

2016 Regular Session

SENATE BILL NO. 122

BY SENATOR BARROW

ADVERTISING. Prohibits certain forms of untrue or misleading advertisements. (8/1/16)

1 AN ACT  
2 To amend and reenact R.S. 51:411(A) and to enact R.S. 51:411(F), relative to  
3 advertisements; to provide for untrue or misleading advertisements; to prohibit  
4 certain forms of untrue or misleading advertisements; to provide certain terms and  
5 conditions; to provide for transactions involving third party online hotel reservation  
6 sellers; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 51:411(A) is hereby amended and reenacted and R.S. 51:411(F) is  
9 hereby enacted to read as follows:

10 §411. Advertisements, untrue or misleading, prohibited; penalty

11 A. No person, with intent to sell or in any way dispose of merchandise,  
12 securities, service, or anything directly or indirectly, to the public for sale or  
13 distribution, or with intent to increase the consumption, or to induce the public in any  
14 manner to enter into any obligation relating thereto, or to acquire title, or an interest  
15 therein, shall make, publish, disseminate, circulate, or place before the public, or  
16 cause directly or indirectly to be made, published, disseminated, circulated, or placed  
17 before the public, in this state, in a newspaper or other publication, or in the form of

1 a book, notice, hand-bill, poster, bill, circular, pamphlet, **building signage**, or letter,  
2 or radio broadcasts, telecasts, wire, wireless, motion picture, or in any other way, an  
3 advertisement of any sort regarding merchandise, securities, service, or anything  
4 offered to the public, which advertisement contains any assertion, representation, or  
5 statement of fact which is untrue, deceptive, or misleading.

6 \* \* \*

7 **F.(1) It shall be unlawful advertising and a violation of this Section for**  
8 **a third party online hotel reservation seller to charge or attempt to charge any**  
9 **consumer's credit card, debit card, bank account, or other financial account for**  
10 **any good or service sold in a transaction effected on the Internet, unless the**  
11 **third party online hotel reservation seller clearly and conspicuously discloses to**  
12 **the consumer all material terms of the transaction, including:**

13 **(a) Before the conclusion of the transaction all of the following:**

14 **(i) A description of the good or service being offered.**

15 **(ii) The cost of such good or service.**

16 **(iii) That the transaction is being done by a third party online hotel**  
17 **reservation seller.**

18 **(b) Throughout the transaction process, in a manner that is continuously**  
19 **visible to the consumer, the fact that the third party online hotel reservation**  
20 **seller is a third party seller and is not affiliated with the person who owns the**  
21 **hotel or provides the hotel services or accommodations.**

22 **(2) As used in this Subsection, "third party online hotel reservation**  
23 **seller" means a person that sells, or offers for sale, hotel reservations on the**  
24 **Internet and is not affiliated with the person who owns the hotel or provides the**  
25 **hotel services or accommodations.**

26 **(3) A violation of this Subsection by a third party online hotel reservation**  
27 **seller shall not be considered a violation by the Internet provider.**

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The original instrument was prepared by Michelle D. Ridge. The following digest, which does not constitute a part of the legislative instrument, was prepared by J. W. Wiley.

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## DIGEST

SB 122 Reengrossed

2016 Regular Session

Barrow

Present law prohibits forms of advertisements that contain any assertion, representation, or statement of fact that are untrue, deceptive, or misleading. Such forms include a book, notice, hand-bill, poster, bill, circular, pamphlet, or letter.

Proposed law retains present law and adds building signage as a prohibited form of advertisement if its content is untrue, deceptive, or misleading.

Proposed law provides that an additional prohibited form of advertising is if a third party online hotel reservation seller charges or attempts to charge any consumer's credit card, debit card, bank account, or other financial account for any good or service sold in a transaction effected on the Internet, unless the third party online hotel reservation seller clearly and conspicuously discloses to the consumer all material terms of the transaction. Further provides for what is included as a material term.

Proposed law defines "third party online hotel reservation seller".

Proposed law provides that a violation of proposed law by a third party online hotel reservation seller will not be considered a violation by the Internet provider.

Effective August 1, 2016.

(Amends R.S. 51:411(A); adds R.S. 51:411(F))

Summary of Amendments Adopted by SenateSenate Floor Amendments to engrossed bill

1. Adds a prohibited form of advertising by a third party online hotel reservation seller.