



# Senate

General Assembly

**File No. 371**

February Session, 2014

Substitute Senate Bill No. 107

*Senate, April 7, 2014*

The Committee on Energy and Technology reported through SEN. DUFF of the 25th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING DELIVERY OF THE YELLOW PAGES PHONE BOOK.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this  
2 section:

3 (1) "Display advertising" means business advertising that includes  
4 text or various graphic elements exceeding the use of boldface type  
5 and color highlighting of the business name and telephone number;

6 (2) "Distribution" means the unsolicited delivery of more than four  
7 tons annually of yellow pages phone books to the addresses of  
8 residents and businesses within this state, but does not include the  
9 delivery of yellow pages phone books by membership organizations to  
10 their members or to other residents or businesses requesting or  
11 expressly accepting delivery;

12 (3) "Membership organization" means an organization that is

13 organized and operated primarily or exclusively for the purpose of  
14 providing services or benefits to a designated group of members;

15 (4) "Distributor" means a person or organization engaged in the  
16 business of arranging for the distribution of yellow pages phone books  
17 in this state. "Distributor" includes those persons or organizations that  
18 are primarily responsible for arranging for the publication and  
19 distribution of the yellow pages phone books and whose income is  
20 derived, at least in part, from the advertising contained in the yellow  
21 pages phone books. "Distributor" does not include those individuals  
22 whose role in the distribution of yellow pages phone books in this state  
23 is limited to driving the streets and making physical delivery of the  
24 yellow pages phone books; and

25 (5) "Yellow pages phone book" means a printed telephone directory  
26 that consists primarily of a listing of business names and telephone  
27 numbers and contains display advertising for at least some of those  
28 businesses.

29 (b) Any distributor shall distribute a yellow pages phone book by  
30 the United States Postal Service.

31 Sec. 2. Subsection (c) of section 20-206g of the 2014 supplement to  
32 the general statutes is repealed and the following is substituted in lieu  
33 thereof (*Effective October 1, 2014*):

34 (c) Each person who holds a license as a massage therapist shall  
35 include his or her license number in any advertisement for such  
36 person's massage therapy services that appears in a newspaper,  
37 telephone directory, including, but not limited to, a yellow pages  
38 phone book, as defined in section 1 of this act, or other advertising  
39 medium.

40 Sec. 3. Subsection (a) of section 20-417d of the general statutes is  
41 repealed and the following is substituted in lieu thereof (*Effective*  
42 *October 1, 2014*):

43 (a) A new home construction contractor shall (1) prior to entering

44 into a contract with a consumer for new home construction, provide to  
45 the consumer a copy of the new home construction contractor's  
46 certificate of registration and a written notice that (A) discloses that the  
47 certificate of registration does not represent in any manner that such  
48 contractor's registration constitutes an endorsement of the quality of  
49 such person's work or of such contractor's competency by the  
50 commissioner, (B) advises the consumer to contact the Department of  
51 Consumer Protection to determine (i) if such contractor is registered in  
52 this state as a new home construction contractor, (ii) if any complaints  
53 have been filed against such contractor, and (iii) the disposition of any  
54 such complaints, (C) advises the consumer to request from such  
55 contractor a list of consumers of new homes constructed to completion  
56 by the contractor during the previous twenty-four months and to  
57 contact several individuals on the list to discuss the quality of such  
58 contractor's new home construction work, and (D) discloses each  
59 corporation, limited liability company, partnership, sole proprietorship  
60 or other legal entity, which is or has been a new home construction  
61 contractor under the provisions of this chapter or a home  
62 improvement contractor under the provisions of chapter 400, in which  
63 the owner or owners of the new home construction contractor  
64 providing the written notice required by this section are or have been a  
65 shareholder, member, partner or owner during the previous five years,  
66 (2) state in any advertisement, including any advertisement in a  
67 telephone directory, including, but not limited to, a yellow pages  
68 phone book, as defined in section 1 of this act, the fact that such  
69 contractor is registered, and (3) include such contractor's registration  
70 number in any such advertisement. The new home construction  
71 contractor, or his agent, shall also discuss with the consumer the  
72 installation of an automatic fire extinguishing system in a new home.

73 Sec. 4. Subsection (d) of section 22a-66c of the general statutes is  
74 repealed and the following is substituted in lieu thereof (*Effective*  
75 *October 1, 2014*):

76 (d) Any business registered under this section shall display the  
77 registration number assigned to it by the commissioner on the body of

78 any motor vehicle used by it in the course of business, in any  
79 newspaper advertisement for the business, on any billboard  
80 advertisement for the business, and in any advertisement for the  
81 business placed in [the] a generally circulated telephone directory,  
82 including, but not limited to, a yellow pages phone book, as defined in  
83 section 1 of this act. Any such business shall further include the  
84 number in any written contract it enters into for provision of pesticide  
85 application services.

86 Sec. 5. Subdivision (2) of subsection (a) of section 29-152b of the  
87 general statutes is repealed and the following is substituted in lieu  
88 thereof (*Effective October 1, 2014*):

89 (2) Solicit business in or on the property or grounds of a correctional  
90 institution, community correctional center or other detention facility  
91 where arrested persons are confined, or in or on the property or  
92 grounds of any courthouse, unless a request is initiated by an arrested  
93 person, a person with actual or apparent authority to act on behalf of  
94 such arrested person, or a potential indemnitor. For purposes of this  
95 subdivision, "solicit" includes the distribution of business cards, print  
96 advertising or any other written information directed to arrested  
97 persons or potential indemnitors. A correctional institution,  
98 community correctional center or other detention facility where  
99 arrested persons are confined, police station or courthouse may permit  
100 print advertising by a professional bondsman in or on the property or  
101 grounds of such institution, center or facility, police station or  
102 courthouse, provided such advertising shall be limited to a listing in a  
103 telephone directory, including, but not limited to, a yellow pages  
104 phone book, as defined in section 1 of this act, and the posting of the  
105 professional bondsman's name, address and telephone number in a  
106 prominent designated location in or on such property or grounds.  
107 Nothing in this subdivision shall prohibit a professional bondsman  
108 from soliciting business in or on the property or grounds of a police  
109 station;

110 Sec. 6. Subdivision (2) of subsection (a) of section 38a-660j of the

111 general statutes is repealed and the following is substituted in lieu  
112 thereof (*Effective October 1, 2014*):

113 (2) Solicit business in or on the property or grounds of a correctional  
114 institution, community correctional center or other detention facility  
115 where arrested persons are confined, or in or on the property or  
116 grounds of any courthouse, unless a request is initiated by an arrested  
117 person, a person with actual or apparent authority to act on behalf of  
118 such arrested person, or a potential indemnitor. For purposes of this  
119 subdivision, "solicit" includes the distribution of business cards, print  
120 advertising or any other written information directed to arrested  
121 persons or potential indemnitors. A correctional institution,  
122 community correctional center or other detention facility where  
123 arrested persons are confined, police station or courthouse may permit  
124 print advertising by a surety bail bond agent or an insurer in or on the  
125 property or grounds of such institution, center or facility, police station  
126 or courthouse, provided such advertising shall be limited to a listing in  
127 a telephone directory, including, but not limited to, a yellow pages  
128 phone book, as defined in section 1 of this act, and the posting of the  
129 surety bail bond agent's name, address and telephone number in a  
130 prominent designated location in or on such property or grounds.  
131 Nothing in this subdivision shall prohibit a surety bail bond agent or  
132 insurer from soliciting business in or on the property or grounds of a  
133 police station;

134 Sec. 7. Subsection (e) of section 42-288a of the general statutes is  
135 repealed and the following is substituted in lieu thereof (*Effective*  
136 *October 1, 2014*):

137 (e) (1) Any person who obtains the name, residential address or  
138 telephone number of any consumer from published telephone  
139 directories, including, but not limited to, a yellow pages phone book,  
140 as defined in section 1 of this act, or from any other source and  
141 republishes or compiles such information, electronically or otherwise,  
142 and sells or offers to sell such publication or compilation to telephone  
143 solicitors for marketing or sales solicitation purposes, shall exclude

144 from any such publication or compilation, and from the database used  
 145 to prepare such publication or compilation, the name, address and  
 146 telephone number or numbers of any consumer if the consumer's  
 147 name and telephone number or numbers appear in the then current  
 148 quarterly "no sales solicitation calls" listing made available by the  
 149 department under subsection (b) of this section.

150 (2) This subsection does not apply to (A) any telephone company, as  
 151 defined in section 16-1, for the sole purpose of compiling, publishing  
 152 or distributing telephone directories, including, but not limited to, a  
 153 yellow pages phone book, as defined in section 1 of this act, or causing  
 154 the compilation, publication or distribution of telephone directories,  
 155 including, but not limited to, a yellow pages phone book, as defined in  
 156 section 1 of this act, or providing directory assistance, and (B) any  
 157 person, for the sole purpose of compiling, publishing or distributing  
 158 telephone directories for such telephone company pursuant to an  
 159 agreement or other arrangement with such telephone company.

160 Sec. 8. Subdivision (2) of subsection (a) of section 53-340a of the  
 161 general statutes is repealed and the following is substituted in lieu  
 162 thereof (*Effective October 1, 2014*):

163 (2) "Public media" means telephone directories, including, but not  
 164 limited to, a yellow pages phone book, as defined in section 1 of this  
 165 act, professional directories, newspapers and other periodicals, radio,  
 166 television, billboards and mailed or electronically transmitted written  
 167 communications that do not involve in-person contact with a specific  
 168 prospective client, patient or customer; and

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	New section
Sec. 2	<i>October 1, 2014</i>	20-206g(c)
Sec. 3	<i>October 1, 2014</i>	20-417d(a)
Sec. 4	<i>October 1, 2014</i>	22a-66c(d)
Sec. 5	<i>October 1, 2014</i>	29-152b(a)(2)
Sec. 6	<i>October 1, 2014</i>	38a-660j(a)(2)

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Sec. 7	<i>October 1, 2014</i>	42-288a(e)
Sec. 8	<i>October 1, 2014</i>	53-340a(a)(2)

**ET**      *Joint Favorable Subst.*

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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill requires certain yellow pages phone book distributors to distribute the books through the U.S. Postal Services. This has no fiscal impact to the state or municipalities.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****sSB 107*****AN ACT CONCERNING DELIVERY OF THE YELLOW PAGES PHONE BOOK.*****SUMMARY:**

This bill requires certain yellow pages phone book distributors to distribute the books through the U.S. Postal Service, unless a resident or business requests or expressly accepts delivery by another means. It applies to businesses that:

1. are primarily responsible for arranging the yellow pages' publication and distribution,
2. arrange for the unsolicited delivery of over four tons of yellow pages phone books annually in the state, and
3. have income at least partially derived from advertising in the books.

It does not include (1) individuals whose role is limited to driving and physically delivering the books or (2) membership organizations that deliver yellow pages phone books to their members.

Under the bill, a "yellow pages phone book" is a printed telephone directory that (1) consists primarily of a list of business names and telephone numbers and (2) contains advertising for at least some of those businesses with text or graphic elements that exceed having the business' name and telephone number in boldface type and color highlighting.

The bill also specifies that several of the law's requirements related to telephone directories also apply to yellow pages phone books, as defined above. These include:

1. requirements that massage therapists, new home construction contractors, and pesticide application businesses, include their license or registration numbers in telephone directory advertisements;
2. exceptions for advertisements by professional bondsman and surety bail bond agents or insurers in telephone directories in correctional institutions, police stations, or court houses;
3. provisions regulating the use of telephone directories to prepare telemarketing solicitation lists; and
4. allowances for advertisements by attorneys and health care professionals in telephone directories.

EFFECTIVE DATE: October 1, 2014

## **BACKGROUND**

### ***Related Case***

The constitutionality of laws limiting the yellow pages' distribution has been raised in federal court. In *Dex Media v. City of Seattle* (696 F3d. 952 (9<sup>th</sup> Cir. 2012)), the court ruled that yellow pages phone books are entitled to full protection under the First Amendment and therefore laws regulating them are subject strict scrutiny. Under this reasoning, the *Dex* court struck down a Seattle ordinance that, among other things, required yellow pages publishers to obtain permits and pay a fee for each directory distributed in the city.

## **COMMITTEE ACTION**

Energy and Technology Committee

Joint Favorable Substitute

Yea 16 Nay 7 (03/18/2014)