

As Passed by the House

**125th General Assembly
Regular Session
2003-2004**

Sub. H. B. No. 38

**Representatives Willamowski, Hagan, McGregor, Seitz, Setzer, Schaffer,
Buehrer, Widener, Latta, Book, Harwood, Mason, Core, Beatty, Callender,
Blasdel, Cirelli, Daniels, DeBose, DeGeeter, Domenick, C. Evans, D. Evans,
Faber, Flowers, Gilb, Hughes, Key, T. Patton, Schmidt, Skindell, G. Smith,
S. Smith, J. Stewart**

A B I L L

To amend sections 4705.07 and 4705.99 of the Revised Code to specifically prohibit a person not licensed to practice law in Ohio from performing any act prohibited by the Supreme Court as the unauthorized practice of law and to provide for the recovery of damages for a violation of the prohibition. 1
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4705.07 and 4705.99 of the Revised Code be amended to read as follows: 8
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Sec. 4705.07. (A) No person who is not licensed to practice law in this state shall do ~~either~~ any of the following: 10
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(1) Hold that person out in any manner as an attorney at law; 12

(2) Represent that person orally or in writing, directly or indirectly, as being authorized to practice law; 13
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(3) Commit any act that is prohibited by the supreme court as 15

being the unauthorized practice of law.

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(B)(1) The use of "lawyer," "attorney at law," "counselor at law," "law," "law office," or other equivalent words by any person who is not licensed to practice law, in connection with that person's own name, or any sign, advertisement, card, letterhead, circular, or other writing, document, or design, the evident purpose of which is to induce others to believe that person to be an attorney, constitutes holding out within the meaning of division (A)(1) of this section.

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(2) Only the supreme court may make a determination that any person has committed the unauthorized practice of law in violation of division (A)(3) of this section.

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(C)(1) If necessary to serve the public interest and consistent with the rules of the supreme court, any person who is authorized to bring a claim before the supreme court that alleges the unauthorized practice of law in violation of division (A)(3) of this section may make a motion to the supreme court to seek interim relief prior to the final resolution of the person's claim.

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(2) Any person who is damaged by another person who commits a violation of division (A)(3) of this section may commence a civil action to recover actual damages from the person who commits the violation, upon a finding by the supreme court that the other person has committed an act that is prohibited by the supreme court as being the unauthorized practice of law in violation of that division. The court in which that action for damages is commenced is bound by the determination of the supreme court regarding the unauthorized practice of law and shall not make any additional determinations regarding the unauthorized practice of law. The court in which the action for damages is commenced shall consider all of the following in awarding damages to a person

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under division (C)(2) of this section:

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(a) The extent to which the fee paid for the services that constitute the unauthorized practice of law in violation of division (A)(3) of this section exceeds the reasonable fees charged by licensed attorneys in the area in which the violation occurred;

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(b) The costs incurred in paying for legal advice to correct any inadequacies in the services that constitute the unauthorized practice of law in violation of division (A)(3) of this section;

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(c) Any other damages proximately caused by the failure of the person performing the services that constitute the unauthorized practice of law to have the license to practice law in this state that is required to perform the services;

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(d) Any reasonable attorney's fees that are incurred in bringing the civil action under division (C)(1) or (2) of this section.

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Sec. 4705.99. Whoever violates division (A)(1) or (2) of section 4705.07 of the Revised Code is guilty of a misdemeanor of the first degree.

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Section 2. That existing sections 4705.07 and 4705.99 of the Revised Code are hereby repealed.

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