

Does Gov. Landry's bid to restrict attorney advertising violate the First Amendment?

By Dillon Lowe



A bill backed by Gov. Jeff Landry aims to rein in Louisiana's famously aggressive personal injury attorney advertising—but it may face stiff legal challenges.

The bill—[House Bill 430](#), sponsored by state Rep. Kim Carver, R-Mandeville—would create new standards for how attorneys can advertise and reinforce existing rules. Supporters contend that the legislation would curb frivolous accident lawsuits and help bring down auto insurance rates.

"Too much of this advertising is having a cultural effect on our society, and it's not healthy," Landry said at a press conference on insurance reform earlier this month.

Will Mari, an LSU media law professor, tells *Daily Report* that attorney advertising is protected under the First Amendment, though commercial speech does have a lower level of protection than other types of speech. The 1977 U.S. Supreme Court ruling that established that protection led to the proliferation of legal ads across the country.

"Historically, the Supreme Court has said that while you can restrict commercial speech, you really can't do so beyond a certain point," Mari says.

Mari notes that Louisiana already has stricter rules than many other states when it comes to attorney advertising. In his view, HB430 tightens guidelines in a way that's largely redundant.

"The existing rules around things like testimonials are already quite strict," he says. "It's not even that it's unconstitutional; it's really just kind of overkill."

One section of the bill would prohibit the use of slogans, jingles or mottos in attorney advertising unless the contents of the ads have been "factually verified" or are necessary to describe legal services. It's unclear how that standard would apply to ubiquitous phrases like Morris Bart's "One Call, That's All" or Gordon McKernan's "Get Gordon, Get It Done."

"It's hard to prohibit speech acts that are otherwise innocuous. ... You would have to really show that there is a substantial danger to the public—like a life, liberty and property type of danger—to proactively, with a prior restraint, [prohibit] that speech from being published," Mari says.

The bill includes a slew of other provisions policing ad content, including one that mandates the disclosure of net settlement amounts after fees and other costs. It would also forbid attorneys from directly contacting accident victims for 30 days after their accidents unless the client initiates the conversation and penalize violations with fines, suspension or potential disbarment.

According to Mari, trial attorneys would almost certainly challenge the bill in court if it were to be signed into law as currently written.

"They have the right to do so, and they probably would immediately do so, and they probably would win," he says.

This isn't the first time that lawmakers have looked to restrict attorney advertising. Most recently, a similar bill made its way to the desk of then-Gov. John Bel Edwards in 2021. He vetoed that bill, however, citing concerns over its constitutionality.

Carver was unable to be reached for comment before this morning's publication deadline. HB430 is part of a larger package of auto insurance reform bills that Landry is championing. [Read more about his plan here.](#)

URL: <https://www.businessreport.com/business/does-gov-landrys-bid-to-restrict-attorney-advertising-violate-the-first-amendment>