
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 929 Session of
2018

INTRODUCED BY DRISCOLL, SCHLOSSBERG, DAVIS, STURLA, MILLARD,
KINSEY, J. McNEILL, RABB, THOMAS, SOLOMON, READSHAW,
McCLINTON, YOUNGBLOOD, DONATUCCI, HILL-EVANS, NEILSON, WARREN
AND SIMS, AUGUST 7, 2018

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, AUGUST 7, 2018

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

1 which states that any of the contract's provisions are or may be
2 void, unenforceable or inapplicable in a jurisdiction without
3 specifying which provisions are or are not void, unenforceable
4 or inapplicable within this Commonwealth.

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

7 Section 2. Sections 3 and 9.2(a) of the act are amended to
8 read:

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

22 Section 9.2. Private Actions.--(a) Any person [who
23 purchases or leases goods or services primarily for personal,
24 family or household purposes and thereby suffers any
25 ascertainable loss of money or property, real or personal, as a
26 result of the use or employment by any person of a method, act
27 or practice] which uses or employs a method, act or practice
28 declared unlawful by section 3 of this act[, may bring a private
29 action to recover actual damages or one hundred dollars (\$100),
30 whichever is greater.] shall be liable for a civil penalty of

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

16 * * *

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