

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 175

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, before “Telephone” insert “False Advertising – Misrepresentations in Advertisements and”; in lines 2 and 3, strike “– Publication of Local Numbers by Nonlocal Businesses”; strike beginning with “prohibiting” in line 4 down through “provisions;” in line 12 and substitute “providing that a person is in violation of a certain provision of law prohibiting false advertising if the person causes an advertisement that misrepresents the location of the person to be published in a certain directory, or causes a telephone listing that misrepresents the location of the person to be listed in a certain directory; exempting publishers, printers, and distributors of certain advertisements or telephone listings from certain provisions of law governing false advertising; providing for the application of certain provisions of this Act;”; in line 12, strike “the”; strike line 13 in its entirety and substitute “false advertising and misrepresentations in advertisements and telephone directory listings.”; in line 16, strike “13–301(14)” and substitute “11–701 and 11–702”; after line 18, insert:

“BY repealing and reenacting, without amendments,

Article – Commercial Law

Section 11–703 and 11–705

Annotated Code of Maryland

(2005 Replacement Volume and 2008 Supplement)”;

and in line 21, strike “14–1322” and substitute “11–704.1”.

AMENDMENT NO. 2

On pages 2 and 3, strike beginning with line 1 on page 2 through line 16 on page 3, inclusive, and substitute:

(Over)

“11-701.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) “Advertise falsely” means to use any advertisement, including a label, which is misleading in a material respect.

(2) “Advertise falsely” includes the use of an advertisement that contains an affirmative representation that the Maryland sales and use tax will not be collected by the retailer on a particular transaction without notifying the purchaser of the purchaser’s duty to pay the sales and use tax directly to the Comptroller of this State.

(c) “Person” includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

**(D) “TELEPHONE COMPANY” HAS THE MEANING STATED IN § 1-101 OF THE PUBLIC UTILITY COMPANIES ARTICLE.**

11-702.

This subtitle does not apply to any:

(1) Television or radio broadcasting station which broadcasts an advertisement; [or]

(2) Publisher or printer of a newspaper, magazine, or other form of printed advertisement who publishes or prints an advertisement; OR

(3) PUBLISHER, PRINTER, OR DISTRIBUTOR, INCLUDING A TELEPHONE COMPANY OR DIRECTORY PROVIDER, OF AN ADVERTISEMENT OR TELEPHONE LISTING IN A TELEPHONE DIRECTORY.

11-703.

A person may not advertise falsely in the conduct of any business, trade, or commerce or in the provision of any service.

11-704.1.”;

and on page 3, strike beginning with “(I)” in line 19 down through “(3)” in line 24.

On page 4, in line 4, strike “(4)” and substitute “(3)”; strike in their entirety lines 12 through 25, inclusive, and substitute:

“(4) “LOCATION” MEANS ANY PART OF THE ADDRESS OF A PERSON, INCLUDING THE STREET, THE CITY, OR THE STATE.

(B) (1) THIS SECTION APPLIES ONLY TO BUSINESS TELEPHONE LISTINGS AND ADVERTISEMENTS.

(2) THIS SECTION DOES NOT APPLY TO ANY BANK, TRUST COMPANY, SAVINGS BANK, SAVINGS AND LOAN ASSOCIATION, OR CREDIT UNION INCORPORATED OR CHARTERED UNDER THE LAWS OF THIS STATE OR THE UNITED STATES OR ANY OTHER STATE BANK HAVING A BRANCH IN THIS STATE.

(C) (1) A PERSON IS IN VIOLATION OF § 11-703 OF THIS SUBTITLE IF THE PERSON:

(Over)

(I) CAUSES TO BE PUBLISHED IN A LOCAL TELEPHONE CLASSIFIED ADVERTISING DIRECTORY AN ADVERTISEMENT THAT MISREPRESENTS THE LOCATION OF THE PERSON; OR

(II) CAUSES TO BE LISTED IN A LOCAL TELEPHONE DIRECTORY A TELEPHONE LISTING THAT MISREPRESENTS THE LOCATION OF THE PERSON.

(2) FOR PURPOSES OF THIS SUBSECTION, A PERSON COMMITS A SEPARATE VIOLATION FOR EACH EDITION OF A LOCAL TELEPHONE DIRECTORY OR LOCAL TELEPHONE ADVERTISING DIRECTORY IN WHICH THE ADVERTISEMENT OR TELEPHONE LISTING IS PUBLISHED.”;

and strike in their entirety lines 26 through 33, inclusive.

On page 5, strike in their entirety lines 1 through 13, inclusive, and substitute:

“11-705.

(a) Any person who violates any provision of this subtitle is subject to a penalty not exceeding \$500 for each violation, which penalty the Attorney General may recover for the State in a civil action.

(b) Before the Attorney General commences any action under this section, he shall give to the person against whom the action is proposed:

(1) Notice by registered or certified mail of the proposed action; and

(2) An opportunity to show cause orally or in writing why the action should not be commenced.”.