

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 241

Session of
1981

INTRODUCED BY EARLY AND ANDREZESKI, FEBRUARY 3, 1981

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
FEBRUARY 3, 1981

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," adding provisions relating to the marking of
7 prices on certain consumer commodities which are totaled for
8 sale utilizing universal product code markings and making
9 related editorial provisions.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Sections 2 and 3, act of December 17, 1968
13 (P.L.1224, No.387), known as the "Unfair Trade Practices and
14 Consumer Protection Law," reenacted and amended November 24,
15 1976 (P.L.1166, No.260), are amended to read:

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

17 "Consumer commodity" means any food, drug, device, cosmetic
18 or other article, product or commodity of any other kind or
19 class, except drugs sold only by prescription, which is
20 customarily produced for sale to retail sales agencies or

1 instrumentalities for consumption by individuals, or use by
2 individuals for purposes of personal care or in the performance
3 of services ordinarily rendered in or around the household, and
4 which usually is consumed or expended in the course of such
5 consumption or use.

6 [(1)] "Documentary material" means the original or a copy of
7 any book, record, report, memorandum, paper, communication,
8 tabulation, map, chart, photograph, mechanical transcription or
9 other tangible document or recording, wherever situate.

10 [(2)] "Person" means natural persons, corporations, trusts,
11 partnerships, incorporated or unincorporated associations, and
12 any other legal entities.

13 [(3)] "Trade" and "commerce" mean the advertising, offering
14 for sale, sale or distribution of any services and any property,
15 tangible or intangible, real, personal or mixed, and any other
16 article, commodity, or thing of value wherever situate, and
17 includes any trade or commerce directly or indirectly affecting
18 the people of this Commonwealth.

19 [(4)] "Unfair methods of competition" and "unfair or
20 deceptive acts or practices" mean any one or more of the
21 following[:].

22 [(i)] (1) Passing off goods or services as those of
23 another[;].

24 [(ii)] (2) Causing likelihood of confusion or of
25 misunderstanding as to the source, sponsorship, approval or
26 certification of goods or services[;].

27 [(iii)] (3) Causing likelihood of confusion or of
28 misunderstanding as to affiliation, connection or association
29 with, or certification by, another[;].

30 [(iv)] (4) Using deceptive representations or designations

1 of geographic origin in connection with goods or services[;]_

2 [(v)] (5) Representing that goods or services have
3 sponsorship, approval, characteristics, ingredients, uses,
4 benefits or quantities that they do not have or that a person
5 has a sponsorship, approval, status, affiliation or connection
6 that he does not have[;]_

7 [(vi)] (6) Representing that goods are original or new if
8 they are deteriorated, altered, reconditioned, reclaimed, used
9 or secondhand[;]_

10 [(vii)] (7) Representing that goods or services are of a
11 particular standard, quality or grade, or that goods are of a
12 particular style or model, if they are of another[;]_

13 [(viii)] (8) Disparaging the goods, services or business of
14 another by false or misleading representation of fact[;]_

15 [(ix)] (9) Advertising goods or services with intent not to
16 sell them as advertised[;]_

17 [(x)] (10) Advertising goods or services with intent not to
18 supply reasonably expectable public demand, unless the
19 advertisement discloses a limitation of quantity[;]_

20 [(xi)] (11) Making false or misleading statements of fact
21 concerning the reasons for, existence of, or amounts of price
22 reductions[;]_

23 [(xii)] (12) Promising or offering prior to time of sale to
24 pay, credit or allow to any buyer, any compensation or reward
25 for the procurement of a contract for purchase of goods or
26 services with another or others, or for the referral of the name
27 or names of another or others for the purpose of attempting to
28 procure or procuring such a contract of purchase with such other
29 person or persons when such payment, credit, compensation or
30 reward is contingent upon the occurrence of an event subsequent

1 to the time of the signing of a contract to purchase[;]_.
2 [(xiii)] (13) Promoting or engaging in any plan by which
3 goods or services are sold to a person for a consideration and
4 upon the further consideration that the purchaser secure or
5 attempt to secure one or more persons likewise to join the said
6 plan; each purchaser to be given the right to secure money,
7 goods or services depending upon the number of persons joining
8 the plan. In addition, promoting or engaging in any plan,
9 commonly known as or similar to the so-called "Chain-Letter
10 Plan" or "Pyramid Club." The terms "Chain-Letter Plan" or
11 "Pyramid Club" mean any scheme for the disposal or distribution
12 of property, services or anything of value whereby a participant
13 pays valuable consideration, in whole or in part, for an
14 opportunity to receive compensation for introducing or
15 attempting to introduce one or more additional persons to
16 participate in the scheme or for the opportunity to receive
17 compensation when a person introduced by the participant
18 introduces a new participant. As used in this subclause the term
19 "consideration" means an investment of cash or the purchase of
20 goods, other property, training or services, but does not
21 include payments made for sales demonstration equipment and
22 materials for use in making sales and not for resale furnished
23 at no profit to any person in the program or to the company or
24 corporation, nor does the term apply to a minimal initial
25 payment of twenty-five dollars (\$25) or less[;]_.
26

27 [(xiv)] (14) Failing to comply with the terms of any written
28 guarantee or warranty given to the buyer at, prior to or after a
29 contract for the purchase of goods or services is made[;]_.
30

31 [(xv)] (15) Knowingly misrepresenting that services,
32 replacements or repairs are needed if they are not needed[;]_.
33

1 [(xvi)] (16) Making repairs, improvements or replacements on
2 tangible, real or personal property, of a nature or quality
3 inferior to or below the standard of that agreed to in
4 writing[;].

5 [(xvii)] (17) Engaging in any other fraudulent conduct which
6 creates a likelihood of confusion or of misunderstanding.

7 (18) Failing to mark or cause to be marked consumer
8 commodities with their retail prices when the seller utilizes
9 universal product coding in totalling a retail customer's
10 purchases.

11 "Universal product coding" means any system of coding which
12 entails electronic pricing.

13 Section 3. Unlawful Acts or Practices; Exclusions.--Unfair
14 methods of competition and unfair or deceptive acts or practices
15 in the conduct of any trade or commerce as defined [by
16 subclauses (i) through (xvii) of clause (4) of] in section 2 of
17 this act and regulations promulgated under section 3.1 of this
18 act are hereby declared unlawful. The provisions of this act
19 shall not apply to any owner, agent or employe of any radio or
20 television station, or to any owner, publisher, printer, agent
21 or employe of a newspaper or other publication, periodical or
22 circular, who, in good faith and without knowledge of the
23 falsity or deceptive character thereof, publishes, causes to be
24 published or takes part in the publication of such
25 advertisement.

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