

# SENATE BILL REPORT

## EHB 1422

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As Reported by Senate Committee On:  
Commerce & Labor, March 27, 2015

**Title:** An act relating to misrepresentation of the geographic location of floral product businesses.

**Brief Description:** Concerning misrepresentation of a floral product business's geographic location and advertising requirements for floral product businesses.

**Sponsors:** Representatives Scott, Griffey and Condotta.

**Brief History:** Passed House: 3/02/15, 94-3.

**Committee Activity:** Commerce & Labor: 3/20/15, 3/27/15 [DPA].

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### SENATE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass as amended.

Signed by Senators Braun, Vice Chair; Hasegawa, Ranking Minority Member; Conway, Keiser, King and Warnick.

**Staff:** Susan Jones (786-7404)

**Background:** A person engaged in the selling, delivery, or solicitation of cut flowers, flower arrangements, or floral products (floral product business) may not misrepresent the geographic location of the business by:

- listing a local telephone number in a local telephone directory if, without conspicuous disclosure, calls to the number are routinely forwarded or transferred to a location outside the calling area covered by the directory; or
- listing a business name in a local telephone directory if the name misrepresents the geographic location of the business and the listing fails to disclose the locality and state in which the business is located.

These misrepresentations are unfair and deceptive acts under the Consumer Protection Act, which prohibits such practices in commerce. The Consumer Protection Act may be enforced by private legal action or through a civil action by the Attorney General.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill (Recommended Amendments):** It is a violation for a provider or vendor of floral or ornamental products or services to misrepresent the business's geographic location by listing in any advertisement or listing the following:

- a local telephone number, unless the advertisement or listing identifies the true physical address, including the city; or
- a fictitious or assumed business name if the business name misrepresents the geographic location and the advertisement or listing does not identify the true physical address, including the city and state.

A violation is punishable, exclusively, by a fine of up to \$250.

The following exemptions apply:

- a publisher of a telephone directory or other publication, or a provider of a directory assistance service publishing or providing information about another business;
- an Internet website aggregator;
- an owner or publisher of a print advertising medium providing information about other businesses;
- an Internet service provider; and
- an Internet service that displays or distributes advertisements for other businesses.

The term local telephone number is modified. The term floral or ornamental products or services means floral arrangements, cut flowers, floral bouquets, potted plants, balloons, floral designs, and related products and services.

**EFFECT OF CHANGES MADE BY COMMERCE & LABOR COMMITTEE (Recommended Amendments):** The amendment: (1) provides that it is not a misrepresentation if the advertisement or listing identifies the true physical address; (2) provides that there is an exclusive fine of up to \$250 for a violation; (3) removes the requirement that the businesses must display either their business license or unified business identifier number on business websites and all advertising; and (4) provides exceptions.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Engrossed House Bill:** PRO: The idea for the bill came from a constituent. A company can use a local phone number and a local sounding name that routes to a 1-800 number and when the customer places the order online, the company routes the order to a local florist to fill the order even if the address is an hour away. This causes two problems. The local florist has no way to recoup the travel costs and the customer who would like to support local small businesses has no way to know that they have been misled. Some of these businesses use names close to actual local businesses. This gives the industry a bad name. Although we have a law against misrepresenting the business, it only applies to doing so in a telephone directory. This is very outdated. Twenty-nine states

have legislation regarding misrepresentation in telephone directories and six of them have updated their statutes to include Internet advertising. There may need to be some changes to prevent burdens to local business with the requirement of provided unified business identifier numbers on advertisements. Customers need to know if they are dealing with the brick and mortar flower shops. The customers are not getting the value for the price they are paying in some situations. Customers are used to dealing with local florists creating a custom arrangement. These are not commodities. The out-of-state businesses feed on the customer's expectation that they are dealing with a local florist. Some of these businesses use fake Google maps and photos to misrepresent their locations. They also sometimes charge for items that generally do not have an additional charge. This is not about national chains who do not misrepresent their locations.

CON: The bill unnecessarily and punitively affects Internet-based florists' marketing. Many Internet florists' marketing have hundreds of local florists affiliates who oppose the underlying bill. The implication of the bill is that online companies have deceptive and deceitful business models that should be changed and penalized. We strongly disagree with that implication. The ones that are not deceptive do not want to be unfairly lumped in with the bad actors giving the industry a bad name. This bill has been brought forward by a small group of local florists who are upset with the larger national floral marketing businesses. Many are Internet-based florists and are very sensitive to deceptive advertising and some have reached out to the Attorney General's Office to make sure that the bill going forward will give them the tools to shut down the bad actors. A better option would be to have something similar to California's legislation. The amendment would be acceptable if something will be passed out this year.

**Persons Testifying:** PRO: Representative Scott, prime sponsor; Senator McAuliffe; Joanie Deutsch, WA Retail Assn.; Laurel Stromme-Dede, Bothell Florist, General Manager; Wendy Damoth, Flower Lab, Owner; Greg Schumacher, LaVassar Florists; Jennifer Wirt, Owner, Monroe Floral; Val Arzumanov, Bellevue Crossroads Florist.

CON: Ben Buchholz, Internet Coalition, 1800Flowers, FTD, Harry and David.

**Persons Signed in to Testify But Not Testifying:** No one.