

As Reported by the House Civil and Commercial Committee

125th General Assembly

Regular Session

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Sub. H. B. No. 38

**Representatives Willamowski, Hagan, McGregor, Seitz, Setzer, Schaffer,
Buehrer, Widener, Latta, Book, Harwood, Mason, Core, Beatty, Callender**

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.

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:

Sec. 4705.07. (A) No person who is not licensed to practice law in this state shall do ~~either~~ any of the following:

(1) Hold that person out in any manner as an attorney at law;

(2) Represent that person orally or in writing, directly or indirectly, as being authorized to practice law;

(3) Commit any act that is prohibited by the supreme court as being the unauthorized practice of law.

(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 19
person's own name, or any sign, advertisement, card, letterhead, 20
circular, or other writing, document, or design, the evident 21
purpose of which is to induce others to believe that person to be 22
an attorney, constitutes holding out within the meaning of 23
division (A)(1) of this section. 24

(2) Only the supreme court may make a determination that any 25
person has committed the unauthorized practice of law in violation 26
of division (A)(3) of this section. 27

(C)(1) If necessary to serve the public interest and 28
consistent with the rules of the supreme court, any person who is 29
authorized to bring a claim before the supreme court that alleges 30
the unauthorized practice of law in violation of division (A)(3) 31
of this section may make a motion to the supreme court to seek 32
interim relief prior to the final resolution of the person's 33
claim. 34

(2) Any person who is damaged by another person who commits a 35
violation of division (A)(3) of this section may commence a civil 36
action to recover actual damages from the person who commits the 37
violation, upon a finding by the supreme court that the other 38
person has committed an act that is prohibited by the supreme 39
court as being the unauthorized practice of law in violation of 40
that division. The court in which that action for damages is 41
commenced is bound by the determination of the supreme court 42
regarding the unauthorized practice of law and shall not make any 43
additional determinations regarding the unauthorized practice of 44
law. The court in which the action for damages is commenced shall 45
consider all of the following in awarding damages to a person 46
under division (C)(2) of this section: 47

(a) The extent to which the fee paid for the services that 48
constitute the unauthorized practice of law in violation of 49
division (A)(3) of this section exceeds the reasonable fees 50

charged by licensed attorneys in the area in which the violation 51
occurred; 52

(b) The costs incurred in paying for legal advice to correct 53
any inadequacies in the services that constitute the unauthorized 54
practice of law in violation of division (A)(3) of this section; 55

(c) Any other damages proximately caused by the failure of 56
the person performing the services that constitute the 57
unauthorized practice of law to have the license to practice law 58
in this state that is required to perform the services; 59

(d) Any reasonable attorney's fees that are incurred in 60
bringing the civil action under division (C)(1) or (2) of this 61
section. 62

Sec. 4705.99. Whoever violates division (A)(1) or (2) of 63
section 4705.07 of the Revised Code is guilty of a misdemeanor of 64
the first degree. 65

Section 2. That existing sections 4705.07 and 4705.99 of the 66
Revised Code are hereby repealed. 67