

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 672

SPONSOR: Agriculture and Consumer Services Committee and Senator Holzendorf

SUBJECT: Fictitious Names

DATE: March 4, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Henderson</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill prohibits a person from using a fictitious name in any type of print advertisement with an intent to misrepresent the geographic origin or location of a business. Violators are guilty of a deceptive and unfair trade practice and subject to any and all penalties under part II of chapter 501, F.S.

This bill creates section 501.97, Florida Statutes.

II. Present Situation:

The florist industry has had individuals from out-of-state use a fictitious business name and list phone numbers in local telephone directories. Customers would call to order flowers from what they believed to be a local florist when the actual location of the business is out-of-state. When individuals dialed this local telephone number it would forward the call to an out-of-state location and many times the intended receiver of the flowers never received them.

Section 865.09, F.S., pertains to fictitious names registration. It requires any person who conducts business under a name different than their legal name to register with the Division of Corporations of the Department of State. If a person violates this statute, they are guilty of a misdemeanor in the second degree.

III. Effect of Proposed Changes:

Section 1: Creates s. 501.97, F.S., to prohibit deceptive trade practices in print advertisement. This includes newspaper, magazine or any other publication, telephone directory, directory assistance service, or its officer or agent, 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.

Prohibits a person from misrepresenting the geographic location of a supplier of a service or product by listing a fictitious name or an assumed business name in any type of print advertisement if:

- The name misrepresents the geographic location of the supplier and;
- Calls to the local telephone number are routinely forwarded or otherwise transferred to a business location that is outside the state of Florida.

Provides exemptions from liability for publishing the listing of a fictitious business name or assumed business name of a supplier in any type of print advertisement unless a person is the supplier of services or products who has committed the deceptive act.

Any person violating the provisions of this section is guilty of a deceptive and unfair trade practice and subject to any and all penalties under part II of ch. 501, F.S.

This section supplements those provisions of state or federal criminal or civil law which prohibit, or provide penalties, sanctions, or remedies against the same conduct. Furthermore, nothing may be construed as barring any cause of action which would otherwise be available, or prevent penalties or sanctions or remedies that are otherwise provided for by law.

Prohibits the duplicate enforcement of penalties, sanctions, and remedies already provided for under part II of ch. 501, F.S. Furthermore, the provisions of this section may not be construed to prevent other provisions of other laws from applying now, or in the future to prohibit, penalize, or impose sanctions or remedies for any conduct which is violated in this section.

Section 2: Provides that this bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill provides protection to the consumer against individuals who engage in a deceptive and unfair trade practice.

C. Government Sector Impact:

This bill clarifies that misrepresentation of the geographic location of the supplier of a service or product is guilty of a deceptive and unfair trade practice.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.