



January 24, 2020

HOUSE BILL No. 1331

DIGEST OF HB 1331 (Updated January 22, 2020 5:11 pm - DI 135)

Citations Affected: IC 24-5.

Synopsis: Ticket sales. Provides that a ticket issuer shall not issue a ticket exclusively through a delivery method that substantially prevents the ticket purchaser from lawfully transferring or reselling the ticket through certain methods. Provides that a person shall not be discriminated against or denied admission to any event in certain instances. Provides that a web site operator may not use an Internet domain name or any subdomain in a ticket web site's URL that contains certain names. Provides that using an Internet domain name or any subdomain that contains certain names is a deceptive act.

Effective: Upon passage.

Carbaugh

January 16, 2020, read first time and referred to Committee on Commerce, Small Business and Economic Development.
January 23, 2020, reported — Do Pass.

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January 24, 2020

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1331

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-5-0.5-3, AS AMENDED BY P.L.211-2019,
2 SECTION 33, AND AS AMENDED BY P.L.242-2019, SECTION 6,
3 AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL
4 OF THE 2020 GENERAL ASSEMBLY, IS CORRECTED AND
5 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
6 PASSAGE]: Sec. 3. (a) A supplier may not commit an unfair, abusive,
7 or deceptive act, omission, or practice in connection with a consumer
8 transaction. Such an act, omission, or practice by a supplier is a
9 violation of this chapter whether it occurs before, during, or after the
10 transaction. An act, omission, or practice prohibited by this section
11 includes both implicit and explicit misrepresentations.
12 (b) Without limiting the scope of subsection (a), the following acts,
13 and the following representations as to the subject matter of a
14 consumer transaction, made orally, in writing, or by electronic
15 communication, by a supplier, are deceptive acts:
16 (1) That such subject of a consumer transaction has sponsorship,
17 approval, performance, characteristics, accessories, uses, or

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benefits it does not have which the supplier knows or should reasonably know it does not have.

(2) That such subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not and if the supplier knows or should reasonably know that it is not.

(3) That such subject of a consumer transaction is new or unused, if it is not and if the supplier knows or should reasonably know that it is not.

(4) That such subject of a consumer transaction will be supplied to the public in greater quantity than the supplier intends or reasonably expects.

(5) That replacement or repair constituting the subject of a consumer transaction is needed, if it is not and if the supplier knows or should reasonably know that it is not.

(6) That a specific price advantage exists as to such subject of a consumer transaction, if it does not and if the supplier knows or should reasonably know that it does not.

(7) That the supplier has a sponsorship, approval, or affiliation in such consumer transaction the supplier does not have, and which the supplier knows or should reasonably know that the supplier does not have.

(8) That such consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the supplier knows or should reasonably know that the representation is false.

(9) That the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a sale or lease in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if earning the benefit, rebate, or discount is contingent upon the occurrence of an event subsequent to the time the consumer agrees to the purchase or lease.

(10) That the supplier is able to deliver or complete the subject of the consumer transaction within a stated period of time, when the supplier knows or should reasonably know the supplier could not. If no time period has been stated by the supplier, there is a presumption that the supplier has represented that the supplier will deliver or complete the subject of the consumer transaction within a reasonable time, according to the course of dealing or the usage of the trade.

(11) That the consumer will be able to purchase the subject of the consumer transaction as advertised by the supplier, if the supplier



1 does not intend to sell it.

2 (12) That the replacement or repair constituting the subject of a
3 consumer transaction can be made by the supplier for the estimate
4 the supplier gives a customer for the replacement or repair, if the
5 specified work is completed and:

6 (A) the cost exceeds the estimate by an amount equal to or
7 greater than ten percent (10%) of the estimate;

8 (B) the supplier did not obtain written permission from the
9 customer to authorize the supplier to complete the work even
10 if the cost would exceed the amounts specified in clause (A);

11 (C) the total cost for services and parts for a single transaction
12 is more than seven hundred fifty dollars (\$750); and

13 (D) the supplier knew or reasonably should have known that
14 the cost would exceed the estimate in the amounts specified in
15 clause (A).

16 (13) That the replacement or repair constituting the subject of a
17 consumer transaction is needed, and that the supplier disposes of
18 the part repaired or replaced earlier than seventy-two (72) hours
19 after both:

20 (A) the customer has been notified that the work has been
21 completed; and

22 (B) the part repaired or replaced has been made available for
23 examination upon the request of the customer.

24 (14) Engaging in the replacement or repair of the subject of a
25 consumer transaction if the consumer has not authorized the
26 replacement or repair, and if the supplier knows or should
27 reasonably know that it is not authorized.

28 (15) The act of misrepresenting the geographic location of the
29 supplier by listing an alternate business name or an assumed
30 business name (as described in IC 23-0.5-3-4) in a local telephone
31 directory if:

32 (A) the name misrepresents the supplier's geographic location;

33 (B) the listing fails to identify the locality and state of the
34 supplier's business;

35 (C) calls to the local telephone number are routinely forwarded
36 or otherwise transferred to a supplier's business location that
37 is outside the calling area covered by the local telephone
38 directory; and

39 (D) the supplier's business location is located in a county that
40 is not contiguous to a county in the calling area covered by the
41 local telephone directory.

42 (16) The act of listing an alternate business name or assumed



business name (as described in IC 23-0.5-3-4) in a directory assistance data base if:

- (A) the name misrepresents the supplier's geographic location;
- (B) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the local calling area; and
- (C) the supplier's business location is located in a county that is not contiguous to a county in the local calling area.

(17) The violation by a supplier of IC 24-3-4 concerning cigarettes for import or export.

(18) The act of a supplier in knowingly selling or reselling a product to a consumer if the product has been recalled, whether by the order of a court or a regulatory body, or voluntarily by the manufacturer, distributor, or retailer, unless the product has been repaired or modified to correct the defect that was the subject of the recall.

(19) The violation by a supplier of 47 U.S.C. 227, including any rules or regulations issued under 47 U.S.C. 227.

(20) The violation by a supplier of the federal Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.), including any rules or regulations issued under the federal Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.).

(21) A violation of IC 24-5-7 (concerning health spa services), as set forth in IC 24-5-7-17.

(22) A violation of IC 24-5-8 (concerning business opportunity transactions), as set forth in IC 24-5-8-20.

(23) A violation of IC 24-5-10 (concerning home consumer transactions), as set forth in IC 24-5-10-18.

(24) A violation of IC 24-5-11 (concerning real property improvement contracts), as set forth in IC 24-5-11-14.

(25) A violation of IC 24-5-12 (concerning telephone solicitations), as set forth in IC 24-5-12-23.

(26) A violation of IC 24-5-13.5 (concerning buyback motor vehicles), as set forth in IC 24-5-13.5-14.

(27) A violation of IC 24-5-14 (concerning automatic dialing-announcing devices), as set forth in IC 24-5-14-13.

(28) A violation of IC 24-5-15 (concerning credit services organizations), as set forth in IC 24-5-15-11.

(29) A violation of IC 24-5-16 (concerning unlawful motor vehicle subleasing), as set forth in IC 24-5-16-18.

(30) A violation of IC 24-5-17 (concerning environmental marketing claims), as set forth in IC 24-5-17-14.



(31) A violation of IC 24-5-19 (concerning deceptive commercial solicitation), as set forth in IC 24-5-19-11.

(32) A violation of IC 24-5-21 (concerning prescription drug discount cards), as set forth in IC 24-5-21-7.

(33) A violation of IC 24-5-23.5-7 (concerning real estate appraisals), as set forth in IC 24-5-23.5-9.

(34) A violation of IC 24-5-26 (concerning identity theft), as set forth in IC 24-5-26-3.

(35) A violation of IC 24-5.5 (concerning mortgage rescue fraud), as set forth in IC 24-5.5-6-1.

(36) A violation of IC 24-8 (concerning promotional gifts and contests), as set forth in IC 24-8-6-3.

(37) A violation of IC 21-18.5-6 (concerning representations made by a postsecondary credit bearing proprietary educational institution), as set forth in IC 21-18.5-6-22.5.

(38) A violation of IC 24-5-15.5 (concerning collection actions of a plaintiff debt buyer), as set forth in IC 24-5-15.5-6.

~~(38)~~ (39) A violation of IC 24-14 (concerning towing services), as set forth in IC 24-14-10-1.

~~(38)~~ (40) A violation of IC 24-5-14.5 (concerning misleading or inaccurate caller identification information), as set forth in IC 24-5-14.5-12.

(41) A violation of IC 24-5-27 (concerning ticket sales), as set forth in IC 24-5-27-12.

(c) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such representation thereon or therein, or who authored such materials, and such other suppliers who shall state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false.

(d) If a supplier shows by a preponderance of the evidence that an act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, such act shall not be deceptive within the meaning of this chapter.

(e) It shall be a defense to any action brought under this chapter that the representation constituting an alleged deceptive act was one made in good faith by the supplier without knowledge of its falsity and in reliance upon the oral or written representations of the manufacturer, the person from whom the supplier acquired the product, any testing organization, or any other person provided that the source thereof is disclosed to the consumer.



(f) For purposes of subsection (b)(12), a supplier that provides estimates before performing repair or replacement work for a customer shall give the customer a written estimate itemizing as closely as possible the price for labor and parts necessary for the specific job before commencing the work.

(g) For purposes of subsection (b)(15) and (b)(16), a telephone company or other provider of a telephone directory or directory assistance service or its officer or agent is immune from liability for publishing the listing of an alternate business name or assumed business name of a supplier in its directory or directory assistance data base unless the telephone company or other provider of a telephone directory or directory assistance service is the same person as the supplier who has committed the deceptive act.

(h) For purposes of subsection (b)(18), it is an affirmative defense to any action brought under this chapter that the product has been altered by a person other than the defendant to render the product completely incapable of serving its original purpose.

SECTION 2. IC 24-5-27 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 27. Ticket Sales

Sec. 1. This chapter does not apply to tickets issued for athletic or sporting events.

Sec. 2. As used in this chapter, "Internet domain name" means a globally unique, hierarchical reference to an Internet host or service, which is assigned through centralized Internet naming authorities and which is comprised of a series of character strings separated by periods, with the right most string specifying the top of the hierarchy.

Sec. 3. As used in this chapter, "person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, an association, a nonprofit corporation or organization, a cooperative, or any other legal entity.

Sec. 4. As used in this chapter, "resale of tickets" means the act of selling a valid and previously purchased ticket to a person that is not:

- (1) the original purchaser of the ticket; or**
- (2) the ticket issuer.**

Sec. 5. As used in this chapter, "ticket issuer" means any person that makes tickets available, directly or indirectly, for an entertainment event. The term includes the following:

- (1) The operator of a venue.**



(2) The sponsor or promoter of an entertainment event.

(3) A theater company, musical group, or similar participant in an entertainment event.

(4) An agent of any person or entity described in subdivisions (1) through (3).

Sec. 6. As used in this chapter, "ticket platform" means a marketplace that enables consumers to purchase and sell tickets.

Sec. 7. As used in this chapter, "ticket web site" means an Internet web site:

(1) advertising the sale of tickets;

(2) offering the sale of tickets; or

(3) offering tickets for resale;

to an event in Indiana.

Sec. 8. As used in this chapter, "URL" means an Internet web site's uniform resource locator.

Sec. 9. As used in this chapter, "venue" means an arena, stadium, theater, concert hall, or other place of exhibition or performance in this state.

Sec. 10. As used in this chapter, "web site operator" means a person:

(1) owning;

(2) operating; or

(3) controlling;

a ticket web site for an event scheduled at a venue.

Sec. 11. (a) A ticket issuer shall not issue a ticket exclusively through a delivery method that substantially prevents the ticket purchaser from lawfully transferring or reselling the ticket through the following methods:

(1) Independently of the ticket issuer.

(2) A ticket platform chosen by the ticket purchaser.

(b) A person shall not be discriminated against or denied admission to an event solely because the person:

(1) transferred or resold a ticket; or

(2) purchased or received a transferred or resold ticket;

on a specific platform.

Sec. 12. (a) This section does not apply to a web site operator that is authorized by the venue to be acting upon the venue's behalf.

(b) A web site operator may not use an Internet domain name or any subdomain in a ticket web site's URL that contains any of the following:

(1) The name of the venue.



- 1 **(2) The name of the exhibition or performance.**
- 2 **(3) The name of the person or entity scheduled to perform or**
- 3 **appear at the venue.**
- 4 **(4) Any name substantially similar to the name of the venue,**
- 5 **exhibition, or performance.**
- 6 **(c) A person who violates this section commits a deceptive act**
- 7 **that is actionable by the attorney general and is subject to the**
- 8 **remedies and penalties under IC 24-5-0.5.**
- 9 **SECTION 3. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred House Bill 1331, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1331 as introduced.)

MORRIS

Committee Vote: Yeas 9, Nays 4

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