



LOCAL GOVERNMENT, PUBLIC
SAFETY AND VETERANS AFFAIRS
COMMITTEE

Witness Form

Today's Date NOV 8 2017

Name: ANTHONY GURVIS ATTY.

Address: LAW OFFICE - 830 W BROAD ST
COLUMBUS OHIO 43222

Telephone: LAW OFFICE 614 221 3750

Organization Representing: LAW OFFICE OF ANTHONY GURVIS

Testifying on Bill Number: SB 148

Testimony: Verbal Written Both

Testifying As: Proponent Opponent Interested Party

Are you a Registered Lobbyist? Yes No

Special Requests: _____

Chairman Uecker, Vice Chairman Wilson, Ranking Member Thomas; members of the Senate, Local Government, Public Safety and Veterans Affairs Committee:

My name is Anthony Gurvis. I am a practicing attorney here in Columbus. I was admitted to the practice of law in 1981. Thank you for accepting my statement in opposition to Senate Bill 148.

I focus my practice on representing individuals injured through the negligence of others. I have been in the position, for many years, to see and hear the effects that traffic accidents have on people. Many victims have legitimate injury claims against negligent drivers and their insurance companies.

It is important that Ohioans are exposed to an open marketplace of information. People who are well-informed make better decisions. It is not unusual for insurance companies to successfully obtain a lowball settlement within 48 hours of an accident, leaving many Ohioans victimized twice.

Without the ability to ‘know one’s rights’ – to be informed; there is the likelihood of accident victims accepting fast settlements for at-fault drivers’ negligence, because people don’t realize that insurers may take advantage of them. It is my observation that many victims go for early low settlements and sign binding releases.

Ohioans must be able to quickly obtain information on their rights so that they would be in a better position to not be taken advantage of. This legislation would enable insurance companies to further pad their bottom lines, and would give insurers an unhealthy advantage in obtaining unfair settlements with little or no recourse for accident victims.

It is important that Ohioans be allowed to learn about drug-free and non-invasive ways to resolve injuries at the time it is most beneficial. SB 148 will stop chiropractors from doing just that. Some Ohioans fall into drug dependency because of pain medications prescribed after a motor vehicle accident. We should be encouraging the dissemination of this information, not curtailing it.

There are administrative rules¹ already in place, as well as rules of professional conduct², to protect Ohioans from false and deceptive statements made by marketers. The following examples are marketing conversations that should never happen:

- Discussions concerning attorney fees or settlements
- Discussions about how much a case is worth
- Mention of any affiliations with insurance companies
- Mention that marketers are police departments or are in association with police departments
- Demeaning other doctors or lawyers

¹ 4734.31 Disciplinary actions by board. 4734-9-02 Advertising and solicitation

² Ohio Rules of Professional Conduct, Rule 7.3 Solicitation of Clients

These rules, already in existence address the problems voiced by proponents of SB 148.

In an open marketplace, it is crucial that the information presented be truthful and not deceptive. There is no place, and there should be no cover, for unscrupulous marketers representing attorneys, doctors, chiropractors, or insurance companies. These rules and statutes should be strictly enforced. This would cull the bad operators. The professional boards, the attorney general, and the department of insurance would only need to allot what would be small amounts of resources in their budgets to properly enforce the law and properly protect the public.

Furthermore, the State of Ohio follows the Federal Trade Commission's Telemarketing Sales Rule and the Telephone Consumer Protection Act of 1991, commonly known as the "do not call law"³. While Ohio does not have a separate do not call law, federal laws may be enforced in federal or state court by the Attorney General, and importantly, each Ohioan is allowed a private cause of action against marketers and businesses that ignore the do not call provisions⁴. We should encourage the public to use this tool. Each telemarketing company or individual calling in Ohio is required to subscribe to the FTC no call list, and required to regularly update this list. If Ohioans feel inconvenienced by calls from marketers, they can easily put their names on the no call list.

Stopping truthful, non-deceptive commercial speech is simply against the public good, especially when only a very small fraction of marketers are bad apples; and to reiterate, there are statutes and rules in place to stop fraudulent operators if properly enforced.

In conclusion, we must allow Ohioans access to truthful, non-deceptive information when people need it most. It is the right thing to do for all Ohioans. I respectfully ask that you not move forward toward passage of Senate Bill 148.

I would be happy to answer any questions at this time.

³ 16 CFR 310, Telemarketing Sales Rule; National Do Not Call Registry; Federal Communication Commission, Federal Trade Commission; <https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/telemarketing-sales-rule>; <https://www.donotcall.gov/faq/faqdefault.aspx>

⁴ ORC 1345.02 Unfair or deceptive acts or practices. ORC 4165.02 Deceptive trade practice actions. ORC 4165.03 Injunctive relief.