~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 4, 2009

**S. 198**

Introduced by Senator McConnell

S. Printed 2/4/09--S.

Read the first time January 13, 2009.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 198) to amend Section 39‑5‑37, Code of Laws of South Carolina, 1976, relating to the use of a name to misrepresent the geographical location of a business, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill as and if amended, SECTION 2, page 2, lines 35-38, by deleting SECTION 2, page 2, lines 35-38 in their entirety and inserting the following:

/ SECTION 2. This act takes effect on January 1, 2010, and applies to any telephone directory, telephone assistance database, or print advertisement provided or published after that date. /

Renumber sections to conform.

Amend title to conform.

PAUL G. CAMPBELL, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 39‑5‑37, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE USE OF A NAME TO MISREPRESENT THE GEOGRAPHICAL LOCATION OF A BUSINESS AS AN UNLAWFUL TRADE PRACTICE, SO AS TO MAKE IT AN UNLAWFUL TRADE PRACTICE TO PUBLISH IN A TELEPHONE ASSISTANCE DATABASE OR A PRINT ADVERTISEMENT AN INTENTIONALLY MISLEADING REPRESENTATION OF THE GEOGRAPHICAL LOCATION OF THE BUSINESS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 39‑5‑37 of the 1976 Code, as added by Act 438 of 1998, is amended to read:

“Section 39‑5‑37. (A) It ~~shall be~~ is an unlawful trade practice ~~under~~ pursuant to Section 39‑5‑20 to use an assumed or fictitious name in the conduct of a business ~~to~~ intentionally to misrepresent the geographic origin, ownership of manufacturing facilities, or location of ~~such~~ the business.

(B)(1) It is an unlawful trade practice pursuant to Section 39‑5‑20 for a person, firm, or corporation that is in the business of supplying a service or a product intentionally to misrepresent the geographical location of the business in the listing of the business in a telephone directory or other directory assistance database. A person, firm, or corporation intentionally misrepresents the geographical location of the business pursuant to this item if the name of the business indicates that the business is located in a geographical area and all of the following apply:

(a) the business is not located within the geographical area indicated;

(b) the listing fails to identify the municipality and state of the actual geographical location of the business; and

(c) a telephone call to the local telephone number listed in the directory or database routinely is forwarded or transferred to a location that is outside the calling area covered by the directory or database in which the number is listed.

(2) It is an unlawful trade practice pursuant to Section 39‑5‑20 for a person, firm, or corporation that is in the business of supplying a service or a product intentionally to misrepresent the geographical location of the business in print advertisement. A person, firm, or corporation intentionally misrepresents the geographical location of the business pursuant to this item if a fictitious business name or an assumed business name is listed in print advertisement and all of the following apply:

(a) the name misrepresents the geographic location of the supplier; and

(b) a telephone call to the local telephone number routinely is forwarded or transferred to a location that is outside the calling area in which the number is listed.

(3) A person, firm, or corporation that misrepresents the geographical location of the business pursuant to item (1) or (2) of this subsection is not in violation of this subsection if a conspicuous notice in the listing or in the print advertisement states the municipality and state in which the business is located and identifies the municipality and state as the location of the business.

(4) A provider of telephone, telecommunications, or other communications services, a provider of a telephone directory or directory assistance service, and an officer, employee, or agent of any such provider shall not be liable pursuant to this subsection for publishing the advertisement or for listing a person or entity in its directory or directory assistance database unless the provider is the same person or entity as the person or entity that is the subject of the advertisement or listing.”

SECTION 2. This act takes effect upon approval by the Governor and applies to any telephone directory, telephone assistance database, or print advertisement provided or published after that date.

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