

Assembly Bill No. 1581

Passed the Assembly May 3, 2012

Chief Clerk of the Assembly

Passed the Senate August 13, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1581, 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 misdemeanor.

This bill would make it 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.

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

SECTION 1. Section 17537.15 is added to the Business and Professions Code, to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) An Internet service provider.

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

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

Approved _____, 2012

Governor