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California Business & Professions § 17200 et seq Unfair Competition Law

Introduction

By Carolina Rose, J.D.*
President, Legislative Research, Inc.

Legislative History
California Business & Professions Code
Division 7. General Business Regulation
Part 2: Preservation and Regulation of Competition
Chapter 5: Enforcement
§ 17200 et seq

This unique collection of research provides the legislative history of California Business & Professions Code § 17200 et seq beginning with its original 1933 appearance in Civil Code § 3369 and all subsequent enactments to date. (Supplemental updates are available separately). It is designed to be a useful reference and advocacy tool in your legal practice. It assembles valuable, historical insights regarding the *Legislature's intent* from official State of California sources, including unpublished, primary source records such as committee reports, correspondence, governor records and more.

User friendly indexes. The exceptionally user-friendly, digital format provides easy-to-follow instructions for locating the legislative history report you need via:

- **Index of Code Sections.** You are given a unique opportunity to review how each statute has evolved over time. The original entry of statutory terms and all subsequent amendments are tracked in chronological order. All new terms appear in ***bold italics***. Any deletions from the previous version are shown in ~~***bold italics***~~. This makes it easy to identify the report you need. Easy step-by-step instructions on each page guide you through this process.
- **Index of Legislation.** For quick and easy access. If you already know which bill added your language of interest, this chronological index allows you to quickly identify the report you are looking for without wasting any time.

Book Format, Court-Ready. Each report is formatted like a book and is court-ready with:

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- Signed authentication of the records by Carolina Rose, J.D., President of LRI
- Security, with a locked PDF format

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- **Bookmarks** for quick reference and easy access
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- **Word-searchable**, with a minimum 80% accuracy

After 20 years of providing high quality, custom, legislative history research services to attorneys nationwide, LRI has anticipated and met the need for this extraordinary digital collection which focuses upon a highly trafficked series of code sections.

Carolina Rose
June 15, 2004
Sacramento, California

* Carolina C. Rose, J.D., a graduate of Stanford University (B.A. English, 1973; J.D., 1976), served for 7 years in the California State Legislature after graduation from law school: 1 year as an Assembly Fellow and 6 years as Chief of Staff for Senator Nicholas C. Petris, where she was responsible for managing all aspects of his legislative program -- over 200 measures. Upon leaving the Legislature, Ms. Rose co-founded Legislative Research, Inc. (LRI) (formerly Legislative Research Institute) which specializes in the historical research surrounding the adoption of California statutes, regulations and constitutional provisions. LRI also provides local ordinance, sister state and federal legislative history/intent research. Cited in *Redlands Comm. Hosp. v. New England Mutual Life Ins. Co.*, 23 Cal. App. 4th 899 at 906 (1994), LRI has provided legislative histories on over 10,000 enactments serving approximately 1,500 clients since 1983. As President of LRI, Ms. Rose designs and oversees all research methodologies utilized in the preparation of LRI's reports. She also qualifies as an expert in reconstructing California legislative history and has submitted written expert witness opinions regarding the reconstruction of legislative history and the surrounding public policy discussions in over 60 cases at the administrative hearing level and at the Superior, District Appellate and Supreme Court levels. She also provides ongoing legislative consulting services. Specific projects have included (1) eminent domain, valuation of special use properties, Stats. 1992, c. 7, (2) exoneration of sureties, Stats. 1993, c. 149 and (3) preservation of public records. Stats. 1996, c. 928. In all three legislative projects, her work was credited by the principals as the primary basis for the projects' success. Lastly, Ms. Rose teaches seminars at law schools, law firms, governmental agencies, etc. regarding the legislative process, legislative history research and related advocacy strategies.

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Index of Legislation

Description. This is a listing of all the enactments included in the Business & Professions § 17200 et seq collection, and the specific code sections that each enactment affects.

Stats. 1933, c. 953 (AB 2383)	§§ 17200, 17201, 17202, 17203 & 17204
Stats. 1949, c. 652 (AB 429)	§ 17200
Stats. 1963, c. 1606 (AB 2929)	§ 17200
Stats. 1972, c. 1084 (AB 1937)	§§ 17200 & 17206
Stats. 1974, c. 746 (SB 1725)	§§ 17204 & 17206
Stats. 1976, c. 837 (AB 4079)	§ 17200
Stats. 1976, c. 1005 (AB 3279)	§§ 17203, 17204 & 17205
Stats. 1976, c. 1006 (AB 3280)	§ 17207
Stats. 1977, c. 299 (AB 1280)	§§ 17200, 17201, 17202, 17023, 17204, 17205, 17206, 17207 & 17208
Stats. 1979, c. 897 (AB 1416)	§§ 17201.5, 17206 & 17207
Stats. 1988, c. 790 (SB 2440)	§§ 17204.5 & 17206.5

Stats. 1988, c. 823 (SB 1157) Part 1, Part 2	§ 17206.1
Stats. 1991, c. 1195 (SB 709)	§§ 17204, 17206 & 17207
Stats. 1991, c. 1196 (AB 1755)	§§ 17204, 17206 & 17207
Stats. 1992, c. 385 (SB 1911)	§§ 17204 & 17209
Stats. 1992, c. 430 (SB 1586)	§§ 17200, 17203 & 17206
Stats. 1993, c. 926 (AB 2205)	§ 17204
Stats. 1997, c. 17 (SB 947)	§ 17206
Stats. 1998, c. 931 (SB 2139)	§ 17209
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2004 Prop. 64, Ballot Initiative “Yes on 64” , “No on 64”	§ 17203, 17204 & 17206

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California Business & Professions § 17200 et seq Unfair Competition Law

Section 17200. Definition: Unfair competition

As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

Legislative History:

- a) Business and Professions Code Section 17200 is derived from former subdivision 3 of Civil Code Section 3369, as amended by Stats. 1933, c. 953, Sec. 1 (AB 2383); Stats. 1963, c. 1606, Sec. 1 (AB 2929); Stats. 1972, c. 1084, Sec. 1 (AB 1937).
- b) Business and Professions Code Section 17200 is derived from former Civil Code Section 3370, as added by Stats. 1949, c. 652, Sec. 1 (AB 429); and later repealed by Stats. 1976, c. 837, Sec. 1 (AB 4079).
- c) Section 17200 was added by Stats. 1977, c. 299, Sec. 1 (AB 1280); and amended by Stats. 1992, c. 430, Sec. 2 (SB 1586).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in **~~strike out~~**.

Stats. 1933, c. 953, § 1 (AB 2383)

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

...
3. As used in this section, unfair competition shall mean and include unfair or fraudulent business practice and unfair, untrue or misleading advertising and any act denounced by Penal Code sections 654a, 654b or 654c.

Stats. 1949 c. 652, § 1 (AB 429)

SECTION 1. Section 3370 is hereby added to the Civil Code, to read as follows:

3370. The words “unfair competition” as used in Section 3369 above shall also mean and include any act denounced by the “Unfair Practices Act,” Chapter 4, Part 2, Division 7 of the Business and Professions Code except that no action may be prosecuted by any district attorney in this State for a violation of the said “Unfair Practices Act” except as provided in Article 6 thereof.

Stats. 1963, c. 1606, § 1 (AB 2929)

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

...
3. As used in this section, unfair competition shall mean and include ***unlawful***, unfair or fraudulent business practice and unfair, untrue or misleading advertising and any act denounced by ~~Penal Code sections 654a, 654b or 654c~~ ***Business and Professions Code Section 17500 to 17535, inclusive.***

Stats. 1972 c. 1084, § 1 (AB 1937)

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

...
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 Section 17500 to 17535, inclusive.

Stats. 1976 c. 837, § 1 (AB 4079)

SECTION 1. ***Section 3370 of the Civil Code is repealed.***

Stats. 1977, c. 299, § 1 (AB 1280)

SECTION 1. ~~Section 3369 of the Civil Code is amended~~ **Chapter 5 (commencing with Section 17200) is added to Part 2 of Division 7 of the Business and Professions Code**, to read:

3 17200. As used in this ~~section~~ **chapter**, unfair competition shall mean and include unlawful, unfair or fraudulent business practice and unfair, deceptive, untrue or misleading advertising and any act ~~denounced~~ **prohibited** by **Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the** Business and Professions Code ~~Section 17500 to 17535, inclusive.~~

Stats. 1992, c. 430, § 2 (SB 1586)

SEC. 2. Section 17200 of the Business and Professions Code is amended to read:

17200. As used in this chapter, unfair competition shall mean and include **any** unlawful, unfair or fraudulent business **act or** practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

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Section 17201. Definition: Person

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

Legislative History:

- a) Business and Professions Code Section 17201 is derived from former subdivision 4 of Civil Code Section 3369 as amended by Stats. 1933, c. 953, Sec. 1 (AB 2383).
- b) Section 17201 was added by Stats. 1977, c. 299, Sec. 1 (AB 1280).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in ~~strike-out~~.

Stats. 1933, c. 953, § 1 (AB 2383)

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

...
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.

Stats. 1977, c. 299, § 1 (AB 1280)

SECTION 1. ~~Section 3369 of the Civil Code is hereby amended~~ **Chapter 5 (commencing with Section 17200) is added to Part 2 of Division 7 of the Business and Professions Code**, to read ~~as follows~~:

~~4~~ 17201. As used in this ~~section~~ **chapter**, the term person shall mean and include natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.

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Section 17201.5. Definitions: Board within the Department of Consumer Affairs; Local consumer affairs agency

As used in this chapter:

(a) "Board within the Department of Consumer Affairs" includes any commission, bureau, division, or other similarly constituted agency within the Department of Consumer Affairs.

(b) "Local consumer affairs agency" means and includes any city or county body which primarily provides consumer protection services.

Legislative History:

Section 17201.5 was added by Stats. 1979, c. 897, Sec. 1 (AB 1416).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in ~~strike out~~.

Stats. 1979, c. 897, § 1 (AB 1416)

SECTION 1. Section 17201.5 is added to the Business and Professions Code, to read:
17201.5. As used in this chapter:

(a) "Board within the Department of Consumer Affairs" includes any commission, bureau, division, or other similarly constituted agency within the Department of Consumer Affairs.

(b) "Local consumer affairs agency" means and includes any city or county body which primarily provides consumer protection services.

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Section 17202. Specific or preventive relief authorized

Notwithstanding Section 3369 of the Civil Code, specific or preventive relief may be granted to enforce a penalty, forfeiture, or penal law in a case of unfair competition.

Legislative History:

- a) Business and Professions Code Section 17202 is derived from former subdivision 1 of Civil Code Section 3369, as amended by Stats. 1933, c. 953, Sec. 1 (AB 2383).
- b) Section 17202 was added by Stats. 1977, c. 299, Sec. 1 (AB 1280).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in **strike-out**.

Stats. 1933, c. 953, § 1 (AB 2383)

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

...

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.*** ~~; nor to enforce a penalty or forfeiture in any case.~~

Stats. 1977, c. 299, § 1 (AB 1280)

SECTION 1. ~~Section 3369 of the Civil Code is hereby amended~~ **Chapter 5 (commencing with Section 17200) is added to Part 2 of Division 7 of the Business and Professions Code**, to read ~~as follows~~:

4 17202. Neither Notwithstanding Section 3369 of the Civil Code, specific ~~nor or~~ preventive relief ~~can may~~ be granted to enforce a penalty, ~~or~~ forfeiture ~~in any case, nor to enforce a penal law, except in a case of nuisance or penal law in a case of~~ unfair competition.

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Section 17203. Injunction; orders or judgments; jurisdiction

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.

Legislative History:

- a) Business and Professions Code Section 17203 is derived from former subdivision 2 of Civil Code Section 3369 as amended by Stats. 1933, c. 953, Sec. 1 (AB 2383); Amended by Stats. 1976, c. 1005, Sec. 1 (AB 3279).
- b) Section 17203 was added by Stats. 1977, c. 299, Sec. 1 (AB 1280); amended by Stats. 1992, c. 430, Sec. 3 (SB 1586); 2004 Prop. 64, Ballot Initiative, Nov. 2, 2004.

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in **~~strike out~~**.

Stats. 1933, c. 953, § 1 (AB 2383)

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

...
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.

Stats. 1976, c. 1005, § 1 (AB 3279)

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

2. Any person performing or proposing to perform an act of unfair competition within this ~~State state~~ may be enjoined in any court of competent jurisdiction. ***The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use of or employment by any person of any practice which constitutes unfair competition, as defined in this section, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.***

Stats. 1977, c. 299, § 1 (AB 1280)

SECTION 1. ~~Section 3369 of the Civil Code is amended~~ ***Chapter 5 (commencing with Section 17200) is added to Part 2 of Division 7 of the Business and Professions Code,*** to read:

2 17203. Any person performing or proposing to perform an act of unfair competition within this state may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use of or employment by any person of any practice which constitutes unfair competition, as defined in this ~~section~~ ***chapter,*** or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.

Stats. 1992, c. 430, § 3 (SB 1586)

SECTION 3. Section 17203 of the Business and Professions Code is amended to read:

17203. Any person ~~performing or proposing to perform an act of who~~ ***engages, has engaged, or proposes to engage in*** unfair competition ~~within this state~~ may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition.

2004 Prop. 64, Ballot Initiative, Nov. 2, 2004: “Yes on 64” , “No on 64”

SEC. 2. Section 17203 of the Business and Professions Code is amended to read:

17203. *Injunctive Relief – Court Orders*

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. ***Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Section 17204 and complies with Section 382 of the Code of Civil Procedure, but these limitations do not apply to claims brought under this chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state.***

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Section 17204. Standing to bring actions for any relief under this chapter for prosecutors and others as specified

Actions for any relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or any district attorney or by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county 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.

Legislative History:

- a) Business and Professions Code Section 17204 is derived from former subdivision 5 of Civil Code Section 3369, as amended by Stats. 1933, c. 953, Sec. 1 (AB 2383); Amended by Stats. 1974, c. 746, Sec. 1 (SB 1725).
- b) Section 17204 was added by Stats. 1977, c. 299, Sec. 1 (AB 1280); and amended by Stats. 1991, c. 1195, Sec. 1 (SB 709); Amended by Stats. 1991, c. 1196, Sec. 1 (AB 1755); Amended by Stats. 1992, c. 385, Sec. 1 (SB 1911); Amended by Stats. 1993, c. 926, Sec. 2 (AB 2205); 2004 Prop. 64, Ballot Initiative, Nov. 2, 2004.

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in ~~strike-out~~.

Stats. 1933, c. 953, § 1 (AB 2383)

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

...
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.

Stats. 1974, c. 746, § 1 (SB 1725)

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

...
5. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney ~~in this State~~ 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 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.

Stats. 1977, c. 299, § 1 (AB 1280)

SECTION 1. ~~Section 3369 of the Civil Code is amended~~ **Chapter 5 (commencing with Section 17200) is added to Part 2 of Division 7 of the Business and Professions Code,** to read:

§ 17204. Actions for injunction ~~under this section~~ **pursuant to this chapter** 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 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.

Stats. 1991, c. 1195, § 1 (SB 709)

SECTION 1. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions for injunction pursuant to this chapter may be prosecuted by the Attorney General or any district attorney **or any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance**, 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 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.

Stats. 1991, c. 1196, § 1 (AB 1755)

SECTION 1. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions for injunction pursuant to this chapter may be prosecuted by the Attorney General or any district attorney or **by** any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, **or city and county**, 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 **or, with the consent of the district attorney, by a city attorney in any city and county** 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.

Stats. 1992, c. 385, § 1 (SB 1911)

SECTION 1. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions ~~for injunction~~ **any relief** pursuant to this chapter may be prosecuted by the Attorney General or any district attorney **by** or any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, 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 or, with the consent of the district attorney, by a city attorney in any city and county 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.

Stats. 1993, c. 926, § 2 (AB 2205)

SEC. 2. Section 17204 of the Business and Professions Code is amended to read:

17204. Actions any relief pursuant to this chapter ~~may~~ **shall** be prosecuted **exclusively in a court of competent jurisdiction** by the Attorney General or any district attorney or any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county 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.

2004 Prop. 64, Ballot Initiative, Nov. 2, 2004: “Yes on 64” , “No on 64”

SEC. 3. Section 17204 of the Business and Professions Code is amended to read:

17204. **Actions for Injunctions by Attorney General, District Attorney, County Counsel, and City Attorneys**

Actions any relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or any district attorney or any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in any city and county 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~~ **who has suffered injury in fact and has lost money or property as a result of such unfair competition.**

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Section 17204.5. City of San Jose, limited standing authorized to bring an action under Section 17204

In addition to the persons authorized to bring an action pursuant to Section 17204, the City Attorney of the City of San Jose, with the annual consent of the Santa Clara County District Attorney, is authorized to prosecute those actions.

This section shall remain in effect until such time as the population of the City of San Jose exceeds 750,000, as determined by the Population Research Unit of the Department of Finance, and at that time shall be repealed.

Legislative History:

Section 17204.5 was added by Stats. 1988, c. 790, Sec. 1 (SB 2440).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in ~~strike out~~.

Stats. 1988, c. 790, § 1 (AB 2440)

SECTION 1. Section 17204.5 is added to the Business and Professions Code, to read:

17204.5. In addition to the persons authorized to bring an action pursuant to Section 17204, the City Attorney of the City of San Jose, with the annual consent of the Santa Clara County District Attorney, is authorized to prosecute those actions.

This section shall remain in effect until such time as the population of the City of San Jose exceeds 750,000, as determined by the Population Research Unit of the Department of Finance, and at that time shall be repealed.

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Section 17205. Cumulative remedies or penalties

Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.

Legislative History:

- a) Business and Professions Code Section 17205 is derived from former subdivision 6 of Civil Code Section 3369 as amended by Stats. 1976, c. 1005, Sec. 1 (AB 3279).
- b) Section 17205 was added by Stats. 1977, c. 299, Sec. 1 (AB 1280).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in ~~strike-out~~.

Stats. 1976, c. 1005, § 1 (AB 3279)

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

...

6. Unless otherwise expressly provided, the remedies or penalties provided by this section and Section 3370.1 are cumulative to each other and to the remedies or penalties available under all other laws of this state.

Stats. 1977, c. 299, § 1 (AB 1280)

SECTION 1. ~~Section 3369 of the Civil Code is amended~~ **Chapter 5 (commencing with Section 17200) is added to Part 2 of Division 7 of the Business and Professions Code**, to read:

6 17205. Unless otherwise expressly provided, the remedies or penalties provided by this ~~section and Section 3370.4~~ **chapter** are cumulative to each other and to the remedies or penalties available under all other laws of this state.

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California Business & Professions § 17200 et seq Unfair Competition Law

Section 17206. Civil penalties for violations

(a) Any person who engages, has engaged, or proposes to engage in unfair competition 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, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city, or city and county, having a population in excess of 750,000, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, or, with the consent of the district attorney, by a city attorney in any city and county, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is 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 the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (d), if the action is 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.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable

expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of any reasonable expenses incurred by the board shall be paid to the state Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the state Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency.

(e) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises that were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

Legislative History:

- a) Business and Professions Code Section 17206 is derived from former Civil Code Section 3370.1, as added by Stats. 1972, c. 1084, Sec. 2 (AB 1937); Amended by Stats. 1974, c. 746, Sec. 2 (SB 1725).
- b) Section 17206 was added by Stats. 1977, c. 299, Sec. 1 (AB 1280); and amended by Stats. 1979, c. 897, Sec. 2 (AB 1416); Stats. 1991, c. 1195, Sec. 2 (SB 709); Stats. 1991, c. 1196, Sec. 2 (AB1755); Stats. 1992, c. 430, Sec. 4 (SB 1586); Stats. 1997, c. 17, Sec. 11 (SB 947); 2004 Prop. 64, Ballot Initiative, Nov. 2, 2004.

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in **~~strike-out~~**.

Stats. 1972, c. 1084, § 2 (AB 1937)

SEC. 2. Section 3370.1 is added to the Civil Code 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 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.

Stats. 1974, c. 746, § 2 (SB 1725)

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.**

Stats. 1977, c. 299, § 1 (AB 1280)

SECTION 1. ~~Section 3370.1 of the Civil Code is amended~~ **Chapter 5 (commencing with Section 17200) is added to Part 2 of Division 7 of the Business and Professions Code**, to read:

~~3370.1~~ **17206.** 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.

Stats. 1979, c. 897, § 2 (AB 1416)

SEC. 2 Section 17206 of the Business and Professions Code is amended to read:

17206. **(a)** 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.

(b) If *the action is* 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.

(c) *If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.*

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

Stats. 1991, c. 1195, § 2 (SB 709)

SEC. 2. Section 17206 of the Business and Professions Code is amended to read:

17206. **(a)** 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 county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance**, 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.

(b) If the action is 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 **or county**

counsel, 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.

(c) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

Stats. 1991, c. 1196, § 2 (AB 1755)

SEC. 2. Section 17206 of the Business and Professions Code is amended to read:

17206. (a) 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 **by** any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, **or city and county**, 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, **or, with the consent of the district attorney, by a city attorney in any city and county**, in any court of competent jurisdiction.

(b) If the action is 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 or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. **Except as provided in subdivision (d)**, 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.

(c) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. if the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

(d) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the

penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered, or upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises which were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

Stats. 1992, c. 430, § 4 (SB 1586)

SEC. 4. Section 17206 of the Business and Professions Code is amended to read:

17206. (a) Any person who ~~violates any provision of this chapter~~ ***engages, has engaged, or proposes to engage in unfair competition*** 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 by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney of a city, or city and county, having a population in excess of 750,000, and, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, or, with the consent of the district attorney, by a city attorney in any city and county, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

~~(b)~~ (c) If the action is 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 or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (d), 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.

~~(c)~~ (d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

~~(d)~~ (e) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered, or

upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises which were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

Stats. 1997, c. 17, § 11 (SB 947)

SEC. 11. Section 17206 of the Business and Professions Code is amended to read:

17206. (a) Any person who engages, has engaged, or proposes to engage in unfair competition 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~~, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance ~~or~~, **by** any city attorney of a city, or city and county, having a population in excess of 750,000 **and**, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, or, with the consent of the district attorney, by a city attorney in any city and county, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is 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 the action is** brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (d), **if the action** is 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.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision ~~(b)~~ **(c)**, the amount of ~~such any~~ reasonable expenses incurred by the board shall be paid to the ~~State state~~ Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the ~~State state~~ Treasurer. The amount of any ~~such~~ reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county ~~which that~~ funds the local agency.

(e) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the

penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises ~~which~~ **that** were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

2004 Prop. 64, Ballot Initiative, Nov. 2, 2004: “Yes on 64” , “No on 64”

SEC. 4. Section 17206 of the Business and Professions Code is amended to read:

17206. *Civil Penalty for Violation of Chapter*

(a) Any person who engages, has engaged, or proposes to engage in unfair competition 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, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city, or city and county, having a population in excess of 750,000, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, or, with the consent of the district attorney, by a city attorney in any city and county, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is 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 the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (d), if the action is 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. ***The aforementioned funds shall be for the exclusive use by the Attorney General, the district attorney, the county counsel, and the city attorney for the enforcement of consumer protection laws.***

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of any reasonable expenses incurred by the board shall be paid to the state Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the state Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency.

(e) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered ***for the exclusive use by the city attorney for the enforcement of consumer protection laws.*** However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of

Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises that were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

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California Business & Professions § 17200 et seq Unfair Competition Law

Section 17206.1. Violations against senior citizens or disabled persons, additional penalties and restoration

(a) In addition to any liability for a civil penalty pursuant to Section 17206, any person who violates this chapter, and the act or acts of unfair competition are perpetrated against one or more senior citizens or disabled persons, may be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which may be assessed and recovered in a civil action as prescribed in Section 17206.

Subject to subdivision (d), any civil penalty shall be paid as prescribed by subdivisions (b) and (c) of Section 17206.

(b) As used in this section, the following terms have the following meanings:

(1) "Senior citizen" means a person who is 65 years of age or older.

(2) "Disabled person" means any person who has a physical or mental impairment which substantially limits one or more major life activities.

(A) As used in this subdivision, "physical or mental impairment" means any of the following:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal¹; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(B) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) In determining whether to impose a civil penalty pursuant to subdivision (a) and the amount thereof, the court shall consider, in addition to any other appropriate factors, the

extent to which one or more of the following factors are present:

(1) Whether the defendant knew or should have known that his or her conduct was directed to one or more senior citizens or disabled persons.

(2) Whether the defendant's conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior citizen or disabled person.

(3) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

(d) Any court of competent jurisdiction hearing an action pursuant to this section may make orders and judgments as may be necessary to restore to any senior citizen or disabled person any money or property, real or personal, which may have been acquired by means of a violation of this chapter. Restitution ordered pursuant to this subdivision shall be given priority over recovery of any civil penalty designated by the court as imposed pursuant to subdivision (a), but shall not be given priority over any civil penalty imposed pursuant to subdivision (a) of Section 17206. If the court determines that full restitution cannot be made to those senior citizens or disabled persons, either at the time of judgment or by a future date determined by the court, then restitution under this subdivision shall be made on a pro rata basis depending on the amount of loss.

¹ So in chaptered copy.

Legislative History:

Section 17206.1 was added by Stats. 1988, c. 823, Sec. 1 (SB 1157).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in **~~strike-out~~**.

Stats. 1988, c. 823, § 1 (SB 1157): Part 1, Part 2

SECTION 1. Section 17206.1 is added to the Business and Professions Code, to read:

17206.1. (a) In addition to any liability for a civil penalty pursuant to Section 17206, any person who violates this chapter, and the act or acts of unfair competition are perpetrated against one or more senior citizens or disabled persons, may be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which may be assessed and recovered in a civil action as prescribed in Section 17206. Subject to subdivision (d), any civil penalty shall be paid as prescribed by subdivisions (b) and (c) of Section 17206.

(b) As used in this section, the following terms have the following meanings:

(1) "Senior citizen" means a person who is 65 years of age or older.

(2) "Disabled person" means any person who has a physical or mental impairment which substantially limits one or more major life activities.

(A) As used in this subdivision, "physical or mental impairment" means any of the following:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal [*sic*]; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(B) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) In determining whether to impose a civil penalty pursuant to subdivision (a) and the amount thereof, the court shall consider, in addition to any other appropriate factors, the extent to which one or more of the following factors are present:

(1) Whether the defendant knew or should have known that his or her conduct was directed to one or more senior citizens or disabled persons.

(2) Whether the defendant's conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior citizen or disabled person.

(3) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

(d) Any court of competent jurisdiction hearing an action pursuant to this section may make orders and judgments as may be necessary to restore to any senior citizen or disabled person any money or property, real or personal, which may have been acquired by means of a violation of this chapter. Restitution ordered pursuant to this subdivision shall be given priority over recovery of any civil penalty designated by the court as imposed pursuant to subdivision (a), but shall not be given priority over any civil penalty imposed pursuant to subdivision (a) of Section 17206. If the court determines that full restitution cannot be made to those senior citizens or disabled persons, either at the time

of judgment or by a future date determined by the court, then restitution under this subdivision shall be made on a pro rata basis depending on the amount of loss.

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California Business & Professions § 17200 et seq Unfair Competition Law

Section 17206.5. City of San Jose, limited standing authorized to bring an action under Section 17206

In addition to the persons authorized to bring an action pursuant to Section 17206, the City Attorney of the City of San Jose, with the annual consent of the Santa Clara County District Attorney, is authorized to prosecute those actions.

This section shall remain in effect until such time as the population of the City of San Jose exceeds 750,000, as determined by the Population Research Unit of the Department of Finance, and at that time shall be repealed.

Legislative History:

Section 17206.5 was added by Stats. 1988, c. 790, Sec. 2 (SB 2440).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in ~~strike out~~.

Stats. 1988, c. 790, § 2 (SB 2440)

SEC. 2. Section 17206.5 is added to the Business and Professions Code, to read:

17206.5. In addition to the persons authorized to bring an action pursuant to Section 17206, the City Attorney of the City of San Jose, with the annual consent of the Santa Clara County District Attorney, is authorized to prosecute those actions.

This section shall remain in effect until such time as the population of the City of San Jose exceeds 750,000, as determined by the Population Research Unit of the Department of Finance, and at that time shall be repealed.

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California Business & Professions § 17200 et seq Unfair Competition Law

Section 17207. Civil penalties for intentional violation of injunction prohibiting unfair competition

(a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 17203 shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of that conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of that conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney in any court of competent jurisdiction within his or her jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city, except that if the action was brought by a city attorney of a city and county the entire

amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment is entered.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of the reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of the reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

Legislative History:

- a) Business and Professions Code Section 17207 is derived from former Civil Code Section 3370.2, as added by Stats. 1976, c. 1006, Sec. 1 (AB 3280).
- b) Section 17207 was added by Stats. 1977, c. 299, Sec. 1 (AB 1280); and amended by Stats. 1979, c. 897, Sec. 3 (AB 1416); Amended by Stats. 1991, c. 1195, Sec. 3 (SB 709); Amended by Stats. 1991, c. 1996, Sec. 3 (AB 1755).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in **~~strike out~~**.

Stats. 1976, c. 1006, § 1 (AB 3280)

SECTION 1. Section 3370.2 is added to the Civil Code, to read:

3370.2. (a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 3369 shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, or any city attorney in any court of competent jurisdiction within his jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover such civil penalties shall take

precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

Stats. 1977, c. 299, § 1 (AB 1280)

SECTION 1. ~~Section 3370.2 is added to the Civil Code Chapter 5 (commencing with Section 17200) is added to Part 2 of Division 7 of the Business and Professions Code~~, to read:

~~3370.2~~ 17207. (a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to ~~Section 3369~~ **Section 17203** shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, or any city attorney in any court of competent jurisdiction within his jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover such civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

Stats. 1979 c. 897, § 3 (AB 1416)

SEC. 3. Section 17207 of the Business and Professions Code is amended to read:

17207. (a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 17203 shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a

violation is of a continuing nature, each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, or any city attorney in any court of competent jurisdiction within his jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover such civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

Stats. 1991, c. 1195, § 3 (SB 709)

SEC. 3. Section 17207 of the Business and Professions Code is amended to read:

17207. (a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 17203 shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, ***any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance***, or any city attorney in any court of competent jurisdiction within his ***or her*** jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant

to this section to recover such civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney **or county counsel**, the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

Stats. 1991, c. 1196, § 3 (AB 1755)

SEC. 3. Section 17207 of the Business and Professions Code is amended to read:

17207. (a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 17203 shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of **such that** conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of **such that** conduct, the length of time over which the conduct occurred, the assts, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney in any court of competent jurisdiction within his or her jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover such civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city, **except that if the action was brought by a city attorney of a city and county the entire amount of the penalty**

collected shall be paid to the treasurer of the city and county in which the judgment is entered .

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of ~~such the~~ reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of ~~such the~~ reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

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California Business & Professions § 17200 et seq Unfair Competition Law

Section 17208. Statute of limitations, four years; revival

Any action to enforce any cause of action pursuant to this chapter shall be commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this section shall be revived by its enactment.

Legislative History:

Section 17208 was added by Stats. 1977, c. 299, Sec. 1 (AB 1280).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in **~~strike out~~**.

Stats. 1977, c. 299, § 1 (AB 1280)

SECTION 1. Chapter 5 (commencing with Section 17200) is added to Part 2 of Division 7 of the Business and Professions Code, to read:

17208. Any action to enforce any cause of action pursuant to this chapter shall be commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this section shall be revived by its enactment.

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California Business & Professions § 17200 et seq Unfair Competition Law

Section 17209. Appellate proceedings, notice to Attorney General and county district attorney

If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate division of a superior court, the person who commenced that proceeding shall serve notice thereof, including a copy of the person's brief or petition and brief, on the Attorney General, directed to the attention of the Consumer Law Section, and on the district attorney of the county in which the lower court action or proceeding was originally filed. The notice, including the brief or petition and brief, shall be served within three days after the commencement of the appellate proceeding, provided that the time may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted until proof of service of this notice is filed with the court.

Legislative History:

Section 17209 was added by Stats. 1992, c. 385, Sec. 2 (SB 1911); Amended by Stats. 1998, c. 931, Sec. 9 (SB 2139).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in **~~strike-out~~**.

Stats. 1992, c. 385, § 2 (SB 1911)

SEC.2. Section 17209 is added to the Business and Professions Code, to read:

17209. If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate department of a superior court, the person who commenced that proceeding shall serve notice thereof, including a copy of the person's brief or petition and brief, on the Attorney General, directed to the attention of the Consumer Law Section, and on the district attorney of the county in which the lower court action or proceeding was originally filed. The notice, including the brief or petition and brief, shall be served within three days after the commencement of the appellate proceeding, provided that the time may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted until proof of service of this notice is filed with the court.

Stats. 1998, c. 931, § 9 (SB 2139)

SEC.9. Section 17209 of the Business and Professions Code is amended to read:

17209. If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate ~~department~~ *division* of a superior court, the person who commenced that proceeding shall serve notice thereof, including a copy of the person's brief or petition and brief, on the Attorney General, directed to the attention of the Consumer Law Section, and on the district attorney of the county in which the lower court action or proceeding was originally filed. The notice, including the brief or petition and brief, shall be served within three days after the commencement of the appellate proceeding, provided that the time may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted until proof of service of this notice is filed with the court.

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California Business & Professions § 17200 et seq Unfair Competition Law

Section 17210. Distribution of handbills in hotels

(a) For purposes of this section, "hotel" means any hotel, motel, bed and breakfast inn, or other similar transient lodging establishment, but it does not include any residential hotel as defined in Section 50519 of the Health and Safety Code. "Innkeeper" means the owner or operator of a hotel, or the duly authorized agent or employee of the owner or operator.

(b) For purposes of this section, "handbill" means, and is specifically limited to, any tangible commercial solicitation to guests of the hotel urging that they patronize any commercial enterprise.

(c) Every person (hereinafter "distributor") engages in unfair competition for purposes of this chapter who deposits, places, throws, scatters, casts, or otherwise distributes any handbill to any individual guest rooms in any hotel, including, but not limited to, placing, throwing, leaving, or attaching any handbill adjacent to, upon, or underneath any guest room door, doorknob, or guest room entryway, where either the innkeeper has expressed objection to handbill distribution, either orally to the distributor or by the posting of a sign or other notice in a conspicuous place within the lobby area and at all points of access from the exterior of the premises to guest room areas indicating that handbill distribution is prohibited, or the distributor has received written notice pursuant to subdivision (e) that the innkeeper has expressed objection to the distribution of handbills to guest rooms in the hotel.

(d) Every person (hereinafter "contractor") engages in unfair competition for purposes of this chapter who causes or directs any other person, firm, business, or entity to distribute, or cause the distribution of, any handbill to any individual guest rooms in any hotel in violation of subdivision (c) of this section, if the contractor has received written notice from the innkeeper objecting to the distribution of handbills to individual guest rooms in the hotel.

(e) Every contractor who causes or directs any distributor to distribute, or cause the distribution of, any handbills to any individual guest rooms in any hotel, if the contractor has received written notice from the innkeeper or from any other contractor or intermediary pursuant to this

subdivision, objecting to the distribution of handbills to individual guest rooms in the hotel has failed to provide a written copy of that notice to each distributor prior to the commencement of distribution of handbills by the distributor or by any person hired or retained by the distributor for that purpose, or, within 24 hours following the receipt of the notice by the contractor if received after the commencement of distribution, and has failed to instruct and demand any distributor to not distribute, or to cease the distribution of, the handbills to individual guest rooms in any hotel for which such a notice has been received is in violation of this section.

(f) Any written notice given, or caused to be given, by the innkeeper pursuant to or required by any provision of this section shall be deemed to be in full force and effect until such time as the notice is revoked in writing.

(g) Nothing in this section shall be deemed to prohibit the distribution of a handbill to guest rooms in any hotel where the distribution has been requested or approved in writing by the innkeeper, or to any individual guest room when the occupant thereof has affirmatively requested or approved the distribution of the handbill during the duration of the guest's occupancy.

Legislative History:

Section 17210 was added by Stats. 1999, c. 354, Sec. 1 (SB 1171).

Instructions. The following legislative history annotations trace the evolution of the statute over time in chronological order from the earliest to most current enactment. Additions appear in ***bold italics***. Deletions appear in **~~strike-out~~**.

Stats. 1999, c. 354, § 1 (SB 1171)

SECTION 1. Section 17210 is added to the Business and Professions Code, to read:

17210. (a) For purposes of this section, "hotel" means any hotel, motel, bed and breakfast inn, or other similar transient lodging establishment, but it does not include any residential hotel as defined in Section 50519 of the Health and Safety Code. "Innkeeper" means the owner or operator of a hotel, or the duly authorized agent or employee of the owner or operator.

(b) For purposes of this section, "handbill" means, and is specifically limited to, any tangible commercial solicitation to guests of the hotel urging that they patronize any commercial enterprise.

(c) Every person (hereinafter "distributor") engages in unfair competition for purposes of this chapter who deposits, places, throws, scatters, casts, or otherwise distributes any handbill to any individual guest rooms in any hotel, including, but not limited to, placing, throwing, leaving, or attaching any handbill adjacent to, upon, or underneath any guest room door, doorknob, or guest room entryway, where either the innkeeper has expressed objection to handbill distribution, either orally to the distributor

or by the posting of a sign or other notice in a conspicuous place within the lobby area and at all points of access from the exterior of the premises to guest room areas indicating that handbill distributing is prohibited, or the distributor has received written notice pursuant to subdivision (e) that the innkeeper has expressed objection to the distribution of handbills to guest rooms in the hotel.

(d) Every person (hereinafter "contractor") engages in unfair competition for purposes of this chapter who causes or directs any other person, firm, business, or entity to distribute, or cause the distribution of, any handbill to any individual guest rooms in any hotel in violation of subdivision (c) of this section, if the contractor has received written notice from the innkeeper objecting to the distribution of handbills to individual guest rooms in the hotel.

(e) Every contractor who causes or directs any distributor to distribute, or cause the distribution of, any handbills to any individual guest rooms in any hotel, if the contractor has received written notice from the innkeeper or from any other contractor or intermediary pursuant to this subdivision, objecting to the distribution of handbills to individual guest rooms in the hotel has failed to provide a written copy of that notice to each distributor prior to the commencement of distribution of handbills by the distributor or by any person hired or retained by the distributor for that purpose, or, within 24 hours following the receipt of the notice by the contractor if received after the commencement of distribution, and has failed to instruct and demand any distributor to not distribute, or to cease the distribution of, the handbills to individual guest rooms in any hotel for which such a notice has been received is in violation of this section.

(f) Any written notice given, or caused to be given, by the innkeeper pursuant to or required by any provision of this section shall be deemed to be in full force and effect until such time as the notice is revoked in writing.

(g) Nothing in this section shall be deemed to prohibit the distribution of a handbill to guest rooms in any hotel where the distribution has been requested or approved in writing by the innkeeper, or to any individual guest room when the occupant thereof has affirmatively requested or approved the distribution of the handbill during the duration of the guest's occupancy.

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