

ASSEMBLY BILL

No. 1074

Introduced by Assembly Member Nakano

February 23, 2001

An act to add Section 17537.10 to the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

AB 1074, as introduced, Nakano. Advertising: telephone directory listings: business location representations.

Existing law provides for the regulation of advertising in the state and makes certain advertising practices unlawful.

This bill would state the Legislature's findings and declarations with respect to florists' misrepresentation of the location of their business. This bill would also make it unlawful for a provider or vendor of floral or ornamental products or services, as defined, to misrepresent the geographic location of its business by (1) listing a local telephone number in any listing or advertisement, if calls to the telephone number are routinely forwarded to a business location different than the geographic location of the business indicated in the advertisement or listing and the listing does not identify the true physical address of the business; or (2) listing a fictitious business name or an assumed business name in any listing or advertisement, if the name misrepresents the location of the business and the listing does not identify the true physical address of the business. This bill would state that it does not create any duty nor impose any obligation upon anyone other than the business that is the subject of the advertisement or listing.

Existing law makes it a crime to violate any of the provisions regulating advertising. By adding this new provision regulating certain

contents of advertisements or listings, this bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) While California florists recognize the realities of a global
4 economy, they also recognize the right of consumers to know the
5 identity of vendors of the products they purchase.

6 (b) Many floral vendors that misrepresent the geographic
7 location of their businesses are in essence stealing the identity of
8 California floral vendors.

9 (c) Since 18 states have already recognized the need for
10 preventing misrepresentation in the floral industry and have
11 enacted laws to remedy this problem, and since California is the
12 premier flower producing and consuming state, it is appropriate
13 that California law be amended to require full disclosure of the
14 business location of businesses selling floral products in
15 California.

16 (d) Many California consumers prefer to do business with local
17 vendors and would do so if sellers were required to disclose the
18 location of their businesses.

19 (e) Both the State of California and California floral vendors
20 are losing revenue in the form of income, wages, and taxes.

21 SEC. 2. Section 17537.10 is added to the Business and
22 Professions Code, to read:

23 17537.10. (a) It is unlawful for a provider or vendor of floral
24 ornamental products or services to misrepresent the geographic
25 location of its business by doing either of the following:

26 (1) Listing a local telephone number in any advertisement or
27 listing if each of the following is satisfied:



1 (A) Calls to the telephone number are routinely forwarded or
2 otherwise transferred to a provider's or vendor's business location
3 that is different than the geographic location of the business
4 indicated in the advertisement or listing.

5 (B) The listing does not identify the true physical address,
6 including the city and state, of the provider's or vendor's business.

7 (2) Listing a fictitious business name or an assumed business
8 name in any advertisement or listing if each of the following is
9 satisfied:

10 (A) The name misrepresents the provider's or vendor's
11 geographic location.

12 (B) The listing does not identify the true physical address,
13 including the city and state, of the provider's or vendor's business.

14 (b) For the purposes of this section:

15 (1) A "local telephone number" means a specific telephone
16 number (area code and prefix) assigned for the purpose of
17 completing local calls between a calling party or station and any
18 other party or station within a designated exchange or all of its
19 designated local calling areas. The term does not include long
20 distance telephone numbers or 800 or 900 exchange telephone
21 numbers listed in a local telephone directory.

22 (2) "Floral or ornamental products and services" means floral
23 arrangements, cut flowers, bouquets, potted plants, balloons,
24 floral designs, and related products and services.

25 (c) This section creates no duty and imposes no obligation upon
26 anyone other than the business that is the subject of the
27 advertisement or listing.

28 SEC. 3. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

O

