

House BILL NO. 445

INTRODUCED BY *Wisconsin Simpkins Wells*  
*Arnot* *Moad* *Rose* *Layton* *M. Hanson* *Hayne* *Ahner*

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THAT DECEPTIVE TELEPHONE LISTINGS ARE AN UNLAWFUL TRADE PRACTICE; PROVIDING DAMAGES FOR VIOLATIONS; AND AMENDING SECTIONS 30-14-105 AND 45-6-318, MCA." *M. Lee* *Brady* *Barlow* *Stang*

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

**NEW SECTION. Section 1. Definitions.** As used in [sections 1 through 3], the following definitions apply:

(1) "Directory assistance" means a service that provides telephone numbers to a person who calls a directory assistance telephone number that is published in a local telephone directory and that is preceded either by an area code or by a prefix number signifying that the telephone number is toll-free or is subject to a limited toll.

(2) "Local telephone directory" means a telephone classified advertising directory or the business section of a telephone directory that is distributed free of charge to some or all telephone subscribers in a local area.

(3) (a) "Local telephone number" refers to a telephone number that has the prefix number for telephones that are physically located within the area covered by the local telephone directory in which the number is listed.

(b) The term does not include long-distance numbers or toll-free or limited-toll numbers listed in a local telephone directory.

**NEW SECTION. Section 2. Misrepresenting geographic location -- unfair practice.** It is an unfair and deceptive business practice for a person to misrepresent the geographic location of a supplier or vendor of goods or services by:

(1) listing a local telephone number in a local telephone directory if:

(a) calls to the telephone number are routinely forwarded or otherwise transferred to the business location of a supplier or vendor that is outside the calling area covered by the local telephone directory; and

1 (b) the listing does not identify the locality and the state or country where the supplier or the vendor  
2 is located; or

3 (2) listing a business name or an assumed business name in a local telephone directory or with  
4 directory assistance if:

5 (a) the name identifies the supplier or the vendor by a geographic location within the state that is  
6 different from the location of the supplier's or vendor's business; and

7 (b) the listing does not identify the locality and the state or country where the supplier or the vendor  
8 is located.

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10 **NEW SECTION. Section 3. Damages.** In addition to the injunctive relief provided under 30-14-111  
11 and the penalties under 30-14-142 for related violations of injunctive orders, a plaintiff who proves a  
12 violation of [sections 1 through 3] may recover from the defendant three times the amount of actual  
13 damages sustained, if any, plus costs and attorney fees.

14  
15 **Section 4.** Section 30-14-105, MCA, is amended to read:

16 **"30-14-105. Exemptions.** ~~Nothing in this~~ This part shall does not apply to:

17 (1) actions or transactions permitted under laws administered by the Montana public service  
18 commission acting under statutory authority of this part or the United States;

19 (2) acts done by the retail merchants, publisher, owner, agent, or employee of a newspaper,  
20 periodical, or radio or television station or advertising agency in the publication or dissemination of an  
21 advertisement, when the owner, agent, or employee did not have knowledge of the false, misleading, or  
22 deceptive character of the advertisement and did not have a direct financial interest in the advertised  
23 product or service;

24 (3) national advertising, except when the advertising includes the use of a telephone number that  
25 misrepresents, in the manner described in [section 2], the geographic location of the supplier or vendor  
26 whose product or service is being advertised."

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28 **Section 5.** Section 45-6-318, MCA, is amended to read:

29 **"45-6-318. Deceptive business practices.** (1) A person commits the offense of deceptive business  
30 practices if in the course of engaging in a business, occupation, or profession ~~he~~ the person purposely or

- 1 knowingly:
- 2 (a) uses or possesses for use a false weight or measure or any other device for falsely determining
- 3 or recording any quality or quantity;
- 4 (b) sells, offers, exposes for sale, or delivers less than the represented quantity of any commodity
- 5 or service;
- 6 (c) takes or attempts to take more than the represented quantity of any commodity or service when
- 7 as buyer ~~to~~ the person furnished the weight or measure;
- 8 (d) sells, offers, or exposes for sale adulterated commodities;
- 9 (e) sells, offers, or exposes for sale mislabeled commodities; ~~or~~
- 10 (f) makes a deceptive statement regarding the quantity or price of goods in any advertisement
- 11 addressed to the public; or
- 12 (g) misrepresents the geographic location of the supplier or vendor in the manner described in
- 13 [section 2].
- 14 (2) "Adulterated" means varying from the standard of composition or quality prescribed by statute
- 15 or lawfully promulgated administrative regulation or, if none, as set by established commercial usage.
- 16 (3) "Mislabeled" means:
- 17 (a) varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully
- 18 promulgated administrative regulation or, if none, as set by established commercial usage; or
- 19 (b) represented as being another person's produce though otherwise labeled accurately as to
- 20 quality and quantity.
- 21 (4) A person convicted of the offense of deceptive business practices shall be fined not to exceed
- 22 \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both."
- 23
- 24 **NEW SECTION. Section 6. Codification instruction.** [Sections 1 through 3] are intended to be
- 25 codified as an integral part of Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to
- 26 [sections 1 through 3].
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