

# ASSEMBLY CONSUMER AFFAIRS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 2477

with committee amendments

# STATE OF NEW JERSEY

DATED: OCTOBER 24, 2024

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No. 2477.

As amended and reported by the committee, the amended bill, to be known as the “Free Means Free Act,” would prevent misleading advertising practices of contracted service providers by prohibiting the advertising of any product as free, or offering for sale or selling any product at no cost, if it is not ultimately free.

Specifically, the amended bill provides that it would be an unlawful practice for a provider to advertise, offer, or sell free products if the provider: (1) assesses a return or restocking fee for the return of the product or another product sold in conjunction with the free product; (2) assesses a cancellation fee for early termination of a contracted service and the cancellation fee incorporates any actual value or cost of the product; or (3) includes any amount to cover the cost of the product within a bill regularly assessed to a person for the contracted service.

The amended bill also requires a provider to clearly and conspicuously disclose the ultimate cost of any product, including the ultimate cost after any fees (e.g. cancellation or restocking fees) are assessed. Under the amended bill, the “ultimate cost” is defined as the final cost of a product sold or offered for sale, or provided in conjunction with a contracted service, as a sum of all yearly, monthly, or otherwise divided or totaled payments, and including any shipping, activation, cancellation, return, or restocking fees associated with the product, and contracted service if applicable. Under the amended bill, “provider” excludes Internet service providers as defined in section 3 of P.L.2007, c.272 (C.56:8-170).

The amended bill further requires, a provider to clearly and conspicuously indicate the ultimate cost of the product at the point of sale or contract agreement, including:

(1) whether the cost of the product was offered by the provider as free or at a reduced rate, as part of the sale or contract;

(2) the retail value of the product and any associated subsidy offered by the provider;

(3) any cancellation fee to be assessed by the provider if the person cancels or terminates the contract, including, if applicable, any formula used to determine the total cancellation fee; and

(4) any return or restocking fee to be assessed by the provider if the person returns the product.

An unlawful practice under the consumer fraud act is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. Additionally, violations can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured party.

This bill was pre-filed for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

#### COMMITTEE AMENDMENTS

The committee amended the bill to:

- (1) clarify the definition for “contracted service” includes memberships, subscriptions, and technology services;
- (2) clarify the definition of “product” includes “similar object”;
- (3) clarify the definition of “provider” excludes Internet service providers.
- (4) replace “person” with “provider”;
- (5) removes the word “seller”; and
- (6) make other clarifying and technical amendments.