

Committee Substitute for Senate Bill No. 672

An act relating to deceptive trade practices in print advertisement; creating s. 501.97, F.S.; prohibiting the misrepresentation of the geographic location of a service or product supplier in print advertisement, under certain circumstances; providing certain immunity from liability to a telephone company or other provider of a telephone directory or directory assistance database, or its officers or agents; providing an exception; providing that violation of the prohibition is a deceptive and unfair trade practice; providing for penalties; providing for applicability; providing intent not to abrogate the Fictitious Name Act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 501.97, Florida Statutes, is created to read:

501.97 Deceptive trade practices; print advertisement; penalties.—

(1) A person may not misrepresent the geographic location of the supplier of a service or product by listing a fictitious business name or an assumed business name in print advertisement if:

(a) The name and overall context of the advertisement misrepresent that the supplier maintains an established place of business within the state when in fact the supplier has no such business in the state; and

(b) Calls to the local telephone number are routinely forwarded or otherwise transferred to a business location that is outside the State of Florida.

For purposes of this section, a newspaper publisher, magazine or other publication, telephone directory or directory assistance service or its officer or agent, or the owner or operator of a radio or television station, or any other owner or operator of a medium primarily devoted to advertising who publishes, broadcasts, or otherwise disseminates an advertisement in good faith without actual knowledge of its false, deceptive, or misleading character is immune from liability for publishing the listing of a fictitious business name or assumed business name of a supplier unless the advertiser is the same person as the supplier of services or products who has committed the act prohibited by this section. This section applies to all advertisements published after the effective date of this act.

(2) A violation of this section is a deceptive and unfair trade practice and constitutes a violation of part II of chapter 501. A person who violates this section commits a deceptive and unfair trade practice, punishable by the penalties provided under part II of chapter 501, and is subject to the enforcement of remedies for the violation as provided in part II of chapter 501.

(3) This section is supplemental to those provisions of state or federal criminal or civil law which impose prohibitions or provide penalties, sanc-

tions, or remedies against the same conduct prohibited by this section. Nothing in this section may be construed as barring any cause of action which would otherwise be available, as precluding any action that would otherwise be available, or as precluding the imposition of penalties or sanctions or the pursuit of remedies otherwise provided for by law, except that this section may not be construed to permit duplicate enforcement of penalties, sanctions, and remedies provided for under part II of chapter 501. Furthermore, the provisions of this section may not be construed to preclude the applicability of any other provision of law which now applies, or may in the future apply, to prohibit, penalize, or impose sanctions or remedies for any conduct that violates this section.

Section 2. This act is not intended to abrogate or modify the Fictitious Name Act, section 865.09, Florida Statutes. Any person who acts in accordance with the requirements of section 865.09, Florida Statutes, is not in violation of section 501.97, Florida Statutes, as created by this act without actual misrepresentation as contemplated under chapter 501, Florida Statutes.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor June 4, 1999.

Filed in Office Secretary of State June 4, 1999.