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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 273 Session of  
2019

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INTRODUCED BY DRISCOLL, DONATUCCI, HILL-EVANS, FREEMAN, MILLARD,  
CALTAGIRONE, NEILSON, DeLUCA, MURT AND WARREN,  
JANUARY 29, 2019

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JANUARY 29, 2019

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

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

24 Section 9.2. Private Actions.--(a) Any person [who  
25 purchases or leases goods or services primarily for personal,  
26 family or household purposes and thereby suffers any  
27 ascertainable loss of money or property, real or personal, as a  
28 result of the use or employment by any person of a method, act  
29 or practice] which uses or employs a method, act or practice  
30 declared unlawful by section 3 of this act[, may bring a private

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

18 \* \* \*

19 Section 3. The amendment of section 2(4)(xxi) shall apply to  
20 contracts entered into or renewed on or after the effective date  
21 of this section.

22 Section 4. This act shall take effect in 60 days.