

AMENDED IN ASSEMBLY APRIL 26, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1581

Introduced by Assembly Member Wieckowski
(Principal coauthor: Senator Wolk)

February 2, 2012

An act to add Section 17537.15 to the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

AB 1581, as amended, Wieckowski. Advertising: business location representations: floral businesses.

Existing law provides for the regulation of advertising in this state and makes certain advertising practices unlawful. A violation of the provisions regulating advertising is a ~~crime~~ *misdemeanor*.

This bill would make it ~~unlawful~~ *an infraction, punishable by a fine not to exceed \$250*, for a provider or vendor of floral or ornamental products or services, as defined, to misrepresent the geographic location of its business by either (1) listing a local telephone number in any listing or advertisement, unless the advertisement or listing identifies the true physical address, including the city, of the provider's or vendor's 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 or advertisement does not identify the true physical address of the business. This bill would also state that it does not create or impose any obligation or duty upon a person other than a vendor or provider as described above.

By creating new advertising prohibitions, the violation of which would be a crime, this bill would impose 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. Section 17537.15 is added to the Business and
2 Professions Code, to read:

3 17537.15. (a) For purposes of this section, “floral or
4 ornamental products or services” means floral arrangements, cut
5 flowers, floral bouquets, potted plants, balloons, floral designs,
6 and related products and services.

7 (b) For the purposes of this section, “local telephone number”
8 means a specific telephone number (area code and prefix) assigned
9 for the purpose of completing local calls between a calling party
10 or station and any other party or station within a designated
11 exchange or all of its designated local calling areas. The term “local
12 telephone number” does not include long distance telephone
13 numbers or any toll-free telephone numbers listed in a local
14 telephone directory.

15 (c) (1) It is ~~unlawful~~ *an infraction* for a provider or vendor of
16 floral or ornamental products or services to misrepresent the
17 geographic location of its business by doing either of the following:

18 (1)

19 (A) Listing a local telephone number in any advertisement or
20 listing, unless the advertisement or listing identifies the true
21 physical address, including the city, of the provider’s or vendor’s
22 business.

23 (2)

24 (B) Listing a fictitious business name or an assumed business
25 name in any advertisement or listing if both of the following criteria
26 are met:

27 (A)

1 (i) The name of the business misrepresents the provider's or
2 vendor's geographic location.

3 ~~(B)~~

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

7 (2) *Notwithstanding Sections 17534 and 17534.5, a violation*
8 *of this section is punishable, exclusively, by a fine not to exceed*
9 *two hundred fifty dollars (\$250).*

10 (d) This section does not create or impose any duty or obligation
11 on a person other than a vendor or provider described in
12 subdivision (a).

13 (e) This section does not apply to any of the following:

14 (1) A publisher of a telephone directory or other publication or
15 a provider of a directory assistance service publishing or providing
16 information about another business.

17 (2) An Internet Web site that aggregates and provides
18 information about other businesses.

19 (3) An owner or publisher of a print advertising medium
20 providing information about other businesses.

21 (4) An Internet service provider.

22 (5) An Internet service that displays or distributes advertisements
23 for other businesses.

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

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