

No: 2006-164

AN ACT

SB 198

Prohibiting a deceptive business practice in the floral industry; and providing for a private cause of action.

The General Assembly finds and declares as follows:

(1) Pennsylvania consumers have been the victims of a deceptive business practice within the floral industry that misleads or deceives them into believing that they were purchasing flowers directly from local florists.

(2) Unscrupulous floral businesses, physically located outside the local calling area of consumers, are utilizing local telephone listings and fictitious or assumed names to misrepresent the geographic location of their businesses.

(3) Unsuspecting consumers are placing floral orders with out-of-State floral shops or call centers and incurring additional charges for the transaction.

(4) The misrepresentation of the geographic location of a floral business not only misleads consumers but also financially harms local florists, who lose business, and the Commonwealth, which loses sales tax revenue.

(5) There exists a need for a law to prohibit the deceptive business practice of misrepresenting the geographic location of a floral business in an effort to protect both consumers and local florists.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Floral Transaction and Consumer Protection Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Directory assistance.” The disclosure of telephone number information in connection with an identified telephone service subscriber by means of a live operator or automated service.

“Local telephone directory.” A listing of telephone numbers that is distributed by a telephone company or directory publisher to subscribers located in the local exchanges contained in the directory. The term shall also include directory assistance and electronic listings.

“Local telephone number.” A telephone number with a local exchange used by the provider of telephone service for telephones physically located within the area covered by the local telephone directory in which the number is listed. The term does not include long distance numbers or 800-, 888- or 900- exchange numbers listed in a local telephone directory.

“Supplier.” A person that solicits telephone orders for floral arrangements whether or not the person deals directly with a consumer.

Section 3. Prohibited deceptive business practice.

It shall be considered a deceptive business practice and unlawful for a supplier to misrepresent its geographic location by listing a fictitious or assumed business name in a local telephone directory if all of the following apply:

- (1) The listing fails to identify the locality and state of the supplier’s business.
- (2) The calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier’s business location that is outside the calling area covered by the local telephone directory.
- (3) The supplier’s business location is located in a county that is not contiguous to a county in the calling area covered by the local telephone directory.

Section 4. Private cause of action.

A person may petition a court to enjoin the conduct prohibited by section 3. The court may impose a civil fine of up to \$500 per day until the supplier complies with the order to enjoin the prohibited conduct. The court may award reasonable attorney fees and costs to the person bringing the action if the court finds that the violation was willful.

Section 5. Applicability.

(a) Telephone listings.—The provisions of this act shall apply to telephone listings in a local telephone directory published or updated for the calling area at least 90 days after the effective date of this section.

(b) Media advertising.—The provisions of this act shall not apply to:

- (1) an owner, or personnel of an owner, of any medium in which an advertisement appears or through which an advertisement is disseminated; or
- (2) a publisher or distributor of a local telephone directory in which an advertisement or local telephone number appears or through which the advertisement or number is disseminated.

Section 6. Effective date.

This act shall take effect immediately.

APPROVED—The 29th day of November, A.D. 2006.

EDWARD G. RENDELL