

The Bill has become Law!

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PRESS RELEASE
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For Immediate Release
Contact:
Kym Erickson
612-724-3606
MN State Florist Association

Minnesota Joins the Short list with Deceptive Advertising Law.

Minnesota State Florist Association

ST PAUL-MINNEAPOLIS, MN

Consumers have been frustrated for some time and for good reason. Those consumers, many of whom wish to use a local florist to provide arrangements, often call what they believe to be a local business and are unknowingly transferred to an out-of-state merchant. That out-of-state florist then completes the transaction by calling the real local florist. Under the scenario, the consumer pays more and gets a smaller arrangement and the local florist makes less money.

Rep. Steve Simon and Senator Sandy Pappas recognized the matter and introduced legislation to remedy this issue raised by the Minnesota Retailers Association (MRA) and the Minnesota State Floral Association. (MNSFA) Minnesota is one of 4 other states in the US that has passed such deceptive advertising legislation on behalf of florists.

House File 3277 was introduced with the intention to make such a practice part of Minnesota's Deceptive Practices Act. The bill passed the House and Senate by overwhelming margins and was signed into law on April 15, 2010.

The bill prohibits the use of deceptive advertising by "floral gatherers" that misrepresent their location by using a false address and who also mislead customers by the use of a "local" phone number. This bill requires that any business that wishes to advertise on the internet or in Yellow pages, to have their physical address listed. Therefore giving the consumer the choice to deal with their local florist or use an out of state order gatherer. This is a HUGE triumph for MNSFA and all Minnesota's Florists.

This bill introduced was successfully cradled by Buzz Anderson, Executive Director of the Minnesota Retailers Association (MRA) through many committees and then the House and Senate floors. "Partnering with MRA was the single best move any florist organization could do. Buzz knows how to make things happen, in a world that the typical florist have very little exposure to" said Kym Erickson, President of MNSFA. She goes on to say "A MNSFA member first brought this to Buzz's attention and after being explained how a typical

customers experience might be with one of these companies Buzz and MNSFA began to work together."

A deceptive florist has bought misleading phonebook listings throughout the US in both the white pages and yellow pages of the telephone books, both in print and on the Internet. Many times this listing appears to be a local florist, deceptive companies go as far to use names close to or even using the name of successful existing businesses. The calls are forwarded to a call center posing as a local florist. Upon taking your flower order, they transfer that flower order back to the local florist for delivery. Both businesses need to make a profit, so the consumer is charged higher prices, and an unnecessary service fee. The local florist is charged a commission percentage of the sale by the deceptive florist call center. For example, if you order a \$50 arrangement from a deceptive florist, after deducting their charges and service fees, perhaps only a \$30 arrangement is actually delivered. Many times, the local florist is blamed. Therefore cutting the throat of the local florist and forcing many formally successful local businesses to close or are currently struggling to keep afloat.

Kym Erickson of MNSFA gives these examples, "Eagan Floral has been dealing with a yellow page listing for Eagan Flowers in their local phone book. The company listed an address at for the local post office and posed as a local florist, robbing Eagan Floral of their everyday telephone business and confusing the consumer. Engwalls Florist in Duluth, MN lost over 100 orders over Valentine's Day this year by a paid internet listing with their name but the phone number lead to a completely different company's call center."

The new law makes misrepresenting a business's geographic location part of the deceptive practices act if:

- The business is not really located within the geographical area indicated in advertising;
- The business listing fails to identify the actual municipality of the and state of the business's location, and;
- The telephone calls to the business's telephone number are routinely forwarded or transferred to a location outside the local calling area.

The bill applies to any business that is alleged to be in the state that might be attempting to mislead customers about its geographical location.

Under the new law, a business likely to be damaged by a deceptive trade practice may be granted an injunction against the offending business. Proof of monetary damage, loss of profits, or intent to deceive is not required.

Further, costs shall be allowed to the prevailing party.. The court may award attorneys' fees to the prevailing party if (1) the party complaining of a deceptive trade practice has brought an action knowing it to be groundless, or (2) the party charged with a deceptive trade practice has willfully engaged in the trade practice knowing it to be deceptive.

Patrick Busch, President of Len Busch Roses, Plymouth, MN and Vice President of MNSFA had this to say: "This is a huge success for the local brick and mortar florists in Minnesota. At Len Busch Roses, we see the struggles of the florist to make money in these difficult times. Having out of state order gathers taking profit from the local community and not providing any real value back to the consumer or helping expand floral consumption has been a big drain on the industry. The lower value of the flowers caused by too many hands in the cookie jar has contributed to erosion of consumer confidence. We applaud all those who helped get this done.