

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," further providing for definitions, for unlawful
7 acts or practices and exclusions and for private actions.

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

10 Section 1. Section 2(4)(xxi) of the act of December 17, 1968
11 (P.L.1224, No.387), known as the Unfair Trade Practices and
12 Consumer Protection Law, is amended and the clause is amended by
13 adding a subclause to read:

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

15 * * *

16 (4) "Unfair methods of competition" and "unfair or deceptive
17 acts or practices" mean any one or more of the following:

18 * * *

19 (xxi) Using a contract for the sale of goods or services
20 which states that any of the contract's provisions are or may be

1 void, unenforceable or inapplicable in a jurisdiction without
2 specifying which provisions are or are not void, unenforceable
3 or inapplicable within this Commonwealth. This subclause shall
4 not apply to a health club as defined under section 2 of the act
5 of December 21, 1989 (P.L.672, No.87), known as the "Health Club
6 Act."

7 (xxii) Engaging in any other fraudulent or deceptive conduct
8 which creates a likelihood of confusion or of misunderstanding.

9 * * *

10 Section 2. Section 3(a) of the act, amended November 25,
11 2020 (P.L. , No.123), is amended to read:

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

25 * * *

26 Section 3. Section 9.2(a) of the act is amended to read:

27 Section 9.2. Private Actions.--(a) Any person [who
28 purchases or leases goods or services primarily for personal,
29 family or household purposes and thereby suffers any
30 ascertainable loss of money or property, real or personal, as a

1 result of the use or employment by any person of a method, act
2 or practice] that uses or employs a method, act or practice
3 declared unlawful by section 3 of this act[, may bring a private
4 action to recover actual damages or one hundred dollars (\$100),
5 whichever is greater.] shall be liable for a civil penalty of
6 not less than one hundred dollars (\$100) or for actual damages,
7 or both, at the election of the consumer, together with
8 reasonable attorney fees and court costs. The court may, in its
9 discretion, award up to three times the actual damages
10 sustained, but not less than one hundred dollars (\$100), and may
11 provide such additional relief as it deems necessary or proper.
12 [The court may award to the plaintiff, in addition to other
13 relief provided in this section, costs and reasonable attorney
14 fees.] Actual damages may be recoverable by a consumer in a
15 private action or as part of a counterclaim by a consumer
16 against a seller, lessor, creditor, lender, bailee or assignee
17 which used or employed a method, act or practice declared
18 unlawful by section 3 of this act. A consumer shall have the
19 right to petition the court to terminate a contract which
20 violates section 3 of this act.

21 * * *

22 Section 4. The amendment of section 2(4)(xxi) shall apply to
23 contracts entered into or renewed on or after the effective date
24 of this section.

25 Section 5. This act shall take effect in 60 days.