

**EHB 1187**

**THE STATE SENATE**  
**Monday, March 22, 1999**

**ENGROSSED**

**House Bill No. 1187**

**As Amended**

ENGROSSED HOUSE BILL NO. 1187 - By: VAUGHN, ADKINS, ROGGOW,  
WINCHESTER, PIATT, NANCE and BENGE of the House and COFFEE of the  
Senate.

( consumer fraud - amending 15 O.S., Section 753 - unlawful  
practices - mail fraud -

effective date )

SECTION 1. AMENDATORY 15 O.S. 1991, Section 753, as last  
amended by Section 3, Chapter 8, O.S.L. 1996 (15 O.S. Supp. 1998,  
Section 753), is amended to read as follows:

Section 753. A person engages in a practice which is declared  
to be unlawful under the Oklahoma Consumer Protection Act, Section  
751 et seq. of this title, when, in the course of the person's  
business, the person:

1. Represents, knowingly or with reason to know, that the  
subject of a consumer transaction is of a particular make or brand,  
when it is of another;

2. Makes a false or misleading representation, knowingly or  
with reason to know, as to the source, sponsorship, approval, or  
certification of the subject of a consumer transaction;

1           3. Makes a false or misleading representation, knowingly or  
2 with reason to know, as to affiliation, connection, association  
3 with, or certification by another;

4           4. Makes a false or misleading representation or designation,  
5 knowingly or with reason to know, of the geographic origin of the  
6 subject of a consumer transaction;

7           5. Makes a false representation, knowingly or with reason to  
8 know, as to the characteristics, ingredients, uses, benefits,  
9 alterations, or quantities of the subject of a consumer transaction  
10 or a false representation as to the sponsorship, approval, status,  
11 affiliation or connection of a person therewith;

12          6. Represents, knowingly or with reason to know, that the  
13 subject of a consumer transaction is original or new if the person  
14 knows that it is reconditioned, reclaimed, used, or secondhand;

15          7. Represents, knowingly or with reason to know, that the  
16 subject of a consumer transaction is of a particular standard, style  
17 or model, if it is of another;

18          8. Advertises, knowingly or with reason to know, the subject of  
19 a consumer transaction with intent not to sell it as advertised;

20          9. Advertises, knowingly or with reason to know, the subject of  
21 a consumer transaction with intent not to supply reasonably expected  
22 public demand, unless the advertisement discloses a limitation of  
23 quantity;

1        10. Advertises under the guise of obtaining sales personnel  
2 when in fact the purpose is to sell the subject of a consumer  
3 transaction to the sales personnel applicants;

4        11. Makes false or misleading statements of fact, knowingly or  
5 with reason to know, concerning the price of the subject of a  
6 consumer transaction or the reason for, existence of, or amounts of  
7 price reduction;

8        12. Employs "bait and switch" advertising, which consists of an  
9 offer to sell the subject of a consumer transaction which the seller  
10 does not intend to sell, which advertising is accompanied by one or  
11 more of the following practices:

- 12            a. refusal to show the subject of a consumer transaction  
13                    advertised,  
14            b. disparagement of the advertised subject of a consumer  
15                    transaction or the terms of sale,  
16            c. requiring undisclosed tie-in sales or other  
17                    undisclosed conditions to be met prior to selling the  
18                    advertised subject of a consumer transaction,  
19            d. refusal to take orders for the subject of a consumer  
20                    transaction advertised for delivery within a  
21                    reasonable time,  
22            e. showing or demonstrating defective subject of a  
23                    consumer transaction which the seller knows is

1 unusable or impracticable for the purpose set forth in  
2 the advertisement,  
3 f. accepting a deposit for the subject of a consumer  
4 transaction and subsequently charging the buyer for a  
5 higher priced item, or  
6 g. willful failure to make deliveries of the subject of a  
7 consumer transaction within a reasonable time or to  
8 make a refund therefor upon the request of the  
9 purchaser;  
10 13. Conducts a closing out sale without having first obtained a  
11 license as required in this act, Section 751 et seq. of this title;  
12 14. Resumes the business for which the closing out sale was  
13 conducted within one (1) year from the expiration date of the  
14 closing out sale license;  
15 15. Falsely states, knowingly or with reason to know, that  
16 services, replacements or repairs are needed;  
17 16. Violates any provision of the Oklahoma Health Spa Act,  
18 Section 2000 et seq. of Title 59 of the Oklahoma Statutes;  
19 17. Violates any provision of the Home Repair Fraud Act,  
20 Section 765.1 et seq. of this title;  
21 18. Violates any provision of the Consumer Disclosure of Prizes  
22 and Gifts Act, Section 996.1 et seq. of Title 21 of the Oklahoma  
23 Statutes;

1        19. Violates any provision of Section 755.1 of this title or  
2 Section 1847a of Title 21 of the Oklahoma Statutes;

3        20. Commits an unfair or deceptive trade practice as defined in  
4 Section 752 of this title; ~~or~~

5        21. Violates any provision of Section ~~±~~ 169.1 of ~~this act~~ Title  
6 8 of the Oklahoma Statutes in fraudulently or intentionally failing  
7 or refusing to honor the contract to provide certain cemetery  
8 services specified in the contract entered into pursuant to the  
9 Perpetual Care Fund Act; or

10        22. Uses the term "invoice", "statement" or similar language  
11 when using mail solicitation for **an offer or** a sale.

12        SECTION 2. This act shall become effective November 1, 1999.

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-16-99 - DO  
14 PASS, As Amended and Coauthored.