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AS AMENDED

By: Allen of the Senate

and

[consumer protection - unlawful acts - effective date]

SECTION 1. AMENDATORY 15 O.S. 2011, Section 753, as amended by Section 1, Chapter 258, O.S.L. 2012 (15 O.S. Supp. 2017, 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 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
- 24

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 the Oklahoma Consumer Protection Act;

12 14. Resumes the business for which the closing out sale was
13 conducted within thirty-six (36) months from the expiration date of
14 the 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 17. Violates any provision of the Home Repair Fraud Act;

19 18. Violates any provision of the Consumer Disclosure of Prizes
20 and Gifts Act;

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

23 20. Commits an unfair or deceptive trade practice as defined in
24 Section 752 of this title;

1 21. Violates any provision of Section 169.1 of Title 8 of the
2 Oklahoma Statutes in fraudulently or intentionally failing or
3 refusing to honor the contract to provide certain cemetery services
4 specified in the contract entered into pursuant to the Perpetual
5 Care Fund Act;

6 22. Misrepresents a mail solicitation as an invoice or as a
7 billing statement;

8 23. Offers to purchase a mineral or royalty interest through an
9 offer that resembles an oil and gas lease and that the consumer
10 believed was an oil and gas lease;

11 24. Refuses to honor gift certificates, warranties, or any
12 other merchandise offered by a person in a consumer transaction
13 executed prior to the closing of the business of the person without
14 providing a purchaser a means of redeeming such merchandise or
15 ensuring the warranties offered will be honored by another person;

16 25. Knowingly causes a charge to be made by any billing method
17 to a consumer for services which the person knows was not authorized
18 in advance by the consumer;

19 26. Knowingly causes a charge to be made by any billing method
20 to a consumer for a product or products which the person knows was
21 not authorized in advance by the consumer;

22 27. Violates Section 752A of this title;

23 28. Makes deceptive use of another's name in notification or
24 solicitation, as defined in Section 752 of this title;

1 29. Falsely states or implies that any person, product or
2 service is recommended or endorsed by a named third person;

3 30. Falsely states that information about the consumer,
4 including but not limited to, the name, address or phone number of
5 the consumer has been provided by a third person, whether that
6 person is named or unnamed;

7 31. Acting as a debt collector, contacts a debtor and threatens
8 to file a suit against the debtor over a debt barred by the statute
9 of limitations which has passed for filing suit for such debt; ~~or~~

10 32. Acting as a debt collector, contacts a debtor and uses
11 obscene or profane language to collect a debt; or

12 33. Falsely represents, knowingly or with reason to know, that
13 Internet services provided to the consumer's location are capable of
14 being supplied at speeds or rates advertised, represented or
15 contracted.

16 SECTION 2. This act shall become effective November 1, 2018.

17 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
18 March 1, 2018 - DO PASS AS AMENDED
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