
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 705 Session of
2003

INTRODUCED BY CORMAN, WONDERLING, C. WILLIAMS, BRIGHTBILL,
BOSCOLA, HELFRICK, KITCHEN, MUSTO, RHOADES, TOMLINSON,
WOZNIAK AND STACK, MAY 2, 2003

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 20, 2004

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 AMENDING TITLE 18 (CRIMES AND OFFENSES) OF THE PENNSYLVANIA <—
5 CONSOLIDATED STATUTES, FURTHER PROVIDING FOR COSTS, FOR THE <—
6 OFFENSE OF BURGLARY AND FOR CERTAIN BULLETS PROHIBITED.
7 DECEPTIVE OR FRAUDULENT BUSINESS PRACTICES. <—

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

10 ~~Section 1. Section 4107(a)(8) and (9) and (a.1) of Title 18~~ <—
11 ~~of the Pennsylvania Consolidated Statutes are amended and the~~
12 ~~subsection is amended by adding a paragraph and the section is~~
13 ~~amended by adding a subsection to read:~~

14 ~~§ 4107. Deceptive or fraudulent business practices.~~

15 ~~(a) Offense defined. A person commits an offense if, in the~~
16 ~~course of business, he:~~

17 ~~* * *~~

18 ~~(8) makes a false or misleading material statement to~~

~~induce an investor to invest in a business venture. The offense is complete when any false or misleading material statement is communicated to an investor regardless of whether any investment is made. For purposes of grading, the "amount involved" is the amount or value of the investment solicited or paid, whichever is greater. As used in this paragraph, the following words and phrases shall mean:~~

~~"Amount" as used in the definition of "material statement" includes currency values and comparative expressions of value, including, but not limited to, percentages or multiples. "Business venture" means any venture represented to an investor as one where he may receive compensation either from the sale of a product, from the investment of other investors or from any other commercial enterprise. "Compensation" means anything of value received or to be received by an investor. "Invest" means to pay, give or lend money, property, service or other thing of value for the opportunity to receive compensation. The term also includes payment for the purchase of a product. "Investment" means the money, property, service or other thing of value paid or given, or to be paid or given, for the opportunity to receive compensation. "Investor" means any natural person, partnership, corporation, limited liability company, business trust, other association, government entity, estate, trust, foundation or other entity solicited to invest in a business venture, regardless of whether any investment is made. "Material statement" means a statement about any matter which could affect an investor's decision to invest in a business venture, including, but not limited to, statements about:~~

~~(i) the existence, value, availability or~~

1 ~~marketability of a product;~~

2 ~~(ii) the number of former or current investors, the~~
3 ~~amount of their investments or the amount of their former~~
4 ~~or current compensation;~~

5 ~~(iii) the available pool or number of prospective~~
6 ~~investors, including those who have not yet been~~
7 ~~solicited and those who already have been solicited but~~
8 ~~have not yet made an investment;~~

9 ~~(iv) representations of future compensation to be~~
10 ~~received by investors or prospective investors; or~~

11 ~~(v) the source of former, current or future~~
12 ~~compensation paid or to be paid to investors or~~
13 ~~prospective investors.~~

14 ~~"Product" means a good, a service or other tangible or~~
15 ~~intangible property of any kind; [or]~~

16 ~~(9) obtains or attempts to obtain property of another by~~
17 ~~false or misleading representations made through~~
18 ~~communications conducted in whole or in part by telephone~~
19 ~~involving the following:~~

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

22 ~~(ii) express or implied claims that the person~~
23 ~~contacted may be able to recover any losses suffered in~~
24 ~~connection with a prize promotion; or~~

25 ~~(iii) express or implied claims regarding the value~~
26 ~~of goods or services offered in connection with a prize~~
27 ~~or a prize promotion.~~

28 ~~As used in this paragraph, the term "prize" means anything of~~
29 ~~value offered or purportedly offered. The term "prize~~
30 ~~promotion" means an oral or written express or implied~~

1 ~~representation that a person has won, has been selected to~~
2 ~~receive or may be eligible to receive a prize or purported~~
3 ~~prize[.]; or~~

4 ~~(10) knowingly makes a false or misleading statement in~~
5 ~~a privacy policy, published on the Internet or otherwise~~
6 ~~distributed or published, regarding the use of personal~~
7 ~~information submitted by members of the public.~~

8 ~~(a.1) Grading of offenses.—~~

9 ~~(1) A violation of this section, except for subsection~~
10 ~~(a)(10), constitutes:~~

11 ~~(i) a felony of the third degree if the amount~~
12 ~~involved exceeds \$2,000;~~

13 ~~(ii) a misdemeanor of the first degree if the amount~~
14 ~~involved is \$200 or more but \$2,000 or less;~~

15 ~~(iii) a misdemeanor of the second degree if the~~
16 ~~amount involved is less than \$200; or~~

17 ~~(iv) when the amount involved cannot be~~
18 ~~satisfactorily ascertained, the offense constitutes a~~
19 ~~misdemeanor of the second degree.~~

20 ~~(2) Amounts involved in deceptive or fraudulent business~~
21 ~~practices pursuant to one scheme or course of conduct,~~
22 ~~whether from the same person or several persons, may be~~
23 ~~aggregated in determining the grade of the offense.~~

24 ~~(3) Where a person commits an offense under subsection~~
25 ~~(a) and the victim of the offense is 60 years of age or~~
26 ~~older, the grading of the offense shall be one grade higher~~
27 ~~than specified in paragraph (1).~~

28 ~~(4) An offense under subsection (a)(10) shall be a~~
29 ~~summary offense and shall be punishable by a fine not less~~
30 ~~than \$50 and not to exceed \$500.~~

1 * * *

2 ~~(d) Exceptions. Subsection (a)(10) shall not apply to the~~
3 ~~activities of:~~

4 ~~(1) A financial institution, as defined by section~~
5 ~~509(3) of the Gramm Leach Bliley Act (Public Law 106 102, 15~~
6 ~~U.S.C. § 6809(3)) or regulations adopted by agencies as~~
7 ~~designated by section 504(a) of the Gramm Leach Bliley Act,~~
8 ~~15 U.S.C. § 6804(a), subject to Title V (relating to privacy,~~
9 ~~the disclosure of nonpublic personal information and~~
10 ~~fraudulent access to financial information) of the Gramm~~
11 ~~Leach Bliley Act (15 U.S.C. § 6801 et seq.).~~

12 ~~(2) A covered entity, as defined by regulations~~
13 ~~promulgated at 45 C.F.R. Parts 160 (relating to general~~
14 ~~administration requirements) and 164 (relating to security~~
15 ~~and privacy) pursuant to Subtitle F of the Health Insurance~~
16 ~~Portability and Accountability Act of 1996 (Public Law 104-~~
17 ~~191, 42 U.S.C. § 1320d et seq.).~~

18 ~~(3) A licensee or person subject to 31 Pa. Code Ch. 146a~~
19 ~~(relating to privacy of consumer financial information) or~~
20 ~~146b (relating to privacy of consumer health information).~~
21 ~~Section 2. This act shall take effect in 60 days.~~

22 ~~SECTION 1. SECTIONS 1109, 3502(A) AND 6121(A) OF TITLE 18 OF~~ <—
23 ~~THE PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED TO READ:~~
24 ~~§ 1109. COSTS.~~

25 ~~[IN ADDITION TO ANY OTHER SENTENCE IMPOSED, THE COURT MAY~~
26 ~~ORDER AN OFFENDER TO PAY THE COST OF ANY REWARD PAID FOR THE~~
27 ~~APPREHENSION AND CONVICTION OF THE OFFENDER.]~~

28 ~~(A) GENERAL RULE. IN ADDITION TO ANY OTHER SENTENCE~~
29 ~~IMPOSED, THE COURT MAY ORDER AN OFFENDER TO PAY ALL OF THE~~
30 ~~FOLLOWING:~~

~~(1) THE COST OF ANY REWARD PAID DURING THE COURSE OF THE INVESTIGATION FOR THE APPREHENSION AND CONVICTION OF THE OFFENDER.~~

~~(2) THE COST OF REPAIRING OR REPLACING ANY PROPERTY BELONGING TO A LAW ENFORCEMENT AGENCY OR OFFICER DAMAGED BY THE OFFENDER DURING THE COURSE OF THE INVESTIGATION OR DURING THE OFFENDER'S ARREST, TRANSPORT OR PROCESSING.~~

~~(3) THE COST OF ANY MONEYS EXPENDED BY A LAW ENFORCEMENT AGENCY IN CONNECTION WITH THE CASE WHICH WERE EXPENDED FOR THE PURCHASE OF, OR IN EXCHANGE FOR, CONTRABAND OR ANY ILLEGAL SERVICES.~~

~~(B) COLLECTION. THE ASSESSMENT AND COLLECTION OF COSTS PURSUANT TO SUBSECTION (A) SHALL BE IN ACCORDANCE WITH SECTION 1106 (RELATING TO RESTITUTION FOR INJURIES TO PERSON OR PROPERTY). MONEYS PAID BY THE OFFENDER FOR ASSESSMENTS IMPOSED IN ACCORDANCE WITH THIS SECTION SHALL REVERT TO THE LAW ENFORCEMENT AGENCY OR OTHER ORGANIZATION WHICH EXPENDED THE REWARD, TO THE LAW ENFORCEMENT AGENCY THAT PURCHASED THE CONTRABAND OR SERVICES, OR TO THE LAW ENFORCEMENT AGENCY OR OFFICER THAT SUFFERED THE DAMAGE TO PROPERTY.~~

~~(C) COSTS NOT EXCLUSIVE. THE PROVISIONS OF THIS SECTION SHALL NOT BE EXCLUSIVE AND SHALL BE IN ADDITION TO ANY OTHER REMEDIES, INCLUDING FORFEITURE, WHICH MAY BE PROVIDED FOR IN ANY OTHER LAW OR AVAILABLE UNDER COMMON LAW.~~

~~§ 3502. BURGLARY.~~

~~(A) OFFENSE DEFINED. A PERSON [IS GUILTY OF BURGLARY IF HE] WHO ENTERS A BUILDING OR OCCUPIED STRUCTURE, OR SEPARATELY SECURED OR OCCUPIED PORTION THEREOF, WITH INTENT TO COMMIT A CRIME THEREIN, UNLESS THE PREMISES ARE AT THE TIME OPEN TO THE PUBLIC OR THE ACTOR IS LICENSED OR PRIVILEGED TO ENTER[.]~~

1 ~~COMMITTS THE OFFENSE OF BURGLARY IF:~~

2 ~~(1) THE STRUCTURE IS ADAPTED FOR OVERNIGHT~~
3 ~~ACCOMMODATIONS IN WHICH AT THE TIME OF THE OFFENSE ANY PERSON~~
4 ~~WAS PRESENT;~~

5 ~~(2) THE STRUCTURE IS ADAPTED FOR OVERNIGHT~~
6 ~~ACCOMMODATIONS IN WHICH AT THE TIME OF THE OFFENSE NO PERSON~~
7 ~~WAS PRESENT;~~

8 ~~(3) THE STRUCTURE IS NOT ADAPTED FOR OVERNIGHT~~
9 ~~ACCOMMODATIONS IN WHICH AT THE TIME OF THE OFFENSE ANY PERSON~~
10 ~~WAS PRESENT; OR~~

11 ~~(4) THE STRUCTURE IS NOT ADAPTED FOR OVERNIGHT~~
12 ~~ACCOMMODATIONS IN WHICH AT THE TIME OF THE OFFENSE NO PERSON~~
13 ~~WAS PRESENT.~~

14 * * *

15 ~~§ 6121. CERTAIN BULLETS PROHIBITED.~~

16 ~~(A) OFFENSE DEFINED. IT IS UNLAWFUL FOR ANY PERSON TO~~
17 ~~POSSESS, USE OR ATTEMPT TO USE A KTW TEFLON COATED BULLET OR~~
18 ~~OTHER ARMOR PIERCING AMMUNITION WHILE COMMITTING OR ATTEMPTING~~
19 ~~TO COMMIT [A CRIME OF VIOLENCE AS DEFINED IN SECTION 6102~~
20 ~~(RELATING TO DEFINITIONS) AN OFFENSE UNDER SECTION 6105(B)~~
21 ~~(RELATING TO PERSONS NOT TO POSSESS, USE, MANUFACTURE, CONTROL,~~
22 ~~SELL OR TRANSFER FIREARMS).~~

23 * * *

24 ~~SECTION 2. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:~~

25 ~~(1) THE AMENDMENT OF 18 PA.C.S. §§ 3502(A) AND 6121(A)~~
26 ~~SHALL TAKE EFFECT IN 60 DAYS.~~

27 ~~(2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT~~
28 ~~IMMEDIATELY.~~

29 SECTION 1. SECTION 4107 OF TITLE 18 OF THE PENNSYLVANIA
30 CONSOLIDATED STATUTES, AMENDED APRIL 5, 2004 (P.L.211, NO.26),

1 IS AMENDED TO READ:

2 § 4107. DECEPTIVE OR FRAUDULENT BUSINESS PRACTICES.

3 (A) OFFENSE DEFINED.--A PERSON COMMITS AN OFFENSE IF [THE
4 PERSON INTENTIONALLY, KNOWINGLY OR RECKLESSLY ENGAGES IN ANY OF
5 THE FOLLOWING ACTS], IN THE COURSE OF BUSINESS, THE PERSON:

6 (1) USES OR POSSESSES FOR USE A FALSE WEIGHT OR MEASURE,
7 OR ANY OTHER DEVICE FOR FALSELY DETERMINING OR RECORDING ANY
8 QUALITY OR QUANTITY;

9 (2) SELLS, OFFERS OR EXPOSES FOR SALE, OR DELIVERS LESS
10 THAN THE REPRESENTED QUANTITY OF ANY COMMODITY OR SERVICE;

11 (3) TAKES OR ATTEMPTS TO TAKE MORE THAN THE REPRESENTED
12 QUANTITY OF ANY COMMODITY OR SERVICE WHEN AS BUYER HE
13 FURNISHES THE WEIGHT OR MEASURE;

14 (4) SELLS, OFFERS OR EXPOSES FOR SALE ADULTERATED OR
15 MISLABELED COMMODITIES. AS USED IN THIS PARAGRAPH, THE TERM
16 "ADULTERATED" MEANS VARYING FROM THE STANDARD OF COMPOSITION
17 OR QUALITY PRESCRIBED BY OR PURSUANT TO ANY STATUTE PROVIDING
18 CRIMINAL PENALTIES FOR SUCH VARIANCE OR SET BY ESTABLISHED
19 COMMERCIAL USAGE. AS USED IN THIS PARAGRAPH, THE TERM
20 "MISLABELED" MEANS VARYING FROM THE STANDARD OF TRUST OR
21 DISCLOSURE IN LABELING PRESCRIBED BY OR PURSUANT TO ANY
22 STATUTE PROVIDING CRIMINAL PENALTIES FOR SUCH VARIANCE OR SET
23 BY ESTABLISHED COMMERCIAL USAGE;

24 (5) MAKES A FALSE OR MISLEADING STATEMENT IN ANY
25 ADVERTISEMENT ADDRESSED TO THE PUBLIC OR TO A SUBSTANTIAL
26 SEGMENT THEREOF FOR THE PURPOSE OF PROMOTING THE PURCHASE OR
27 SALE OF PROPERTY OR SERVICES;

28 (6) MAKES OR INDUCES OTHERS TO RELY ON A FALSE OR
29 MISLEADING WRITTEN STATEMENT FOR THE PURPOSE OF OBTAINING
30 PROPERTY OR CREDIT;

1 (7) MAKES OR INDUCES OTHERS TO RELY ON A FALSE OR
2 MISLEADING WRITTEN STATEMENT FOR THE PURPOSE OF PROMOTING THE
3 SALE OF SECURITIES, OR OMITTS INFORMATION REQUIRED BY LAW TO
4 BE DISCLOSED IN WRITTEN DOCUMENTS RELATING TO SECURITIES;

5 (8) MAKES OR INDUCES OTHERS TO RELY ON A FALSE OR
6 MISLEADING MATERIAL STATEMENT TO INDUCE AN INVESTOR TO INVEST
7 IN A BUSINESS VENTURE. THE OFFENSE IS COMPLETE WHEN ANY FALSE
8 OR MISLEADING MATERIAL STATEMENT IS COMMUNICATED TO AN
9 INVESTOR REGARDLESS OF WHETHER ANY INVESTMENT IS MADE. FOR
10 PURPOSES OF GRADING, THE "AMOUNT INVOLVED" IS THE AMOUNT OR
11 VALUE OF THE INVESTMENT SOLICITED OR PAID, WHICHEVER IS
12 GREATER. AS USED IN THIS PARAGRAPH, THE FOLLOWING WORDS AND
13 PHRASES SHALL MEAN: "AMOUNT" AS USED IN THE DEFINITION OF
14 "MATERIAL STATEMENT" INCLUDES CURRENCY VALUES AND COMPARATIVE
15 EXPRESSIONS OF VALUE, INCLUDING, BUT NOT LIMITED TO,
16 PERCENTAGES OR MULTIPLES. "BUSINESS VENTURE" MEANS ANY
17 VENTURE REPRESENTED TO AN INVESTOR AS ONE WHERE HE MAY
18 RECEIVE COMPENSATION EITHER FROM THE SALE OF A PRODUCT, FROM
19 THE INVESTMENT OF OTHER INVESTORS OR FROM ANY OTHER
20 COMMERCIAL ENTERPRISE. "COMPENSATION" MEANS ANYTHING OF VALUE
21 RECEIVED OR TO BE RECEIVED BY AN INVESTOR. "INVEST" MEANS TO
22 PAY, GIVE OR LEND MONEY, PROPERTY, SERVICE OR OTHER THING OF
23 VALUE FOR THE OPPORTUNITY TO RECEIVE COMPENSATION. THE TERM
24 ALSO INCLUDES PAYMENT FOR THE PURCHASE OF A PRODUCT.

25 "INVESTMENT" MEANS THE MONEY, PROPERTY, SERVICE OR OTHER
26 THING OF VALUE PAID OR GIVEN, OR TO BE PAID OR GIVEN, FOR THE
27 OPPORTUNITY TO RECEIVE COMPENSATION. "INVESTOR" MEANS ANY
28 NATURAL PERSON, PARTNERSHIP, CORPORATION, LIMITED LIABILITY
29 COMPANY, BUSINESS TRUST, OTHER ASSOCIATION, GOVERNMENT
30 ENTITY, ESTATE, TRUST, FOUNDATION OR OTHER ENTITY SOLICITED

1 TO INVEST IN A BUSINESS VENTURE, REGARDLESS OF WHETHER ANY
2 INVESTMENT IS MADE. "MATERIAL STATEMENT" MEANS A STATEMENT
3 ABOUT ANY MATTER WHICH COULD AFFECT AN INVESTOR'S DECISION TO
4 INVEST IN A BUSINESS VENTURE, INCLUDING, BUT NOT LIMITED TO,
5 STATEMENTS ABOUT:

6 (I) THE EXISTENCE, VALUE, AVAILABILITY OR
7 MARKETABILITY OF A PRODUCT;

8 (II) THE NUMBER OF FORMER OR CURRENT INVESTORS, THE
9 AMOUNT OF THEIR INVESTMENTS OR THE AMOUNT OF THEIR FORMER
10 OR CURRENT COMPENSATION;

11 (III) THE AVAILABLE POOL OR NUMBER OF PROSPECTIVE
12 INVESTORS, INCLUDING THOSE WHO HAVE NOT YET BEEN
13 SOLICITED AND THOSE WHO ALREADY HAVE BEEN SOLICITED BUT
14 HAVE NOT YET MADE AN INVESTMENT;

15 (IV) REPRESENTATIONS OF FUTURE COMPENSATION TO BE
16 RECEIVED BY INVESTORS OR PROSPECTIVE INVESTORS; OR

17 (V) THE SOURCE OF FORMER, CURRENT OR FUTURE
18 COMPENSATION PAID OR TO BE PAID TO INVESTORS OR
19 PROSPECTIVE INVESTORS.

20 "PRODUCT" MEANS A GOOD, A SERVICE OR OTHER TANGIBLE OR
21 INTANGIBLE PROPERTY OF ANY KIND; [OR]

22 (9) OBTAINS OR ATTEMPTS TO OBTAIN PROPERTY OF ANOTHER BY
23 FALSE OR MISLEADING REPRESENTATIONS MADE THROUGH
24 COMMUNICATIONS CONDUCTED IN WHOLE OR IN PART BY TELEPHONE
25 INVOLVING THE FOLLOWING:

26 (I) EXPRESS OR IMPLIED CLAIMS THAT THE PERSON
27 CONTACTED HAS WON OR IS ABOUT TO WIN A PRIZE;

28 (II) EXPRESS OR IMPLIED CLAIMS THAT THE PERSON
29 CONTACTED MAY BE ABLE TO RECOVER ANY LOSSES SUFFERED IN
30 CONNECTION WITH A PRIZE PROMOTION; OR

1 (III) EXPRESS OR IMPLIED CLAIMS REGARDING THE VALUE
2 OF GOODS OR SERVICES OFFERED IN CONNECTION WITH A PRIZE
3 OR A PRIZE PROMOTION.

4 AS USED IN THIS PARAGRAPH, THE TERM "PRIZE" MEANS ANYTHING OF
5 VALUE OFFERED OR PURPORTEDLY OFFERED. THE TERM "PRIZE
6 PROMOTION" MEANS AN ORAL OR WRITTEN EXPRESS OR IMPLIED
7 REPRESENTATION THAT A PERSON HAS WON, HAS BEEN SELECTED TO
8 RECEIVE OR MAY BE ELIGIBLE TO RECEIVE A PRIZE OR PURPORTED
9 PRIZE[.]; OR

10 (10) KNOWINGLY MAKES A FALSE OR MISLEADING STATEMENT IN
11 A PRIVACY POLICY, PUBLISHED ON THE INTERNET OR OTHERWISE
12 DISTRIBUTED OR PUBLISHED, REGARDING THE USE OF PERSONAL
13 INFORMATION SUBMITTED BY MEMBERS OF THE PUBLIC.

14 (A.1) GRADING OF OFFENSES.--

15 (1) A VIOLATION OF THIS SECTION, EXCEPT FOR SUBSECTION
16 (A)(10), CONSTITUTES:

17 (I) A FELONY OF THE THIRD DEGREE IF THE AMOUNT
18 INVOLVED EXCEEDS \$2,000;

19 (II) A MISDEMEANOR OF THE FIRST DEGREE IF THE AMOUNT
20 INVOLVED IS \$200 OR MORE BUT \$2,000 OR LESS;

21 (III) A MISDEMEANOR OF THE SECOND DEGREE IF THE
22 AMOUNT INVOLVED IS LESS THAN \$200; OR

23 (IV) WHEN THE AMOUNT INVOLVED CANNOT BE
24 SATISFACTORILY ASCERTAINED, THE OFFENSE CONSTITUTES A
25 MISDEMEANOR OF THE SECOND DEGREE.

26 (2) AMOUNTS INVOLVED IN DECEPTIVE OR FRAUDULENT BUSINESS
27 PRACTICES PURSUANT TO ONE SCHEME OR COURSE OF CONDUCT,
28 WHETHER FROM THE SAME PERSON OR SEVERAL PERSONS, MAY BE
29 AGGREGATED IN DETERMINING THE GRADE OF THE OFFENSE.

30 (3) WHERE A PERSON COMMITS AN OFFENSE UNDER SUBSECTION

1 (A) AND THE VICTIM OF THE OFFENSE IS 60 YEARS OF AGE OR
2 OLDER, THE GRADING OF THE OFFENSE SHALL BE ONE GRADE HIGHER
3 THAN SPECIFIED IN PARAGRAPH (1).

4 (4) AN OFFENSE UNDER SUBSECTION (A)(10) SHALL BE A
5 SUMMARY OFFENSE AND SHALL BE PUNISHABLE BY A FINE NOT LESS
6 THAN \$50 AND NOT TO EXCEED \$500.

7 (A.2) JURISDICTION.--

8 (1) THE DISTRICT ATTORNEYS OF THE SEVERAL COUNTIES SHALL
9 HAVE THE AUTHORITY TO INVESTIGATE AND TO INSTITUTE CRIMINAL
10 PROCEEDINGS FOR ANY VIOLATION OF THIS SECTION.

11 (2) IN ADDITION TO THE AUTHORITY CONFERRED UPON THE
12 ATTORNEY GENERAL BY THE ACT OF OCTOBER 15, 1980 (P.L.950,
13 NO.164), KNOWN AS THE COMMONWEALTH ATTORNEYS ACT, THE
14 ATTORNEY GENERAL SHALL HAVE THE AUTHORITY TO INVESTIGATE AND
15 TO INSTITUTE CRIMINAL PROCEEDINGS FOR ANY VIOLATION OF THIS
16 SECTION OR ANY SERIES OF SUCH VIOLATIONS INVOLVING MORE THAN
17 ONE COUNTY OF THIS COMMONWEALTH OR INVOLVING ANY COUNTY OF
18 THIS COMMONWEALTH AND ANOTHER STATE. NO PERSON CHARGED WITH A
19 VIOLATION OF THIS SECTION BY THE ATTORNEY GENERAL SHALL HAVE
20 STANDING TO CHALLENGE THE AUTHORITY OF THE ATTORNEY GENERAL
21 TO INVESTIGATE OR PROSECUTE THE CASE, AND, IF ANY SUCH
22 CHALLENGE IS MADE, THE CHALLENGE SHALL BE DISMISSED AND NO
23 RELIEF SHALL BE AVAILABLE IN THE COURTS OF THIS COMMONWEALTH
24 TO THE PERSON MAKING THE CHALLENGE.

25 (B) DEFENSES.--IT IS A DEFENSE TO PROSECUTION UNDER THIS
26 SECTION IF THE DEFENDANT PROVES BY A PREPONDERANCE OF THE
27 EVIDENCE THAT HIS CONDUCT WAS NOT [INTENTIONALLY,] KNOWINGLY OR
28 RECKLESSLY DECEPTIVE.

29 (C) EXCEPTIONS.--SUBSECTION (A)(10) SHALL NOT APPLY TO THE
30 ACTIVITIES OF:

1 (1) A FINANCIAL INSTITUTION, AS DEFINED BY SECTION
2 509(3) OF THE GRAMM-LEACH-BLILEY ACT (PUBLIC LAW 106-102, 15
3 U.S.C. § 6809(3)) OR REGULATIONS ADOPTED BY AGENCIES AS
4 DESIGNATED BY SECTION 504(A) OF THE GRAMM-LEACH-BLILEY ACT,
5 15 U.S.C. § 6804(A), SUBJECT TO TITLE V (RELATING TO PRIVACY,
6 THE DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION AND
7 FRAUDULENT ACCESS TO FINANCIAL INFORMATION) OF THE GRAMM-
8 LEACH-BLILEY ACT (15 U.S.C. § 6801 ET SEQ.).

9 (2) A COVERED ENTITY, AS DEFINED BY REGULATIONS
10 PROMULGATED AT 45 CFR PTS. 160 (RELATING TO GENERAL
11 ADMINISTRATION REQUIREMENTS) AND 164 (RELATING TO SECURITY
12 AND PRIVACY) PURSUANT TO SUBTITLE F OF THE HEALTH INSURANCE
13 PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-
14 191, 42 U.S.C. § 1320D ET SEQ.).

15 (3) A LICENSEE OR PERSON SUBJECT TO 31 PA. CODE CH. 146A
16 (RELATING TO PRIVACY OF CONSUMER FINANCIAL INFORMATION) OR
17 146B (RELATING TO PRIVACY OF CONSUMER HEALTH INFORMATION).

18 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.