

By: Representative Martinson

To: Judiciary B; Public Utilities

HOUSE BILL NO. 136

1 AN ACT TO CREATE THE FLORAL TRANSACTION AND CONSUMER
2 PROTECTION ACT; TO DEFINE CERTAIN TERMS; TO PROHIBIT DECEPTIVE
3 BUSINESS PRACTICES; TO PROVIDE A CAUSE OF ACTION; TO PROVIDE FOR
4 THE APPLICABILITY OF THIS ACT; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** This act shall be known and may be cited as the
7 "Floral Transaction and Consumer Protection Act."

8 **SECTION 2.** The following words and phrases when used in this
9 act shall have the meanings given to them in this section unless
10 the context clearly indicates otherwise:

11 (a) "Directory assistance" means the disclosure of
12 telephone number information in connection with an identified
13 telephone service subscriber by means of a live operator or
14 automated service.

15 (b) "Local telephone directory" means a listing of
16 telephone numbers that is distributed by a telephone company or
17 directory publisher to subscribers located in the local exchanges
18 contained in the directory. The term shall also include directory
19 assistance and electronic listings.

20 (c) "Local telephone number" means a telephone number
21 with a local exchange used by the provider of telephone service
22 for telephones physically located within the area covered by the
23 local telephone directory in which the number is listed. The term
24 does not include long distance numbers or 800-, 888- or
25 900-exchange numbers listed in a local telephone directory.

26 (d) "Supplier" means a person that solicits telephone
27 orders for floral arrangements whether or not the person deals
28 directly with a consumer.

29 **SECTION 3.** It shall be considered a deceptive business
30 practice and unlawful for a supplier to misrepresent its
31 geographic location by listing a fictitious or assumed business
32 name in a local telephone directory if all of the following apply:

33 (a) The listing fails to identify the locality and
34 state of the supplier's business.

35 (b) The calls to the local telephone number are
36 routinely forwarded or otherwise transferred to a supplier's
37 business location that is outside the calling area covered by the
38 local telephone directory.

39 (c) The supplier's business location is located in a
40 county that is not contiguous to a county in the calling area
41 covered by the local telephone directory.

42 **SECTION 4.** A person may petition a court to enjoin the
43 conduct prohibited by Section 3 (relating to prohibited deceptive
44 business practice). The court may impose a civil fine of up to
45 Five Hundred Dollars (\$500.00) per day until the supplier complies
46 with the order to enjoin the prohibited conduct. The court may
47 award reasonable attorney fees and costs to the person bringing
48 the action if the court finds that the violation was willful.

49 **SECTION 5.** (1) The provisions of this act shall apply to
50 telephone listings in a local telephone directory published or
51 updated for the calling area at least ninety (90) days after the
52 effective date of this section.

53 (2) The provisions of this act shall not apply to:

54 (a) An owner, or personnel of an owner, of any medium
55 in which an advertisement appears or through which an
56 advertisement is disseminated; or

57 (b) A publisher or distributor of a local telephone
58 directory in which an advertisement or local telephone number
59 appears or through which the advertisement or number is
60 disseminated.

61 **SECTION 6.** This act shall take effect and be in force from
62 and after its passage.