

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1612 Session of
1985

INTRODUCED BY FOX, KUKOVICH, LAUGHLIN, BUNT, TRUMAN, STABACK,
HAGARTY, HALUSKA, WILSON, JACKSON, KOSINSKI, J. L. WRIGHT,
NAHILL, WASS, BELFANTI, WOZNIAK, E. Z. TAYLOR, GREENWOOD,
KENNEY, LINTON, TIGUE, LASHINGER, BOYES, TRELLO, FARGO, NOYE,
BALDWIN, DeLUCA, SEMMEL, MAIALE, HOWLETT, BOWSER, CIVERA,
VEON, ITKIN, MERRY, GEIST, GANNON, BORTNER, O'BRIEN, BARLEY,
PICCOLA, DONATUCCI, CORNELL AND STEIGHNER, JUNE 28, 1985

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, JUNE 28, 1985

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," prohibiting additional unfair methods of
7 competition and unfair or deceptive acts or practices
8 relating to time-share units and camping contracts.

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

11 Section 1. Sections 2 and 3 and the section heading of
12 section 7 of the act of December 17, 1968 (P.L.1224, No.387),
13 known as the Unfair Trade Practices and Consumer Protection Law,
14 reenacted and amended November 24, 1976 (P.L.1166, No.260), are
15 amended to read:

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

17 "Camping club" means any enterprise, other than one that is
18 tax exempt under section 501(c)(3) or (7) of the Internal

1 Revenue Code of 1954 (68A Stat.3, 26 U.S.C. § 501(c)(3) or (7)
2 et seq.), as amended, that has as its primary purpose camping or
3 outdoor recreation, including use of camping sites.

4 "Camping contract" means an agreement evidencing a
5 purchaser's title to, interest in, or right or license to use,
6 for more than fifteen days in a year, the camping or outdoor
7 recreation facilities of a camping club.

8 "Camping site" means a space designed and promoted for the
9 purpose of locating a trailer, tent, tent trailer, pick-up
10 camper or other similar device used for land-based portable
11 housing.

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

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

19 "Time-share" means the right, however evidenced or
20 documented, to use and occupy a time-share unit on a periodic
21 basis according to an arrangement allocating use and occupancy
22 rights between other similar users.

23 "Time-share unit" means real property and the improvements
24 thereon erected, or a portion thereof, designed for separate
25 occupancy.

26 [(3)] "Trade" and "commerce" mean the advertising, offering
27 for sale, sale or distribution of any services and any property,
28 tangible or intangible, real, personal or mixed, and any other
29 article, commodity, or thing of value wherever situate, and
30 includes any trade or commerce directly or indirectly affecting

1 the people of this Commonwealth.

2 [(4)] "Unfair methods of competition" and "unfair or
3 deceptive acts or practices" mean any one or more of the
4 following:

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

6 (ii) Causing likelihood of confusion or of misunderstanding
7 as to the source, sponsorship, approval or certification of
8 goods or services;

9 (iii) Causing likelihood of confusion or of misunderstanding
10 as to affiliation, connection or association with, or
11 certification by, another;

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

14 (v) Representing that goods or services have sponsorship,
15 approval, characteristics, ingredients, uses, benefits or
16 quantities that they do not have or that a person has a
17 sponsorship, approval, status, affiliation or connection that he
18 does not have;

19 (vi) Representing that goods are original or new if they are
20 deteriorated, altered, reconditioned, reclaimed, used or
21 secondhand;

22 (vii) Representing that goods or services are of a
23 particular standard, quality or grade, or that goods are of a
24 particular style or model, if they are of another;

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

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

29 (x) Advertising goods or services with intent not to supply
30 reasonably expectable public demand, unless the advertisement

1 discloses a limitation of quantity;

2 (xi) Making false or misleading statements of fact
3 concerning the reasons for, existence of, or amounts of price
4 reductions;

5 (xii) Promising or offering prior to time of sale to pay,
6 credit or allow to any buyer, any compensation or reward for the
7 procurement of a contract for purchase of goods or services with
8 another or others, or for the referral of the name or names of
9 another or others for the purpose of attempting to procure or
10 procuring such a contract of purchase with such other person or
11 persons when such payment, credit, compensation or reward is
12 contingent upon the occurrence of an event subsequent to the
13 time of the signing of a contract to purchase;

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

1 investment of cash or the purchase of goods, other property,
2 training or services, but does not include payments made for
3 sales demonstration equipment and materials for use in making
4 sales and not for resale furnished at no profit to any person in
5 the program or to the company or corporation, nor does the term
6 apply to a minimal initial payment of twenty-five dollars (\$25)
7 or less;

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

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

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

16 (xvii) Failing to inform a purchaser of a time-share unit or
17 a camping contract of the right to cancel the contract; or
18 failing to include in the contract a clause setting forth the
19 right to cancel; or failing to refund payments after
20 cancellation, in compliance with section 7.1 of this act.

21 [~~(xvii)] (xviii) Engaging in any other fraudulent conduct
22 which creates a likelihood of confusion or of misunderstanding.~~

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

1 or employe of a newspaper or other publication, periodical or
2 circular, who, in good faith and without knowledge of the
3 falsity or deceptive character thereof, publishes, causes to be
4 published or takes part in the publication of such
5 advertisement.

6 Section 7. [~~Contracts; Effect of Rescission~~] Contact With or
7 Call on Consumer at His Residence; Avoidance of Contracts.--

8 * * *

9 Section 2. The act is amended by adding a section to read:

10 Section 7.1. Sale of Time-Share Units or Camping
11 Contracts.--(a) A purchaser of a time-share unit or a camping
12 contract shall have the right to cancel the transaction until
13 midnight of the tenth day following the date on which the
14 purchaser executed the sales contract. Each purchaser shall be
15 informed at the time he signs the contract of the right to
16 cancel. The right of cancellation shall be set forth
17 conspicuously in boldface type immediately above the signature
18 of the purchaser on the sales contract and shall include an
19 explanation of the manner of exercise of the right, including
20 the address to which any notice of cancellation shall be
21 delivered. The right of cancellation shall not be waivable by
22 the purchaser. Cancellation shall be effective upon depositing
23 any type of written notice of cancellation in the mail addressed
24 to the seller, or by delivering such a notice personally to the
25 seller, or by sending a telegram to the seller, within the
26 stated ten-day period.

27 (b) Any valid notice of cancellation by a purchaser shall be
28 honored and within ten business days after the receipt of such
29 notice, the seller shall refund all payments made under the
30 contract, cancel and return any negotiable instrument executed

1 by the purchaser in connection with the contract and take any
2 action necessary or appropriate to promptly terminate any
3 security interest created in the transaction.

4 (c) The seller may demand the return of any evidence of
5 membership given to the purchaser prior to exercise of the right
6 of cancellation, but only after fully complying with subsection
7 (b).

8 (d) The provisions of this section shall not apply to
9 "time-share estates," as defined in section 3403 of Title 68 of
10 the Pennsylvania Consolidated Statutes (relating to public
11 offering statement; time-share estates).

12 Section 3. This act shall take effect in 60 days.