

SENATE BILL No. 476

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5.

Synopsis: Transfer of replacement payment card information. Provides that after June 30, 2023, a payment card network may not provide to a vendor with whom the holder of a payment card (cardholder) has an automatic payment arrangement the new: (1) payment card number; (2) expiration date; or (3) card verification value code; for a replacement card that is issued to the cardholder after the cardholder's payment card has been lost, stolen, or compromised, unless the payment card network obtains the cardholder's authorization to do so. Provides that a payment card network may obtain the required authorization: (1) before each transfer of new payment card information that is necessitated by a lost, stolen, or compromised payment card; or (2) at the option of the cardholder, as a preauthorization given in advance of any required transfer of new payment card information necessitated by a lost, stolen, or compromised payment card. Prohibits a vendor from storing, after a payment authorization has processed, the card verification value code associated with a cardholder's payment card, as specified in certain regulations adopted by the payment card industry. Provides that this prohibition applies regardless of whether the vendor has entered into an automatic payment arrangement with a cardholder. Provides that a: (1) payment card network; or (2) vendor; that violates these provisions commits a deceptive act that is actionable by the attorney general or by a consumer under the deceptive consumer sales act (act) and is subject to the remedies and penalties set forth in the act.

Effective: July 1, 2023.

Buchanan

January 19, 2023, read first time and referred to Committee on Insurance and Financial Institutions.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

SENATE BILL No. 476



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-0.5-3, AS AMENDED BY P.L.34-2022,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 3. (a) A supplier may not commit an unfair,
4 abusive, or deceptive act, omission, or practice in connection with a
5 consumer transaction. Such an act, omission, or practice by a supplier
6 is a violation of this chapter whether it occurs before, during, or after
7 the transaction. An act, omission, or practice prohibited by this section
8 includes both implicit and explicit misrepresentations.
9 (b) Without limiting the scope of subsection (a), the following acts,
10 and the following representations as to the subject matter of a
11 consumer transaction, made orally, in writing, or by electronic
12 communication, by a supplier, are deceptive acts:
13 (1) That such subject of a consumer transaction has sponsorship,
14 approval, performance, characteristics, accessories, uses, or
15 benefits it does not have which the supplier knows or should
16 reasonably know it does not have.
17 (2) That such subject of a consumer transaction is of a particular



- 1 standard, quality, grade, style, or model, if it is not and if the
2 supplier knows or should reasonably know that it is not.
- 3 (3) That such subject of a consumer transaction is new or unused,
4 if it is not and if the supplier knows or should reasonably know
5 that it is not.
- 6 (4) That such subject of a consumer transaction will be supplied
7 to the public in greater quantity than the supplier intends or
8 reasonably expects.
- 9 (5) That replacement or repair constituting the subject of a
10 consumer transaction is needed, if it is not and if the supplier
11 knows or should reasonably know that it is not.
- 12 (6) That a specific price advantage exists as to such subject of a
13 consumer transaction, if it does not and if the supplier knows or
14 should reasonably know that it does not.
- 15 (7) That the supplier has a sponsorship, approval, or affiliation in
16 such consumer transaction the supplier does not have, and which
17 the supplier knows or should reasonably know that the supplier
18 does not have.
- 19 (8) That such consumer transaction involves or does not involve
20 a warranty, a disclaimer of warranties, or other rights, remedies,
21 or obligations, if the representation is false and if the supplier
22 knows or should reasonably know that the representation is false.
- 23 (9) That the consumer will receive a rebate, discount, or other
24 benefit as an inducement for entering into a sale or lease in return
25 for giving the supplier the names of prospective consumers or
26 otherwise helping the supplier to enter into other consumer
27 transactions, if earning the benefit, rebate, or discount is
28 contingent upon the occurrence of an event subsequent to the time
29 the consumer agrees to the purchase or lease.
- 30 (10) That the supplier is able to deliver or complete the subject of
31 the consumer transaction within a stated period of time, when the
32 supplier knows or should reasonably know the supplier could not.
33 If no time period has been stated by the supplier, there is a
34 presumption that the supplier has represented that the supplier
35 will deliver or complete the subject of the consumer transaction
36 within a reasonable time, according to the course of dealing or the
37 usage of the trade.
- 38 (11) That the consumer will be able to purchase the subject of the
39 consumer transaction as advertised by the supplier, if the supplier
40 does not intend to sell it.
- 41 (12) That the replacement or repair constituting the subject of a
42 consumer transaction can be made by the supplier for the estimate



- 1 the supplier gives a customer for the replacement or repair, if the
 2 specified work is completed and:
- 3 (A) the cost exceeds the estimate by an amount equal to or
 - 4 greater than ten percent (10%) of the estimate;
 - 5 (B) the supplier did not obtain written permission from the
 - 6 customer to authorize the supplier to complete the work even
 - 7 if the cost would exceed the amounts specified in clause (A);
 - 8 (C) the total cost for services and parts for a single transaction
 - 9 is more than seven hundred fifty dollars (\$750); and
 - 10 (D) the supplier knew or reasonably should have known that
 - 11 the cost would exceed the estimate in the amounts specified in
 - 12 clause (A).
- 13 (13) That the replacement or repair constituting the subject of a
 14 consumer transaction is needed, and that the supplier disposes of
 15 the part repaired or replaced earlier than seventy-two (72) hours
 16 after both:
- 17 (A) the customer has been notified that the work has been
 - 18 completed; and
 - 19 (B) the part repaired or replaced has been made available for
 - 20 examination upon the request of the customer.
- 21 (14) Engaging in the replacement or repair of the subject of a
 22 consumer transaction if the consumer has not authorized the
 23 replacement or repair, and if the supplier knows or should
 24 reasonably know that it is not authorized.
- 25 (15) The act of misrepresenting the geographic location of the
 26 supplier by listing an alternate business name or an assumed
 27 business name (as described in IC 23-0.5-3-4) in a local telephone
 28 directory if:
- 29 (A) the name misrepresents the supplier's geographic location;
 - 30 (B) the listing fails to identify the locality and state of the
 - 31 supplier's business;
 - 32 (C) calls to the local telephone number are routinely forwarded
 - 33 or otherwise transferred to a supplier's business location that
 - 34 is outside the calling area covered by the local telephone
 - 35 directory; and
 - 36 (D) the supplier's business location is located in a county that
 - 37 is not contiguous to a county in the calling area covered by the
 - 38 local telephone directory.
- 39 (16) The act of listing an alternate business name or assumed
 40 business name (as described in IC 23-0.5-3-4) in a directory
 41 assistance data base if:
- 42 (A) the name misrepresents the supplier's geographic location;



- 1 (B) calls to the local telephone number are routinely forwarded
2 or otherwise transferred to a supplier's business location that
3 is outside the local calling area; and
4 (C) the supplier's business location is located in a county that
5 is not contiguous to a county in the local calling area.
- 6 (17) The violation by a supplier of IC 24-3-4 concerning
7 cigarettes for import or export.
- 8 (18) The act of a supplier in knowingly selling or reselling a
9 product to a consumer if the product has been recalled, whether
10 by the order of a court or a regulatory body, or voluntarily by the
11 manufacturer, distributor, or retailer, unless the product has been
12 repaired or modified to correct the defect that was the subject of
13 the recall.
- 14 (19) The violation by a supplier of 47 U.S.C. 227, including any
15 rules or regulations issued under 47 U.S.C. 227.
- 16 (20) The violation by a supplier of the federal Fair Debt
17 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
18 rules or regulations issued under the federal Fair Debt Collection
19 Practices Act (15 U.S.C. 1692 et seq.).
- 20 (21) A violation of IC 24-5-7 (concerning health spa services), as
21 set forth in IC 24-5-7-17.
- 22 (22) A violation of IC 24-5-8 (concerning business opportunity
23 transactions), as set forth in IC 24-5-8-20.
- 24 (23) A violation of IC 24-5-10 (concerning home consumer
25 transactions), as set forth in IC 24-5-10-18.
- 26 (24) A violation of IC 24-5-11 (concerning real property
27 improvement contracts), as set forth in IC 24-5-11-14.
- 28 (25) A violation of IC 24-5-12 (concerning telephone
29 solicitations), as set forth in IC 24-5-12-23.
- 30 (26) A violation of IC 24-5-13.5 (concerning buyback motor
31 vehicles), as set forth in IC 24-5-13.5-14.
- 32 (27) A violation of IC 24-5-14 (concerning automatic
33 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 34 (28) A violation of IC 24-5-15 (concerning credit services
35 organizations), as set forth in IC 24-5-15-11.
- 36 (29) A violation of IC 24-5-16 (concerning unlawful motor
37 vehicle subleasing), as set forth in IC 24-5-16-18.
- 38 (30) A violation of IC 24-5-17 (concerning environmental
39 marketing claims), as set forth in IC 24-5-17-14.
- 40 (31) A violation of IC 24-5-19 (concerning deceptive commercial
41 solicitation), as set forth in IC 24-5-19-11.
- 42 (32) A violation of IC 24-5-21 (concerning prescription drug



- 1 discount cards), as set forth in IC 24-5-21-7.
 2 (33) A violation of IC 24-5-23.5-7 (concerning real estate
 3 appraisals), as set forth in IC 24-5-23.5-9.
 4 (34) A violation of IC 24-5-26 (concerning identity theft), as set
 5 forth in IC 24-5-26-3.
 6 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
 7 as set forth in IC 24-5.5-6-1.
 8 (36) A violation of IC 24-8 (concerning promotional gifts and
 9 contests), as set forth in IC 24-8-6-3.
 10 (37) A violation of IC 21-18.5-6 (concerning representations
 11 made by a postsecondary credit bearing proprietary educational
 12 institution), as set forth in IC 21-18.5-6-22.5.
 13 (38) A violation of IC 24-5-15.5 (concerning collection actions of
 14 a plaintiff debt buyer), as set forth in IC 24-5-15.5-6.
 15 (39) A violation of IC 24-14 (concerning towing services), as set
 16 forth in IC 24-14-10-1.
 17 (40) A violation of IC 24-5-14.5 (concerning misleading or
 18 inaccurate caller identification information), as set forth in
 19 IC 24-5-14.5-12.
 20 (41) A violation of IC 24-5-27 (concerning intrastate inmate
 21 calling services), as set forth in IC 24-5-27-27.
 22 **(42) A violation of IC 24-5-26.1 (concerning the unauthorized**
 23 **transfer of replacement payment card account numbers), as**
 24 **set forth in IC 24-5-26.1-15.**
 25 (c) Any representations on or within a product or its packaging or
 26 in advertising or promotional materials which would constitute a
 27 deceptive act shall be the deceptive act both of the supplier who places
 28 such representation thereon or therein, or who authored such materials,
 29 and such other suppliers who shall state orally or in writing that such
 30 representation is true if such other supplier shall know or have reason
 31 to know that such representation was false.
 32 (d) If a supplier shows by a preponderance of the evidence that an
 33 act resulted from a bona fide error notwithstanding the maintenance of
 34 procedures reasonably adopted to avoid the error, such act shall not be
 35 deceptive within the meaning of this chapter.
 36 (e) It shall be a defense to any action brought under this chapter that
 37 the representation constituting an alleged deceptive act was one made
 38 in good faith by the supplier without knowledge of its falsity and in
 39 reliance upon the oral or written representations of the manufacturer,
 40 the person from whom the supplier acquired the product, any testing
 41 organization, or any other person provided that the source thereof is
 42 disclosed to the consumer.



1 (f) For purposes of subsection (b)(12), a supplier that provides
 2 estimates before performing repair or replacement work for a customer
 3 shall give the customer a written estimate itemizing as closely as
 4 possible the price for labor and parts necessary for the specific job
 5 before commencing the work.

6 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
 7 company or other provider of a telephone directory or directory
 8 assistance service or its officer or agent is immune from liability for
 9 publishing the listing of an alternate business name or assumed
 10 business name of a supplier in its directory or directory assistance data
 11 base unless the telephone company or other provider of a telephone
 12 directory or directory assistance service is the same person as the
 13 supplier who has committed the deceptive act.

14 (h) For purposes of subsection (b)(18), it is an affirmative defense
 15 to any action brought under this chapter that the product has been
 16 altered by a person other than the defendant to render the product
 17 completely incapable of serving its original purpose.

18 SECTION 2. IC 24-5-26.1 IS ADDED TO THE INDIANA CODE
 19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2023]:

21 **Chapter 26.1. Payment Card Networks: Prohibition on**
 22 **Unauthorized Transfer of Replacement Payment Card Numbers**

23 **Sec. 1. As used in this chapter, "automatic payment**
 24 **arrangement" means an arrangement or an agreement, however**
 25 **denominated or described:**

- 26 (1) that is entered into by a cardholder and a vendor; and
 27 (2) under which the cardholder provides the vendor with the
 28 cardholder's:

29 (A) payment card number, including any associated
 30 expiration date; and

31 (B) preauthorization, by means of a writing or an
 32 electronic record signed or similarly authenticated by the
 33 cardholder, to charge or debit the cardholder's payment
 34 card for the payment of future purchases, bills, or other
 35 amounts owed to the vendor, regardless of whether:

36 (i) the charge or debit is made on a predetermined date,
 37 according to a predetermined schedule, or as amounts
 38 owing become due; or

39 (ii) in the case of an arrangement for recurring
 40 payments, the amount charged or debited varies or
 41 remains the same from one (1) transaction date to the
 42 next.



1 **Sec. 2. (a)** As used in this chapter, "card issuer" means a person
2 that issues a payment card.

3 **(b)** The term includes an agent of a person described in
4 subsection (a) with respect to the payment card issued.

5 **Sec. 3.** As used in this chapter, "card verification value code"
6 means a series of digits, usually three (3) or four (4) in number,
7 however denominated, that:

8 **(1)** is located on the front or back of a payment card; and

9 **(2)** is used by a payment card network as a security feature to
10 prevent fraudulent transactions by helping to verify that a
11 payment card is in the physical possession of the cardholder.

12 **Sec. 4.** As used in this chapter, "cardholder" means:

13 **(1)** a consumer to whom a payment card is issued for any
14 purpose; or

15 **(2)** a person, other than the consumer, who has agreed with a
16 card issuer to pay obligations arising from the issuance of a
17 payment card to a consumer.

18 **Sec. 5.** As used in this chapter, "consumer" means:

19 **(1)** a natural person whose principal residence is in Indiana;
20 or

21 **(2)** a person, other than a natural person, that is:

22 **(A)** domiciled; or

23 **(B)** in the case of a governmental unit, located;
24 in Indiana.

25 **Sec. 6.** As used in this chapter, "credit card" means any:

26 **(1)** card;

27 **(2)** plate; or

28 **(3)** other single credit device;

29 that may be used from time to time to obtain credit (as defined in
30 12 CFR 1026.2(a)(14)).

31 **Sec. 7. (a)** As used in this chapter, "debit card" means any:

32 **(1)** card;

33 **(2)** plate; or

34 **(3)** other single credit device;

35 that may be used from time to time to access an asset account,
36 regardless of whether authorization for the debit is based on a
37 signature, a personal identification number, or other means.

38 **(b)** The term includes a general-use prepaid card (as defined in
39 15 U.S.C. 1693l-1(a)(2)(A)).

40 **Sec. 8.** As used in this chapter, "payment card" means:

41 **(1)** a credit card; or

42 **(2)** a debit card.



1 **Sec. 9. As used in this chapter, "payment card network" means**
 2 **an entity that directly, or through licensed members, processors,**
 3 **or agents, provides the proprietary services, infrastructure, and**
 4 **software that:**

5 **(1) route information and data to conduct payment card**
 6 **transaction authorization, clearance, and settlement; and**

7 **(2) a vendor uses in order to accept as a form of payment a**
 8 **brand of payment card.**

9 **Sec. 10. As used in this chapter, "person" means:**

10 **(1) a natural person; or**

11 **(2) an organization, including a corporation, a partnership, a**
 12 **proprietorship, an association, a cooperative, an estate, a**
 13 **trust, or a governmental unit.**

14 **Sec. 11. (a) As used in this chapter, "replacement card" means**
 15 **a payment card that:**

16 **(1) is issued by a card issuer to an existing cardholder;**

17 **(2) replaces a payment card that is lost or stolen, or the**
 18 **security of which has been compromised;**

19 **(3) is associated with the cardholder's existing account with**
 20 **the card issuer; and**

21 **(4) is assigned a new payment card number, expiration date,**
 22 **and card verification value code.**

23 **(b) The term does not include a payment card that is issued by**
 24 **a card issuer to replace a payment card that has expired, as long**
 25 **as:**

26 **(1) the payment card number remains the same; and**

27 **(2) the security of the payment card being replaced has not**
 28 **been comprised.**

29 **Sec. 12. (a) As used in this chapter, "vendor" means any:**

30 **(1) merchant or seller;**

31 **(2) service provider;**

32 **(3) utility;**

33 **(4) online marketplace or similar platform; or**

34 **(5) similar person;**

35 **from whom or through which a consumer purchases goods or**
 36 **services, or to whom or through which a consumer otherwise**
 37 **incurs payment obligations or debt, regardless of whether the**
 38 **vendor has a physical location in Indiana.**

39 **(b) The term does not include a payment card network.**

40 **Sec. 13. (a) After June 30, 2023, a payment card network may**
 41 **not provide to a vendor with whom a cardholder has an automatic**
 42 **payment arrangement the new:**



- 1 (1) payment card number;
 2 (2) expiration date; or
 3 (3) card verification value code;

4 for a replacement card that is issued to the cardholder for the
 5 payment card used in connection with the automatic payment
 6 arrangement unless the payment card network obtains the
 7 cardholder's authorization, by means of a writing or an electronic
 8 record signed or similarly authenticated by the cardholder, to do
 9 so.

10 (b) A payment card network may obtain the authorization
 11 required by subsection (a):

- 12 (1) before each transfer of new payment card information
 13 that is necessitated by a lost, stolen, or compromised payment
 14 card; or
 15 (2) at the option of the cardholder, as a preauthorization given
 16 in advance of any required transfer of new payment card
 17 information necessitated by a lost, stolen, or compromised
 18 payment card, as long as the cardholder may cancel the
 19 preauthorization at any time.

20 Sec. 14. (a) A vendor may not store, after a payment
 21 authorization has processed, the card verification value code
 22 associated with a cardholder's payment card, as specified in
 23 requirement 3.2.2 of the Payment Card Industry Data Security
 24 Standard (PCI DSS) adopted by the PCI Security Standards
 25 Council.

26 (b) The prohibition set forth in subsection (a) applies regardless
 27 of whether a vendor has entered into an automatic payment
 28 arrangement with a cardholder.

29 (c) The prohibition set forth in subsection (a) does not prohibit
 30 a vendor that has entered into an automatic payment arrangement
 31 with a cardholder from using the card verification value code
 32 associated with the cardholder's payment card for the initial
 33 transaction processed under the arrangement, as long as the
 34 vendor does not store the card verification value code for future
 35 transactions.

36 Sec. 15. (a) A payment card network that violates section 13 of
 37 this chapter commits a deceptive act that is actionable by the
 38 attorney general or by a consumer under IC 24-5-0.5-4 and is
 39 subject to the remedies and penalties set forth in IC 24-5-0.5.

40 (b) A vendor that violates section 14 of this chapter commits a
 41 deceptive act that is actionable by the attorney general or by a
 42 consumer under IC 24-5-0.5-4 and is subject to the remedies and



1 **penalties set forth in IC 24-5-0.5.**

