counsel
League of Calif. Cities
1108 "O" Street
Sacramento, Calif. 95814

Burt Pines
City Attorney
City of Los Angeles

John Witzel
Legislative Representative
City of San Diego
Sacramento, Calif.

Mayor Pete Wilson

COMMITTEE REPORT		
FILE NO.	SB-1725	
DATE OF REPR.	5-7-74	
SENATORS:	AYE	NO
EIDOLE	✓	
READEY	✓	
DEUMMEJIAN	✓	
GRUNSKY		
HOLMGAHL	✓	
WARLER	✓	
WISCONS	✓	
ROBBINS	✓	
ROBERTI	✓	
STEVENS		
SHORT	✓	
REYBIS (V. CHAIR.)		
SONG (CHAIRMAN)	✓	
TOTAL:	10	0

DATE TYPED: 5-15-74

BILL NUMBER: SB-1725

AUTHOR: Robbins

AMENDED COPY: 5-13-74

* * *
* * *

POSITIONS

NO INPUT.

DIGEST This bill, relating to unfair competition, would authorize a city attorney of a city having a population in excess of two million to prosecute actions in unfair competition cases. It would provide that in such a case one-half of the penalty collected would be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered. It would further provide that if action is prosecuted by the district attorney, the penalty collected would be paid to the treasurer of the count in which the judgment was entered.

FISCAL EFFECT: Appropriation, no. Fisc. Comm., no.

LEGISLATIVE INTENT SERVICE (800) 666-1917



ASSEMBLY COMMITTEE ON JUDICIARY
JOHN J. MILLER, CHAIRMAN

BILL DIGEST

Bill: SB 1725

Hearing Date: 8/20/74

AUTHOR: Robbins

SUBJECT: Unfair Competition

SILL DESCRIPTION:

Under the current law, any district attorney and the Attorney General are authorized to prosecute unfair competition cases in the name of the people of California. A complaint made by the Attorney General, District Attorney, or any person or organization, acting either in their own interest or on behalf of the members of the public, may form the basis for these actions.

This bill extends authorization for the prosecution of unfair competition cases to the City Attorney in cities with a population in excess of 750,000. The bill provides that when a successful action is brought by a city attorney, one-half of the penalty collected will be paid to the treasurer of the city and one-half to the treasurer of the county in which the judgment was entered. When an action is brought by the district attorney, the entire penalty will be paid to the treasurer of the county involved.

SOURCE: City of Los Angeles.

COMMENT:

This bill was introduced to permit the Los Angeles City Attorney to prosecute unfair competition cases -- especially those cases that the Attorney General and District Attorney may be unable to prosecute because of other caseload demands.

The population requirement limiting this authorization to those cities with a population in excess of 750,000 was established to

LEGISLATIVE INTENT SERVICE (800) 666-1917



6

ASR 53B

ensure that this authorization was extended only to those cities with adequate staffing capabilities. Does the specified population limit adequately reflect the ability of the city to provide a staff with the expertise required for the successful prosecution of these cases? Are less populated areas, by definition, incapable of the successful prosecution of these cases?



SB 1725 (Robbins)
As amended April 24
Civil Code

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UNFAIR COMPETITION ACTIONS
-LOS ANGELES CITY ATTORNEY-

Source: City of Los Angeles

Prior Legislation: None

Support: Unknown

Opposition: No Known

DIGEST

Authorizes a city attorney of a city whose population exceeds 2 million to prosecute actions in unfair competition cases in the name of the people of the State of California (Sec. 3369, Civ. C.).

Provides that, in each such case, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment is entered (Sec. 3370.1, Civ. C.).

Requires that one-half of the penalty collected in an action for unfair competition be paid to the treasurer of the county in which the judgment is entered and one-half to the State General Fund if the action is brought by a district attorney (Sec. 3370.1, Civ. C.).

PURPOSE

Permit the Los Angeles City Attorney to prosecute unfair competition cases.

COMMENT

1. Presently the Attorney General and the district attorney are authorized to prosecute unfair

(More)

competition cases in the name of the people 1
of the State of California. These actions 7
may be brought upon the complaint of the 2
Attorney General or the district attorney 5
or upon the complaint of any person or organ-
ization acting either in their own interests
or for members of the public. (Sec. 3369,
Civ. C.)

If the Attorney General brings the action,
one-half of the penalty is paid to the treasurer
of the county in which judgment was entered and
one-half to the State General Fund. The penalty
may not exceed \$2,500 for each violation. (Sec.
3370.1, Civ. C.)

2. This bill adds the city attorney of a city whose
population exceeds 2 million as the third govern-
mental entity authorized to prosecute unfair
competition cases. At the present time, the
City of Los Angeles is the only city in this
state with a population in excess of 2 million.
3. The bill states that, if a successful action is
brought by a city attorney, one-half of the
penalty collected shall be paid to the treasurer
of the city in which the judgment was entered.

THIS BILL DOES NOT SPECIFY WHERE THE OTHER
ONE-HALF OF THE PENALTY SHALL BE PAID.
SHOULD NOT THE BILL BE AMENDED TO SO STATE?

4. Under existing law, when a district attorney
brings an action for unfair competition, the
entire penalty is paid to the county treasury.
Under this bill, one-half would be paid to the
county treasury and one-half would be paid to
the State General Fund. (Sec. 3370.1, Civ. C.)

WHY IS THIS CHANGE NECESSARY?

ASSEMBLY COMMITTEE ON JUDICIARY
JOHN J. MILLER, CHAIRMAN

BILL DIGEST

Bill: SB 1725

Hearing Date: 8/20/74

AUTHOR: Robbins

SUBJECT: Unfair Competition

SILL DESCRIPTION:

Under the current law, any district attorney and the Attorney General are authorized to prosecute unfair competition cases in the name of the people of California. A complaint made by the Attorney General, District Attorney, or any person or organization, acting either in their own interest or on behalf of the members of the public, may form the basis for these actions.

This bill extends authorization for the prosecution of unfair competition cases to the City Attorney in cities with a population in excess of 750,000. The bill provides that when a successful action is brought by a city attorney, one-half of the penalty collected will be paid to the treasurer of the city and one-half to the treasurer of the county in which the judgment was entered. When an action is brought by the district attorney, the entire penalty will be paid to the treasurer of the county involved.

SOURCE: City of Los Angeles.

COMMENT:

This bill was introduced to permit the Los Angeles City Attorney to prosecute unfair competition cases -- especially those cases that the Attorney General and District Attorney may be unable to prosecute because of other caseload demands.

The population requirement limiting this authorization to those cities with a population in excess of 750,000 was established to

LEGISLATIVE INTENT SERVICE (800) 666-1917

ASRR 557

Page 2

ensure that this authorization was extended only to those cities with adequate staffing capabilities. Does the specified population limit adequately reflect the ability of the city to provide a staff with the expertise required for the successful prosecution of these cases? Are less populated areas, by definition, incapable of the successful prosecution of these cases?

SB 1725 (Robbins)
As amended April 24
Civil Code

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UNFAIR COMPETITION ACTIONS
-LOS ANGELES CITY ATTORNEY-

Source: City of Los Angeles

Prior Legislation: None

Support: Unknown

Opposition: Calif. D.A.'s & P.O.'s Ass'n.

DIGEST

Authorizes a city attorney of a city whose population exceeds 2 million to prosecute actions in unfair competition cases in the name of the people of the State of California (Sec. 3369, Civ. C.).

Provides that, in each such case, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment is entered (Sec. 3370.1, Civ. C.).

Requires that one-half of the penalty collected in an action for unfair competition be paid to the treasurer of the county in which the judgment is entered and one-half to the State General Fund if the action is brought by a district attorney (Sec. 3370.1, Civ. C.).

PURPOSE

Permit the Los Angeles City Attorney to prosecute unfair competition cases.

COMMENT

1. Presently the Attorney General and the district attorney are authorized to prosecute unfair

(More)

LEGISLATIVE INTENT SERVICE (800) 666-1917

competition cases in the name of the people
of the State of California. These actions
may be brought upon the complaint of the
Attorney General or the district attorney
or upon the complaint of any person or organ-
ization acting either in their own interests
or for members of the public. (Sec. 3369,
Civ. C.)

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If the Attorney General brings the action
one-half of the penalty is paid to the treasurer
of the county in which judgment was entered and
one-half to the State General Fund. The penalty
may not exceed \$2,500 for each violation. (Sec.
3370.1, Civ. C.)

2. This bill adds the city attorney of a city whose
population exceeds 2 million as the third govern-
mental entity authorized to prosecute unfair
competition cases. At the present time, only
the City of Los Angeles contains a population
in excess of 2 million.
3. The opponents of the bill state that prosecution
of unfair competition cases should be a county-
wide function, rather than broken up into cities.
The opponents feel that, by allowing district
attorneys and city attorneys to prosecute unfair
competition cases, harmful competition will
arise between the two entities. Further, they
state that there is no evidence that the Attorney
General and the district attorneys are not ade-
quately prosecuting such cases.
4. The bill states that, if a successful action is
brought by a city attorney, one-half of the
penalty collected shall be paid to the treasurer
of the city in which the judgment was entered.

(More)

THIS BILL DOES NOT SPECIFY WHERE THE OTHER
ONE-HALF OF THE PENALTY SHALL BE PAID.
SHOULD NOT THE BILL BE AMENDED TO SO STATE?

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5. Under existing law, when a district attorney brings an action for unfair competition, the entire penalty is paid to the county treasury. Under this bill, one-half would be paid to the county treasury and one-half would be paid to the State General Fund. (Sec. 3370.1, Civ. C.)

WHY IS THIS CHANGE NECESSARY?

Volume 8

Journal of the Senate

Legislature of the State of California

1973-1974 Regular Session

January 8, 1973, to November 30, 1974

1973-74 First Extraordinary Session

December 4, 1973

1973-74 Second Extraordinary Session

September 25 to October 2, 1974



HON. ED REINECKE
President of the Senate

HON. JAMES R. MILLS
President pro Tempore

DARRYL R. WHITE
Secretary of the Senate

LEGISLATIVE INTENT SERVICE (800) 666-1917



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SEN 600

CALIFORNIA LEGISLATURE

1973-74 REGULAR SESSION

SENATE DAILY JOURNAL

TWO HUNDRED FIFTY-FIRST LEGISLATIVE DAY

SIX HUNDRED FIRST CALENDAR DAY

IN SENATE

Senate Chamber, Sacramento
Saturday, August 31, 1974

The Senate met at 10 a.m.
Hon. James R. Mills, President pro Tempore of the Senate, presiding.

Secretary Darryl R. White at the Desk.
Assistant Secretary Spencer K. Hathaway reading.

QUORUM CALL OF THE SENATE

Senator Rodda moved a quorum call of the Senate.
Motion carried.

The President pro Tempore directed the Sergeant at Arms to close the doors, and to bring in the absent Members.

PROCEEDINGS UNDER QUORUM CALL OF THE SENATE

Senator Cusanovich Presiding

ROLL CALL

The roll was called, and the following answered to their names:

Alquist, Ayala, Behr, Beilenson, Berryhill, Biddle, Bradley, Carpenter, Collier, Cusanovich, Deukmejian, Dills, Dymally, Gregorio, Grunsky, Harner, Holmdahl, Kennick, Marks, Marler, Mills, Moscone, Nejedly, Petris, Rains, Richardson, Robbins, Roberti, Rodda, Schrade, Short, Song, Stevens, Stiern, Stull, Walsh, Way, Wedworth, Whetmore, and Zenovich—40.

Quorum present.

PRAYER

Prayer was offered by the Chaplain, Rev. David R. Swope:

Praised be Thou, O Lord, God of our Fathers, God of Abraham, Isaac, and Jacob, great, mighty, and exalted. Though our "days are like an evening shadow and we wither away like grass, Thy Name endures to all generations." This day, O God, this Senate will conclude what has involved countless meetings, unforeseen events, and

445—514

(800) 666-1917

LEGISLATIVE INTENT SERVICE



total positions which normally afford entry into the Department of Corrections service, unless the applicant is already a "state safety" member for the purpose of retirement and disability benefits or was employed in a permanent, temporary, part-time, or intermittent capacity with the department after July 1, 1973, but before January 1, 1974.

Sec. 4. It is the intent of the Legislature, if this bill and Assembly Bill No. 2874 are both chaptered and amend Section 6053 of the Penal Code, and this bill is chaptered after Assembly Bill No. 2874, that Section 6053 of the Penal Code, as amended by Section 1 of Assembly Bill No. 2874 be further amended on the operative date of this act in the form set forth in Section 3 of this act to incorporate the changes in Section 6053 proposed by this bill. Therefore, Section 3 of this act shall become operative only if Assembly Bill No. 2874 is chaptered before this bill and amends Section 6053, and in such case Section 3 of this act shall become operative on the operative date of this act and Section 2 of this act shall not become operative."

The undersigned consent to the report:

ALFRED H. SONG

JOHN F. DUNLAP

LAWRENCE E. WALSH

ALAN SIEROTY

JACK SCHRADE

HARVEY JOHNSON

Senate Committee on Conference Assembly Committee on Conference

The roll was called, and the report adopted by the following vote:

AYES—Senators Alquist, Ayala, Behr, Beilenson, Berryhill, Biddle, Bradley, Carpenter, Collier, Cusanovich, Denkmejian, Dills, Dymally, Gregorio, Grunsky, Harner, Holmquist, Kennick, Marks, Marler, Mills, Moscone, Nejedly, Petris, Rains, Robbins, Roberti, Rodda, Song, Stevens, Stern, Stull, Walsh, Way, Wedworth, Whetmore, and Zenovich—37.

NOES—None.

Above bill ordered enrolled.

REPORT OF COMMITTEE ON CONFERENCE

The following report of Committee on Conference was received, and read:

Senate Chamber, August 28, 1974

Mr. President: The Committee on Conference concerning:

Senate Bill 1725—An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific or preventive relief;

consisting of the undersigned members, has met, and reports that it has agreed to recommend the following:

That the amendments of the Assembly be concurred in, and that the bill be further amended as follows:

Amendment 1

On page 2, line 22 of the printed bill, as amended in Assembly August 23, 1974, after "attorney", insert "or any city attorney of a city having a population in excess of 750,000,".



Amendment 2

On page 3, line 1, after "attorney", insert "or any city attorney of a city having a population in excess of 750,000,".

Amendment 3

On page 3, line 11, after "city", insert "attorney or city".
The undersigned consent to the report:

ALAN ROBBINS	JIM KEYSOR
DAVID A. ROBERTI	MIKE D. ANTONOVICH
ANTHONY BEILENSEN	

Senate Committee on Conference Assembly Committee on Conference

The roll was called, and the report adopted by the following vote:

AYES—Senators Alquist, Ayala, Behr, Beilenson, Berryhill, Biddle, Bradley, Carpenter, Collier, Cusanovich, Deukmejian, Dills, Dymally, Gregorio, Grunsky, Harner, Holmdahl, Kennick, Marks, Marler, Mills, Moscone, Nejedly, Petris, Rains, Robbins, Roberti, Rodda, Song, Stevens, Stiern, Stull, Walsh, Way, Wedworth, Whetmore, and Zenovich—37.

NOES—None.

Above bill ordered enrolled.

REPORT OF COMMITTEE ON CONFERENCE

The following report of Committee on Conference was received, and read:

Senate Chamber, August 29, 1974

Mr. President: The Committee on Conference concerning:

Assembly Bill 639—An act making an appropriation to the Department of Social Welfare for attendant care of public assistance recipients;

consisting of the undersigned members, has met, and reports that it has agreed to recommend the following:

That the amendments of the Senate be concurred in, and that the bill be further amended as follows:

Amendment 1

In line 1 of the heading of the printed bill, as amended in Senate August 31, 1973, strike out "Crown and Burton", and insert "Montoya, Alatorre, Arnett, Bagley, Berman, Cory, Craven, Cullen, Dixon, Garcia, Kapiloff, Miller, and Thurman

(Coauthors: Senators Alquist, Moscone, and Robbins)".

Amendment 2

In line 2 of the title, strike out "making an"; strike out line 3; and in line 4, strike out "welfare for attendant care of", and insert "to amend Section 206.7 of the Civil Code, to add Sections 25846 and 25847 to the Government Code, to amend Section 270d of the Penal Code, to amend Section 218 of the Revenue and Taxation Code, to amend Sections 5302, 5305, and 5307 of the Unemployment Insurance Code, to amend Sections 10001, 10002, 10058, 10600, 10603, 10606, 10607, 10608,



Volume 10

Journal of the Assembly

Legislature of the State of California

1973-74 Regular Session

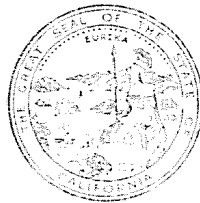
January 8, 1973, to November 30, 1974

1973-74 First Extraordinary Session

December 4, 1973

1973-74 Second Extraordinary Session

September 25-October 2, 1974



BOB MORETTI
Speaker of the Assembly

CARLOS BEE
Speaker pro Tempore of the Assembly

JACK R. FENTON
Majority Floor Leader

ROBERT G. BEVERLY
Minority Floor Leader

JAMES D. DRISCOLL
Chief Clerk of the Assembly

LIS-7b

LEGISLATIVE INTENT SERVICE (800) 666-1917



ASSEMBLY 666

CALIFORNIA LEGISLATURE

1973-74 REGULAR SESSION

ASSEMBLY DAILY JOURNAL

Two Hundred Thirty-third Legislative Day

Five Hundred Ninety-eighth Calendar Day

IN ASSEMBLY

Assembly Chamber, Sacramento
Wednesday, August 28, 1974

The Assembly met at 9:30 a.m.

Hon. Jim Keysor, Member of the Assembly, 41st District, presiding.

Chief Clerk James D. Driscoll at the Desk.

Assistant Clerk Ray Monday reading.

ROLL CALL

The roll was called.

Quorum Call of the Assembly

Acting Speaker Keysor placed a quorum call upon the Assembly.

Time, 9:32 a.m.

The Acting Speaker directed the Sergeant at Arms to close the doors,
and to bring in the absent Members.

Hon. Robert G. Beverly Presiding

At 9:57 a.m., Hon. Robert G. Beverly, 46th District, presiding.

PROCEEDINGS UNDER CALL OF THE ASSEMBLY
BY UNANIMOUS CONSENT

QUORUM PRESENT

At 9:58 a.m., Acting Speaker Beverly declared a quorum of the As-
sembly present.

The roll call was completed, and the following answered to their
names—74:



REPORT OF COMMITTEE ON CONFERENCE

The following report of Committee on Conference was received, and read:

Assembly Chamber, August 28, 1974

Mr. Speaker: The Committee on Conference concerning:

Senate Bill No. 1725, as amended in Assembly August 23, 1974—
An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific of preventive relief;
consisting of the undersigned members, has met, and reports that it has agreed to recommend the following:

That the amendments of the Assembly be concurred in, and that the bill be further amended as follows:

Amendment No. 1

On page 2, line 22, of the printed bill, as amended in Assembly August 23, 1974, after "attorney", insert "or any city attorney of a city having a population in excess of 750,000,".

Amendment No. 2

On page 3, line 1, after "attorney", insert "or any city attorney of a city having a population in excess of 750,000,".

Amendment No. 4

On page 3, line 11, after "city", insert "attorney or city".
The undersigned consent to the report:

ALAN ROBBINS

DAVID ROBERTI

ANTHONY BEILENSEN

JIM KEYSOR

MIKE ANTONOVICH

Senate Committee on Conference Assembly Committee on Conference

Report presented by Mr. Antonovich, and adopted by the following vote (**AYES—68; NOES—None**):

AYES

Antonovich	Cullen	Johnson, Ray E.	Nimmo
Arnett	Davis	Kapiloff	Papan
Badham	Deddeh	Karabian	Powers
Bannai	Duffy	Keene	Priolo
Bee	Dunlap	Keysor	Quimby
Beverly	Fenton	Knox	Ralph
Boatwright	Fong	Lancaster	Russell
Bond	Foran	Lanterman	Seeley
Briggs	Garcia	Lewis	Thomas
Brown	Gonsalves, Joe A.	Lockyer	Thurman
Burke	Gonzales, Ray	MacDonald	Vasconcellos
Chacon	Greene, Bill	MacGillivray	Wakefield
Chappie	Greene, Leroy F.	Maddy	Warren
Cline	Hayden	McAlister	Wilson
Collier	Holoman	Mobley	Wood
Cory	Ingalls	Moretti	Zberg
Craven	Johnson, Harvey	Murphy	Mr. Speaker

NOES—None.



SB 1725 (Robbins)
As amended April 24
Civil Code

UNFAIR COMPETITION ACTIONS
-LOS ANGELES CITY ATTORNEY-

Source: City of Los Angeles

Prior Legislation: None

Support: Unknown

Opposition: No Known

DIGEST

Authorizes a city attorney of a city whose population exceeds 2 million to prosecute actions in unfair competition cases in the name of the people of the State of California (Sec. 3369, Civ. C.).

Provides that, in each such case, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment is entered (Sec. 3370.1, Civ. C.).

Requires that one-half of the penalty collected in an action for unfair competition be paid to the treasurer of the county in which the judgment is entered and one-half to the State General Fund if the action is brought by a district attorney (Sec. 3370.1, Civ. C.).

PURPOSE

Permit the Los Angeles City Attorney to prosecute unfair competition cases.

COMMENT

1. Presently the Attorney General and the district attorney are authorized to prosecute unfair

(More)

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LEGISLATIVE INTENT SERVICE (800) 666-1917



competition cases in the name of the people 1
of the State of California. These actions 7
may be brought upon the complaint of the 2
Attorney General or the district attorney 5
or upon the complaint of any person or organ-
ization acting either in their own interests
or for members of the public. (Sec. 3369,
Civ. C.)

If the Attorney Geneneral brings the action,
one-half of the penalty is paid to the treasurer
of the county in which judgment was entered and
one-half to the State General Fund. The penalty
may not exceed \$2,500 for each violation. (Sec.
3370.1, Civ. C.)

2. This bill adds the city attorney of a city whose
population exceeds 2 million as the third govern-
mental entity authorized to prosecute unfair
competition cases. At the present time, the
City of Los Angeles is the only city in this
state with a population in excess of 2 million.
3. The bill states that, if a successful action is
brought by a city attorney, one-half of the
penalty collected shall be paid to the treasurer
of the city in which the judgment was entered.

THIS BILL DOES NOT SPECIFY WHERE THE OTHER
ONE-HALF OF THE PENALTY SHALL BE PAID.
SHOULD NOT THE BILL BE AMENDED TO SO STATE?

4. Under existing law, when a district attorney
brings an action for unfair competition, the
entire penalty is paid to the county treasury.
Under this bill, one-half would be paid to the
county treasury and one-half would be paid to
the State General Fund. (Sec. 3370.1, Civ. C.)

WHY IS THIS CHANGE NECESSARY?



SENATE BILL NO. 1725

1974 REGULAR SESSION

CHAPTER 746

AUTHOR Robert

DATE RECEIVED 9-6 1974

LAST DAY TO ACT 9-30 1974

ACTION OF GOVERNOR 9-18 1974



LEGISLATIVE INTENT SERVICE (800) 666-1917

ASPP 77b

ENROLLED BILL MEMORANDUM TO GOVERNOR	DATE September 14, 1974
BILL NO. Senate Bill 1725	AUTHOR Robbins

Vote—Senate X Unanimous

Ayes—
Noes—

Vote—Assembly X Unanimous

Ayes—
Noes—

SB 1725 (Robbins)
Chapter _____

Authorizes the city attorney of a city having a population in excess of 750,000 to prosecute actions in unfair competition cases.

The bill authorizes city prosecutor, with the consent of the district attorney, in any city or city and county having a full-time city prosecutor to prosecute actions in unfair competition cases.

The bill further provides that in such cases one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered.

The bill was introduced at the request of the City of Los Angeles.

The League of California Cities requests approval.

The Legal Affairs Unit recommends approval.

Recommendation	APPROVE	Legislative Secretary
----------------	---------	-----------------------

J. T.

00720-0

ASPP 720

BERNARD CZESLA
CHIEF DEPUTY

J. COULD
OWEN K. KUNS
RAY H. WHITAKER

KENT L. DECHAMBEAU
ERNEST H. KUNZI
STANLEY M. LOURIMORE
SHERWIN C. MACKENZIE, JR.
EDWARD F. NCWAK
EDWARD K. PURCELL
PRINCIPAL DEPUTIES

ANN M. MACKAY
PRINCIPAL DEPUTY
LOS ANGELES OFFICE

3021 STATE CAPITOL
SACRAMENTO 95814

110 STATE BUILDING
LOS ANGELES 90012

Legislative Counsel of California

GEORGE H. MURPHY

September 10, 1974
Sacramento, California

Honorable Ronald Reagan
Governor of California
Sacramento, California

Senate Bill No. 1725

Dear Governor Reagan:

Pursuant to your request we have reviewed the
above-numbered bill authored by Senator Robbins
and, in our opinion, the title and form are sufficient
and the bill if approved by the Governor will be consti-
tutional. The digest on the printed bill as adopted
correctly reflects the views of this office.

Very truly yours,
George H. Murphy
Legislative Counsel

By Edward K. Purcell
Principal Deputy

Copy to Honorable Alan Robbins
pursuant to Joint Rule 34.

GERALD ROSS ADAMS
DAVID D. ALVES
MARTIN L. ANDERSON
CARL M. ARNOLD
CHARLES C. ASBILL
JAMES L. ASHFORD
JERRY L. BASSETT
EDWARD RICHARD COHEN
JOHN CORZINE
BEN E. DALE
DENNIS W. DE GUIR
CLINTON J. DEWITT
JERALD S. DICK
ROBERT CULLEN DUFFY
LAWRENCE H. FEIN
JOHN FOSSETTE
HARVEY J. FOSTER
ROBERT D. GRONKE
JAMES W. HEINZER
THOMAS R. HEUER
L. DOUGLAS KINNEY
VICTOR KOZIELSKI
JAMES A. MARSALA
EUGENE W. MCCABE
PETER F. MELNICOE
MIRKO A. MILICEVICH
ROSE OLIVER
TRACY O. POWELL, II
MARGUERITE ROTH
MARY SHAW
ARTHUR R. SILEN
ROY K. SIMMONS
RUSSELL L. SPARLING
JOHN T. STUDEBAKER
BRIAN L. WALKUP
THOMAS D. WHELAN
DAVID E. WHITTINGTON
JIMMIE WING
CHRISTOPHER ZIRKLE
DEPUTIES

LEGISLATIVE INTENT SERVICE (800) 666-1917

ASRR 73B

AMENDED IN CONFERENCE
SENATE AUGUST 31, 1974; ASSEMBLY AUGUST 29, 1974

AMENDED IN ASSEMBLY AUGUST 23, 1974

AMENDED IN SENATE JUNE 27, 1974

AMENDED IN SENATE MAY 14, 1974

AMENDED IN SENATE APRIL 24, 1974

SENATE BILL

No. 1725

Introduced by Senator Robbins

February 14, 1974

An act to amend Sections 3369 and 3370.1 of the Civil Code, relating to the specific or preventive relief.

LEGISLATIVE COUNSEL'S DIGEST

SB 1725, as amended, Robbins. Unfair competition.
(Authorizes city attorney of a city having a population in excess of 750,000 to prosecute actions in unfair competition cases.)

— [Authorizes city prosecutor, with the consent of the district attorney, in any city or city and county having a full-time city prosecutor to prosecute actions in unfair competition cases.]

Provides that in such ~~case~~ cases one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered.

Provides that if action is prosecuted by district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered.

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

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ASRR 774

ENROLLED BILL REPORT

AGENCY Agriculture and Services	BILL NUMBER SB 1725
DEPARTMENT, BOARD OR COMMISSION Department of Consumer Affairs	AUTHOR Robbins

SUBJECT: Prosecution by a City Attorney in Unfair Competition Cases

HISTORY, SPONSORSHIP, AND RELATED LEGISLATION:

The Los Angeles County D.A.'s Office is currently unable to become involved in many cases because of insufficient staffing. The City of Los Angeles sponsored SB 1725 in an effort to reduce the work load of the D.A.'s Office by allowing city attorneys to handle cases involving violations of existing unfair competition provisions which must now be enforced either by the Attorney General or a District Attorney.

ANALYSIS

Specific Findings

SB 1725 authorizes the city attorney in a city of more than 750,000 people to prosecute, with the consent of the D.A., violators of unfair competition statutes. Presently either the A.G. or the D.A. may initiate such actions, but some cities have a city attorney staff of sufficient size to handle these cases. The city of L.A. in particular believes this legislation would reduce the work load of the A.G. or D.A. SB 1725 originally authorized every city attorney to handle such cases but due to opposition from the District Attorneys' Association of California it was finally amended to affect only city attorneys in cities of more than 750,000 people, and with the consent of the D.A. As written, the bill would affect the cities of Los Angeles, San Diego, and San Francisco.

Fiscal Analysis

No fiscal impact on this department.

VOTE: Senate: 32-0

Assembly: 65-0

THIS IS A POLITICAL ISSUE!

RECOMMENDATION <i>Sign</i>			
DEPARTMENT DIRECTOR <i>F. E. Eymann</i>	DATE <i>9/18/74</i>	AGENCY SECRETARY <i>[Signature]</i>	DATE <i>9/18/74</i>

99D-16 (Rev. 1/71)

ASRR 735

ENROLLED BILL REPORT

AGENCY Agriculture and Services	BILL NUMBER SB 1725
DEPARTMENT, BOARD OR COMMISSION Department of Consumer Affairs	AUTHOR Robbins

SUBJECT: Prosecution by a City Attorney in Unfair Competition Cases

HISTORY, SPONSORSHIP, AND RELATED LEGISLATION:

The Los Angeles County D.A.'s Office is currently unable to become involved in many cases because of insufficient staffing. The City of Los Angeles sponsored SB 1725 in an effort to reduce the work load of the D.A.'s Office by allowing city attorneys to handle cases involving violations of existing unfair competition provisions which must now be enforced either by the Attorney General or a District Attorney.

ANALYSIS

Specific Findings

SB 1725 authorizes the city attorney in a city of more than 750,000 people to prosecute, with the consent of the D.A., violators of unfair competition statutes. Presently either the A.G. or the D.A. may initiate such actions, but some cities have a city attorney staff of sufficient size to handle these cases. The city of L.A. in particular believes this legislation would reduce the work load of the A.G. or D.A. SB 1725 originally authorized every city attorney to handle such cases but, due to opposition from the District Attorneys' Association of California, it was finally amended to affect only city attorneys in cities of more than 750,000 people, and with the consent of the D.A. As written, the bill would affect the cities of Los Angeles, San Diego, and San Francisco.

Fiscal Analysis

No fiscal impact on this department.

VOTE: Senate: 32-0

Assembly: 65-0

JOHN,

THIS COULD BE A POLITICAL TURKEY!

The bill is being introduced in the Assembly for some time and it is expected that it will pass. The bill is signed by the Attorney General.

RECOMMENDATION:

Sign - only if no problem with the bill.

DEPARTMENT DIRECTOR J. Layman	DATE 9/18/74	AGENCY SECRETARY J. Layman	DATE
----------------------------------	-----------------	-------------------------------	------

ENROLLED BILL REPORT

AGENCY GOVERNOR'S OFFICE	BILL NUMBER SB 1725
DEPARTMENT, BOARD OR COMMISSION LEGAL AFFAIRS	AUTHOR Robbins

This bill authorizes the city attorney, in a city with a population in excess of 750,000, to prosecute actions in unfair competition cases, if the district attorney gives his prior consent.

If a judgment is recovered in an unfair competition case brought by the city attorney, one-half the penalty collected shall be paid to the city treasury, and one-half to the county treasury.

RECOMMENDATION:

SIGN

ANALYST R. J. Blonien, Assistant Legal Affairs Secretary	DATE 9/13/74	LEGAL AFFAIRS SECRETARY	DATE ASR 776
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City Council of the City of Los Angeles

KEN SPIKER

CHIEF LEGISLATIVE ANALYST

September 4, 1974

Honorable Ronald Reagan
Governor
State of California
Sacramento, California

Dear Governor Reagan:

Senate Bill 1725 is on your desk for your consideration. This measure was introduced by Senator Robbins at the request of the City of Los Angeles. As you know, this measure would permit certain city attorneys and city prosecutors to prosecute actions in unfair competition cases.

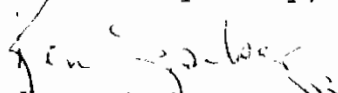
Current statutes permit only district attorneys to prosecute consumer protection cases. However, there are several large municipal jurisdictions with legal staffs that are highly capable of prosecuting this type of case.

As you know, the City of Los Angeles maintains an Office of Consumer Affairs and in the course of their activities become involved in a number of cases on unfair competition. Under current statutes, although the City Attorney's Office of the City of Los Angeles could very easily prosecute such cases, they are currently prevented from doing so by State statute.

SB 1725 would solve this problem by providing that city attorneys or city prosecutors in cities over 750,000 population, and city prosecutors in smaller cities, with the consent of the district attorney, seek injunctive and civil relief for acts of unfair competition.

I urge your affirmative action on SB 1725, as a means to provide a more coordinated effort in the prosecution of acts of unfair competition.

Yours very truly,


Kenneth G. Spiker

KGS/lv

LEGISLATIVE INTENT SERVICE (800) 666-1917



ASRR 788

League of CALIFORNIA cities

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Sacramento, Ca. 95814
September 11, 1974

Legislative Section
Governor's Office
State Capitol
Sacramento, Ca. 95814

Re: SB 1725

Gentlemen:

The League supports the above numbered bill by Senator Robbins. It was amended at our request to include cities of less than 750,000 population, but under such circumstances before a full-time city prosecutor may prosecute consumer fraud cases the consent of the district attorney must be obtained.

Approval is requested.

Sincerely,

Richard Carpenter
Richard Carpenter
Director of Legislative Affairs
and General Counsel

RC:mvb

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ASRR-799

CALIFORNIA LEGISLATURE
1973-74 REGULAR SESSION
and
1973-74 SECOND EXTRAORDINARY SESSION
SUMMARY DIGEST
of
Statutes Enacted and Resolutions (Including Proposed
Constitutional Amendments) Adopted in 1974
and
1969-1974 Statutory Record



DARRYL R. WHITE
Secretary of the Senate

JAMES D. DRISCOLL
Chief Clerk of the Assembly

Compiled by
GEORGE H. MURPHY
Legislative Counsel

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ASRR 880

To take effect immediately, tax levy.

Ch. 745 (SB 1719) Kennick Minors

Authorizes performance of dental work on persons in custody pursuant to provisions of juvenile court law, in designated situations, upon written recommendation of attending or licensed dentist, rather than written recommendation of physician

Makes technical change

Ch. 746 (SB 1725) Robbins. Unfair competition

Authorizes city attorney of a city having a population in excess of 750,000 to prosecute actions in unfair competition cases.

Authorizes city prosecutor, with the consent of the district attorney, in any city or city and county having a full-time city prosecutor to prosecute actions in unfair competition cases

Provides that in such cases one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered.

Provides that if action is prosecuted by district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered

Ch. 747 (SB 1727) Mills Public transportation federal funds

Authorizes public transportation system operators to budget and expend Mills-Alquist-Deddeh Act funds for operating purposes to enable them to receive the maximum amount of matching federal funds for operating expenditures if they become available

To remain in effect only until June 30, 1977.

To take effect immediately, urgency statute.

Ch. 748 (SB 1783) Dymally Instructional materials, testing programs

Specifies that when governing boards of school districts are adopting instructional materials for use in the schools, such materials are to accurately portray the role and contributions of European Americans, among other prescribed ethnic and cultural groups, to the total development of California and the United States

Authorizes State Board of Education to combine available tests or develop a new test if no published test is deemed suitable to be given to pupils in grades 2 and 3 to determine reading ability, rather than requiring adoption of standardized reading achievement test.

Requires answer sheets of such mandatory reading test to be transmitted to Department of Education for scoring rather than just submitting test results.

Requires performance test answer sheets of basic skill courses required of pupils in grades 6 and 12 to be submitted to the State Board of Education for scoring rather than just submitting test results.

Makes related changes.

Ch. 749 (SB 1807) Way Judicial districts.

Provides that if the board of supervisors of Madera County consolidates the Madera Judicial District and the Sierra Judicial District into the same district, any justice court established in the consolidated district shall have 2 judges

Provides that notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act

Ch. 750 (SB 1829) Deukmejian Crimes

Extends provision for termination of the California Crime Technological Research Foundation from [the 61st day after]* adjournment of the 1975 Regular Session of the Legislature to December 31, 1976.



EXHIBIT 2



LEGISLATIVE INTENT SERVICE, INC.

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DECLARATION OF ANNA MARIA BERECZKY-ANDERSON

I, Anna Maria Bereczky-Anderson, declare:

I am an attorney licensed to practice in California, State Bar No. 227794, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain documents relevant to the enactment of Senate Bill 1725 of 1974. The documents listed below were obtained through Legislative Intent Service, Inc.'s online quick purchase service of previously-compiled legislative histories. Senate Bill 1725 was approved by the Legislature and was enacted as Chapter 746 of the Statutes of 1974.

The following list identifies all documents purchased on December 26, 2024, through Legislative Intent Service, Inc.'s online quick purchase service of compiled legislative histories, on Senate Bill 1725 of 1974. All documents listed in this Declaration are true and correct copies of the originals gathered by Legislative Intent Service, Inc.

SENATE BILL 1725 OF 1974:

1. All versions of Senate Bill 1725 (Robbins-1974);
2. Procedural history of Senate Bill 1725 from the 1973-74 *Senate Final History*;
3. Analysis of Senate Bill 1725 prepared for the Senate Committee on Judiciary;
4. Material from the legislative bill file of the Senate Committee on Judiciary on Senate Bill 1725 as follows:
 - a. Previously Obtained Material,
 - b. Updated Collection of Material;
- + 5. Third Reading analysis of Senate Bill 1725 prepared by the Senate Republican Caucus;

6. Analysis of Senate Bill 1725 prepared for the Assembly Committee on Judiciary;
7. Material from the legislative bill file of the Assembly Committee on Judiciary on Senate Bill 1725;
8. Material from the legislative bill file of the Assembly Republican Caucus on Senate Bill 1725;
9. Report of Committee on Conference on Senate Bill 1725 excerpted from the 1974 *Journal of the Senate*;
10. Report of Committee on Conference on Senate Bill 1725 excerpted from the 1974 *Journal of the Assembly*;
11. Material from the legislative bill file of Senator Alan Robbins on Senate Bill 1725;
12. Post-enrollment documents regarding Senate Bill 1725;
13. Excerpt regarding Senate Bill 1725 from the 1974 *Summary Digest of Statutes Enacted and Resolutions Adopted*, prepared by Legislative Counsel.

+

Because it is not unusual for more materials to become publicly available after our earlier research of legislation, we re-gathered these file materials, denoting them as “updated collection of material.”

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 9th day of January, 2025 at Woodland, California.



ANNA MARIA BERECKZY-ANDERSON

PROOF OF SERVICE

I, Monica Quinones, declare:

I am a citizen of the United States and employed in San Bernardino County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 2855 E. Guasti Road, Suite 400, Ontario, California 91761. On January 13, 2025, I served a copy of the within document(s):

DECLARATION OF CHRISTOPHER M. PISANO IN SUPPORT OF CITY OF LINCOLN'S OPPOSITION TO THE GATHERING INN'S DEMURRER

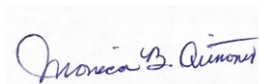
- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, the United States mail at Ontario, California addressed as set forth below.
- ☐ by placing the document(s) listed above in a sealed _____ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a _____ agent for delivery.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

Please see attached Service List.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on January 13, 2025, at Ontario, California.



Monica Quinones

SERVICE LIST

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Jennifer Bentley **Via E-Mail**
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Joshua Sondheimer (CDSS)
Anthony Pinggera

Jose Ramos **Agreed to Electronic Service**
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