
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 623

Session of
2003

INTRODUCED BY MAHER, BLAUM, GANNON, BOYES, HASAY, BROWNE, HANNA,
HARPER, HUTCHINSON, JAMES, LEWIS, MANDERINO, NICKOL, PALLONE,
STETLER, TURZAI, WALKO AND WASHINGTON, MARCH 3, 2003

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, MAY 13, 2003

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for deceptive or
3 fraudulent business practices.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Section 4107(a) of Title 18 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 4107. Deceptive or fraudulent business practices.

9 (a) Offense defined.--A person commits an offense if, in the
10 course of business, he:

11 (1) uses or possesses for use a false weight or measure,
12 or any other device for falsely determining or recording any
13 quality or quantity;

14 (2) sells, offers or exposes for sale, or delivers less
15 than the represented quantity of any commodity or service;

16 (3) takes or attempts to take more than the represented
17 quantity of any commodity or service when as buyer he

1 furnishes the weight or measure;

2 (4) sells, offers or exposes for sale adulterated or
3 mislabeled commodities. As used in this paragraph, the term
4 "adulterated" means varying from the standard of composition
5 or quality prescribed by or pursuant to any statute providing
6 criminal penalties for such variance or set by established
7 commercial usage. As used in this paragraph, the term
8 "mislabeled" means varying from the standard of trust or
9 disclosure in labeling prescribed by or pursuant to any
10 statute providing criminal penalties for such variance or set
11 by established commercial usage;

12 (5) makes a false or misleading statement in any
13 advertisement addressed to the public or to a substantial
14 segment thereof for the purpose of promoting the purchase or
15 sale of property or services;

16 (6) makes a false or misleading written statement for
17 the purpose of obtaining property or credit;

18 (7) makes a false or misleading written statement for
19 the purpose of promoting the sale of securities, or omits
20 information required by law to be disclosed in written
21 documents relating to securities;

22 (8) makes a false or misleading material statement to
23 induce an investor to invest in a business venture. The
24 offense is complete when any false or misleading material
25 statement is communicated to an investor regardless of
26 whether any investment is made. For purposes of grading, the
27 "amount involved" is the amount or value of the investment
28 solicited or paid, whichever is greater. As used in this
29 paragraph, the following words and phrases shall mean:

30 "Amount" as used in the definition of "material statement"

1 includes currency values and comparative expressions of
2 value, including, but not limited to, percentages or
3 multiples. "Business venture" means any venture represented
4 to an investor as one where he may receive compensation
5 either from the sale of a product, from the investment of
6 other investors or from any other commercial enterprise.
7 "Compensation" means anything of value received or to be
8 received by an investor. "Invest" means to pay, give or lend
9 money, property, service or other thing of value for the
10 opportunity to receive compensation. The term also includes
11 payment for the purchase of a product. "Investment" means the
12 money, property, service or other thing of value paid or
13 given, or to be paid or given, for the opportunity to receive
14 compensation. "Investor" means any natural person,
15 partnership, corporation, limited liability company, business
16 trust, other association, government entity, estate, trust,
17 foundation or other entity solicited to invest in a business
18 venture, regardless of whether any investment is made.
19 "Material statement" means a statement about any matter which
20 could affect an investor's decision to invest in a business
21 venture, including, but not limited to, statements about:
22 (i) the existence, value, availability or
23 marketability of a product;
24 (ii) the number of former or current investors, the
25 amount of their investments or the amount of their former
26 or current compensation;
27 (iii) the available pool or number of prospective
28 investors, including those who have not yet been
29 solicited and those who already have been solicited but
30 have not yet made an investment;

1 (iv) representations of future compensation to be
2 received by investors or prospective investors; or

3 (v) the source of former, current or future
4 compensation paid or to be paid to investors or
5 prospective investors.

6 "Product" means a good, a service or other tangible or
7 intangible property of any kind; [or]

8 (9) obtains or attempts to obtain property of another by
9 false or misleading representations made through
10 communications conducted in whole or in part by telephone
11 involving the following:

12 (i) express or implied claims that the person
13 contacted has won or is about to win a prize;

14 (ii) express or implied claims that the person
15 contacted may be able to recover any losses suffered in
16 connection with a prize promotion; or

17 (iii) express or implied claims regarding the value
18 of goods or services offered in connection with a prize
19 or a prize promotion.

20 As used in this paragraph, the term "prize" means anything of
21 value offered or purportedly offered. The term "prize
22 promotion" means an oral or written express or implied
23 representation that a person has won, has been selected to
24 receive or may be eligible to receive a prize or purported
25 prize[.]; or

26 (10) does either of the following when he is in a client
27 relationship with a certified public accountant, public
28 accountant or public accounting firm:

29 (i) KNOWINGLY provides false or misleading
30 information to the certified public accountant, public

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1 accountant or public accounting firm in connection with
2 performance of an attestation function for the client
3 which resulted in an attestation by the certified public
4 accountant, public accountant or public accounting firm
5 of a materially misleading financial statement, audit,
6 review or other document; or

7 (ii) omits to provide information to the certified
8 public accountant, public accountant or public accounting
9 firm that he knows is material to the performance of an
10 attestation function and results in an attestation by the
11 certified public accountant, public accountant or public
12 accounting firm of a materially misleading financial
13 statement, audit, review or other document.

14 * * *

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