

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1977 Session of 2024

INTRODUCED BY PARKER, GREEN, KHAN, FREEMAN, SANCHEZ, KINSEY, WAXMAN, SCHLOSSBERG, CERRATO, CEPEDA-FREYTIZ, CIRESI, GAYDOS, HILL-EVANS, MAYES, NEILSON, DALEY, FLEMING AND SMITH-WADE-EL, JANUARY 31, 2024

AS REPORTED FROM COMMITTEE ON CONSUMER PROTECTION, TECHNOLOGY AND UTILITIES, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 11, 2024

AN ACT

1 Amending the act of December 17, 1968 (P.L.1224, No.387),
2 entitled "An act prohibiting unfair methods of competition
3 and unfair or deceptive acts or practices in the conduct of
4 any trade or commerce, giving the Attorney General and
5 District Attorneys certain powers and duties and providing
6 penalties," further providing for definitions and for
7 unlawful acts or practices and exclusions.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Sections 2(4) and 3(a) of the act of December 17,
11 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and
12 Consumer Protection Law, are amended to read:

13 Section 2. Definitions.--As used in this act.

14 * * *

15 (4) "Unfair methods of competition" and "unfair or deceptive
16 acts or practices" mean any one or more of the following:

17 (i) Passing off goods or services as those of another;

18 (ii) Causing likelihood of confusion or of misunderstanding

1 as to the source, sponsorship, approval or certification of
2 goods or services;

3 (iii) Causing likelihood of confusion or of misunderstanding
4 as to affiliation, connection or association with, or
5 certification by, another;

6 (iv) Using deceptive representations or designations of
7 geographic origin in connection with goods or services;

8 (v) Representing that goods or services have sponsorship,
9 approval, characteristics, ingredients, uses, benefits or
10 quantities that they do not have or that a person has a
11 sponsorship, approval, status, affiliation or connection that he
12 does not have;

13 (vi) Representing that goods are original or new if they are
14 deteriorated, altered, reconditioned, reclaimed, used or
15 secondhand;

16 (vii) Representing that goods or services are of a
17 particular standard, quality or grade, or that goods are of a
18 particular style or model, if they are of another;

19 (viii) Disparaging the goods, services or business of
20 another by false or misleading representation of fact;

21 (ix) Advertising goods or services with intent not to sell
22 them as advertised;

23 (x) Advertising goods or services with intent not to supply
24 reasonably expectable public demand, unless the advertisement
25 discloses a limitation of quantity;

26 (xi) Making false or misleading statements of fact
27 concerning the reasons for, existence of, or amounts of price
28 reductions;

29 (xii) Promising or offering prior to time of sale to pay,
30 credit or allow to any buyer, any compensation or reward for the

1 procurement of a contract for purchase of goods or services with
2 another or others, or for the referral of the name or names of
3 another or others for the purpose of attempting to procure or
4 procuring such a contract of purchase with such other person or
5 persons when such payment, credit, compensation or reward is
6 contingent upon the occurrence of an event subsequent to the
7 time of the signing of a contract to purchase;

8 (xiii) Promoting or engaging in any plan by which goods or
9 services are sold to a person for a consideration and upon the
10 further consideration that the purchaser secure or attempt to
11 secure one or more persons likewise to join the said plan; each
12 purchaser to be given the right to secure money, goods or
13 services depending upon the number of persons joining the plan.
14 In addition, promoting or engaging in any plan, commonly known
15 as or similar to the so-called "Chain-Letter Plan," "Pyramid
16 Club" or "Pyramid Promotional Scheme." The terms "Chain-Letter
17 Plan" or "Pyramid Club" mean any scheme for the disposal or
18 distribution of property, services or anything of value whereby
19 a participant pays valuable consideration, in whole or in part,
20 for an opportunity to receive compensation for introducing or
21 attempting to introduce one or more additional persons to
22 participate in the scheme or for the opportunity to receive
23 compensation when a person introduced by the participant
24 introduces a new participant. The term "Pyramid Promotional
25 Scheme" means any plan or operation by which a person gives
26 consideration for the opportunity to receive compensation that
27 is derived primarily from the introduction of other persons into
28 the plan or operation rather than from the sale and consumption
29 of goods, services or intangible property by a participant or
30 other persons introduced into the plan or operation. The term

1 includes any plan or operation under which the number of people
2 who may participate is limited either expressly or by the
3 application of conditions affecting the eligibility of a person
4 to receive compensation under the plan or operation, and
5 includes any plan or operation under which a person, on giving
6 any consideration, obtains any goods, services or intangible
7 property in addition to the right to receive compensation. As
8 used in this subclause the term "consideration" means an
9 investment of cash or the purchase of goods, other property,
10 training or services, but does not include payments made for
11 sales demonstration equipment and materials for use in making
12 sales and not for resale furnished at no profit to any person in
13 the program or to the company or corporation, nor does the term
14 apply to a minimal initial payment of twenty-five dollars (\$25)
15 or less;

16 (xiv) Failing to comply with the terms of any written
17 guarantee or warranty given to the buyer at, prior to or after a
18 contract for the purchase of goods or services is made;

19 (xv) Knowingly misrepresenting that services, replacements
20 or repairs are needed if they are not needed;

21 (xvi) Making repairs, improvements or replacements on
22 tangible, real or personal property, of a nature or quality
23 inferior to or below the standard of that agreed to in writing;

24 (xvii) Making solicitations for sales of goods or services
25 over the telephone without first clearly, affirmatively and
26 expressly stating:

27 (A) the identity of the seller;

28 (B) that the purpose of the call is to sell goods or
29 services;

30 (C) the nature of the goods or services; and

1 (D) that no purchase or payment is necessary to be able to
2 win a prize or participate in a prize promotion if a prize
3 promotion is offered. This disclosure must be made before or in
4 conjunction with the description of the prize to the person
5 called. If requested by that person, the telemarketer must
6 disclose the no-purchase/no-payment entry method for the prize
7 promotion;

8 (xviii) Using a contract, form or any other document related
9 to a consumer transaction which contains a confessed judgment
10 clause that waives the consumer's right to assert a legal
11 defense to an action;

12 (xix) Soliciting any order for the sale of goods to be
13 ordered by the buyer through the mails or by telephone unless,
14 at the time of the solicitation, the seller has a reasonable
15 basis to expect that it will be able to ship any ordered
16 merchandise to the buyer:

17 (A) within that time clearly and conspicuously stated in any
18 such solicitation; or

19 (B) if no time is clearly and conspicuously stated, within
20 thirty days after receipt of a properly completed order from the
21 buyer, provided, however, where, at the time the merchandise is
22 ordered, the buyer applies to the seller for credit to pay for
23 the merchandise in whole or in part, the seller shall have fifty
24 days, rather than thirty days, to perform the actions required
25 by this subclause;

26 (xx) Failing to inform the purchaser of a new motor vehicle
27 offered for sale at retail by a motor vehicle dealer of the
28 following:

29 (A) that any rustproofing of the new motor vehicle offered
30 by the motor vehicle dealer is optional;

1 (B) that the new motor vehicle has been rustproofed by the
2 manufacturer and the nature and extent, if any, of the
3 manufacturer's warranty which is applicable to that
4 rustproofing;

5 The requirements of this subclause shall not be applicable and a
6 motor vehicle dealer shall have no duty to inform if the motor
7 vehicle dealer rustproofed a new motor vehicle before offering
8 it for sale to that purchaser, provided that the dealer shall
9 inform the purchaser whenever dealer rustproofing has an effect
10 on any manufacturer's warranty applicable to the vehicle. This
11 subclause shall not apply to any new motor vehicle which has
12 been rustproofed by a motor vehicle dealer prior to the
13 effective date of this subclause[.];

14 (xxi) ~~Failing to~~ KNOWINGLY, RECKLESSLY, NEGLIGENTLY OR <--
15 INTENTIONALLY FAILING TO CLEARLY AND conspicuously display or
16 otherwise clearly disclose any surcharge, fee or fine relating
17 to a credit card or debit card transaction to a customer; or

18 (xxii) Engaging in any other fraudulent or deceptive conduct
19 which creates a likelihood of confusion or of misunderstanding.

20 * * *

21 Section 3. Unlawful Acts or Practices; Exclusions.--(a)
22 Unfair methods of competition and unfair or deceptive acts or
23 practices in the conduct of any trade or commerce as defined by
24 subclauses (i) through [(xxi)] (xxii) of clause (4) of section 2
25 of this act and regulations promulgated under section 3.1 of
26 this act are hereby declared unlawful. The provisions of this
27 act shall not apply to any owner, agent or employe of any radio
28 or television station, or to any owner, publisher, printer,
29 agent or employe of an Internet service provider or a newspaper
30 or other publication, periodical or circular, who, in good faith

1 and without knowledge of the falsity or deceptive character
2 thereof, publishes, causes to be published or takes part in the
3 publication of such advertisement.

4 * * *

5 Section 2. This act shall take effect in 60 days.