

Sixty-second
Legislative Assembly
of North Dakota

SENATE BILL NO. 2182

Introduced by

Senators Nething, O'Connell

Representative Kingsbury

1 A BILL ~~for an Act to create and enact a new section to chapter 51-12 of the North Dakota~~
2 ~~Century Code, relating to false advertisements regarding location of business; and to provide a~~
3 ~~penalty for an Act to amend and reenact section 51-12-01 of the North Dakota Century Code,~~
4 ~~relating to false and misleading advertising; and to provide a penalty.~~

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 ~~**SECTION 1.** A new section to chapter 51-12 of the North Dakota Century Code is created~~
7 ~~and enacted as follows:~~

8 ~~**Business location -- Penalty:**~~

9 ~~1. In a printed advertisement a person may not use an assumed or fictitious name for the~~
10 ~~conduct of the person's business which includes the name of any city in this state in a~~
11 ~~manner that suggests the business is located in that city, unless:~~

12 ~~a. The business is located in the referenced city; or~~

13 ~~b. The printed advertisement includes the complete street address of the location~~
14 ~~from which the business is conducted, including the city and, if located outside~~
15 ~~this state, the state in which the business is located.~~

16 ~~2. This section does not apply to the use of:~~

17 ~~a. A trademark or service mark registered under the laws of this state or under~~
18 ~~federal law;~~

19 ~~b. A name that, when applied to the goods or services of the business, is merely~~
20 ~~descriptive of the goods or services; or~~

21 ~~c. A name that is merely a surname.~~

22 ~~3. Violation of this section is a false and misleading advertisement in violation of section~~
23 ~~51-12-01. This section does not impose liability on a publisher that relies on the written~~

~~assurances of a person placing a printed advertisement that the person has authority
to use the assumed or fictitious name.~~

SECTION 1. AMENDMENT. Section 51-12-01 of the North Dakota Century Code is
amended and reenacted as follows:

51-12-01. False and misleading advertising prohibited.

1. No person with intent to sell, dispose of, increase the consumption of, or induce the public to enter an obligation relative to or to acquire title or interest in any ~~food, drug, medicine, patent and proprietary~~ product, merchandise, security, service, performance, ~~medical treatment, paint, varnish, oil, clothing, wearing apparel, machinery,~~ or anything offered to the public may make, publish, disseminate, circulate, broadcast, or place before the public, or directly or indirectly shall cause to be made, published, disseminated, circulated, broadcast, or placed before the public in a newspaper, or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, tab, label, letter, television or radio broadcast, placement on the internet, or in any other way, an advertisement or web page that contains any assertion, representation, or statement of fact, including the price thereof or name suggesting the business location of the offeror, which is untrue, deceptive, or misleading regarding such ~~food, drug, medicine, patent and proprietary~~ product, merchandise, security, service, performance, ~~medical treatment, paint, varnish, oil, clothing, wearing apparel, machinery,~~ price, business location, or anything offered to the public.
2. It is not a violation of this section to advertise a performance by a performing group if at least one member of the performing group was a member of the recording group, the performance is identified as a "salute" or "tribute" to the recording group, the performance is expressly authorized in the advertising by the recording group, the advertising does not relate to a live music performance taking place in this state, or the advertising contains a disclaimer that the performing group is not the recording group or is not affiliated with the recording group.
3. This section imposes liability on only the offeror of a product or service. This section does not impose liability on a publisher, other advertising media, or an advertising

- 1 | agency that relies on the assurances of a person placing an advertisement that the
- 2 | claims or representations are true.