

HOUSE BILL NO. 435

INTRODUCED BY D. HAYMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CONSUMER PROTECTION LAWS RELATED TO LOCAL ADVERTISING AND SALES OF PERISHABLE BOTANICAL PRODUCTS; PROVIDING CRITERIA TO DESCRIBE A BUSINESS ENTITY AS LOCAL; PROVIDING DEFINITIONS; AND PROVIDING PENALTIES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Terms for local advertising and sales of perishable botanical products

-- exception -- definitions. (1) A business entity that sells a perishable botanical product may advertise the business entity as being local and in state only if:

(a) the business entity maintains and has staff at an office in the local area indicated in the advertising;

and

(b) a call by a consumer using the local telephone number listed in the business entity's advertising is not routinely forwarded or transferred to a location outside the local calling area.

(2) Publishing, broadcasting, or otherwise disseminating a directory, database, or print or electronic advertisement that misrepresents as local a business entity that does not comply with subsection (1):

(a) is a violation if the publishing, broadcasting, or other dissemination was done with knowledge of the misrepresentation of the selling business entity's geographical location as local;

(b) is not a violation of this section if:

(i) the publishing, broadcasting, or other dissemination was done by a business entity different from the selling business entity and done in good faith without knowledge of the misrepresentation of the selling business entity's geographical location as local; or

(ii) the advertising by the selling business entity consists only of a sign outside a roadside stand or farmer's market booth.

(3) For the purposes of this section, the following definitions apply:

(a) "Advertising" means a listing in a telephone directory or other directory assistance database, on the internet, or in a print or electronic advertisement of a business entity that sells perishable botanical products.

(b) "Business entity" means a person as defined in 30-14-102, whether advertising under its own name,



1 a fictitious business name, or an assumed business name as defined in 30-13-201.

2 (c) "Local" means within Montana and within the local calling area.

3 (d) "Local calling area" means an area for which long-distance charges do not apply for a land-based
4 telephone exchange.

5 (e) "Perishable botanical product" means live plants or flowers.

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7 **NEW SECTION. Section 2. Penalty.** A violation of [section 1] is:

8 (1) an unfair method of competition and a deceptive act under 30-14-103; and

9 (2) punishable as provided in 30-14-111.

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11 **NEW SECTION. Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified
12 as an integral part of Title 30, chapter 14, part 1, and the provisions of Title 30, chapter 14, part 1, apply to
13 [sections 1 and 2].

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