

1 **SENATE FLOOR VERSION**
2 **February 11, 2021**

3 **CORRECTED**

4 SENATE BILL NO. 321

By: Haste of the Senate

5 and

6 Boatman of the House

7
8
9 An Act relating to on-line businesses; requiring
10 certain Internet website notification; requiring
11 redirect statement; providing content of redirect
12 statement; prohibiting redirect tracking features and
13 links without consent; amending 78 O.S. 2011, Section
14 53, which relates to deceptive trade practices;
15 adding certain deceptive practice for on-line
16 businesses; amending 15 O.S. 2011, Section 753, as
17 amended by Section 1, Chapter 258, O.S.L. 2012 (15
18 O.S. Supp. 2020, Section 753), which relates to the
19 Consumer Protection Act; adding certain unfair
20 consumer practice; requiring certain notification for
21 redirect to third-party websites; providing for
22 codification; and declaring an emergency.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 57 of Title 78, unless there is
created a duplication in numbering, reads as follows:

It shall be a deceptive trade practice for an on-line business
operating within this state to use or allow to be embedded any
redirect tracking feature, link or hyperlink on its Internet website

1 that redirects a consumer unknowingly to a third party website to
2 complete a financial transaction, unless the original on-line
3 business website uses a redirect statement that clearly appears to
4 the consumer prior to the redirect to a third-party website. The
5 redirect statement shall have language substantially similar to:
6 "You are being redirected to a third-party website that (is/is not)
7 (associated/affiliated) with this business".

8 SECTION 2. AMENDATORY 78 O.S. 2011, Section 53, is
9 amended to read as follows:

10 Section 53. A. A person engages in a deceptive trade practice
11 when in the course of business, vocation, or occupation, the person:

- 12 1. Passes off goods or services as those of another;
- 13 2. Knowingly makes a false representation as to the source,
14 sponsorship, approval, or certification of goods or services;
- 15 3. Knowingly makes a false representation as to affiliation,
16 connection, association with, or certification by another;
- 17 4. Uses deceptive representations or designations of geographic
18 origin in connection with goods or services;
- 19 5. Knowingly makes a false representation as to the
20 characteristics, ingredients, uses, benefits or quantities of goods
21 or services or a false representation as to the sponsorship,
22 approval, status, affiliation, or connection of a person therewith;
- 23 6. Represents that goods are original or new if they are not;

24

1 7. Represents that goods or services are a particular standard,
2 quality, or grade, or that goods are a particular style or model, if
3 they are another;

4 8. Disparages the goods, services, or business of another by
5 false or misleading representation of fact;

6 9. Advertises goods or services which differ from those offered
7 for sale in the advertisements;

8 10. Advertises goods or services with intent not to supply
9 reasonably expectable public demand, unless the advertisement
10 discloses a limitation of quantity;

11 11. Makes false or misleading statements of fact concerning the
12 reasons for, existence of, or amounts of price reductions;

13 12. Advertises the price of an item after deduction of a rebate
14 unless the actual selling price is advertised and clear and
15 conspicuous notice is given in the advertisement that a mail-in
16 rebate is required to achieve the lower net price;

17 13. Misrepresents the geographic location of the supplier by
18 listing a fictitious business name or an assumed business name in a
19 local telephone directory if:

20 a. the name misrepresents the geographic location of the
21 supplier,

22 b. the listing fails to identify the locality and state
23 of the business of the supplier,

24

- 1 c. calls to the local telephone number are routinely
2 forwarded or otherwise transferred to a business
3 location that is outside the calling area covered by
4 the local telephone directory, or
5 d. the business location of the supplier is located in a
6 county that is not contiguous to a county in the
7 calling area covered by the local telephone directory;
8 ~~or~~

9 14. Lists a fictitious business name or assumed business name
10 in a directory assistance database if:

- 11 a. the name misrepresents the geographic location of the
12 supplier,
13 b. calls to the local telephone number are routinely
14 forwarded or otherwise transferred to a business
15 location that is outside the local calling area, or
16 c. the business location of the supplier is located in a
17 county that is not contiguous to a county in the local
18 calling area; or

19 15. Fails to use a written redirect statement on its on-line
20 business website to notify the customer that he or she is being
21 redirected away from the original on-line business website to a
22 third-party website to complete a financial transaction. The
23 redirect statement shall have language substantially similar to:
24

1 "You are being redirected to a third-party website that (is/is not)
2 (associated/affiliated) with this business".

3 B. Evidence that a person has engaged in a deceptive trade
4 practice shall be prima facie evidence of intent to injure
5 competitors and to destroy or substantially lessen competition.

6 C. The deceptive trade practices listed in this section are in
7 addition to and do not limit the types of unfair trade practices
8 actionable at common law or under other statutes of this state.

9 SECTION 3. AMENDATORY 15 O.S. 2011, Section 753, as
10 amended by Section 1, Chapter 258, O.S.L. 2012 (15 O.S. Supp. 2020,
11 Section 753), is amended to read as follows:

12 Section 753. A person engages in a practice which is declared
13 to be unlawful under the Oklahoma Consumer Protection Act when, in
14 the course of the person's business, the person:

15 1. Represents, knowingly or with reason to know, that the
16 subject of a consumer transaction is of a particular make or brand,
17 when it is of another;

18 2. Makes a false or misleading representation, knowingly or
19 with reason to know, as to the source, sponsorship, approval, or
20 certification of the subject of a consumer transaction;

21 3. Makes a false or misleading representation, knowingly or
22 with reason to know, as to affiliation, connection, association
23 with, or certification by another;

24

1 4. Makes a false or misleading representation or designation,
2 knowingly or with reason to know, of the geographic origin of the
3 subject of a consumer transaction;

4 5. Makes a false representation, knowingly or with reason to
5 know, as to the characteristics, ingredients, uses, benefits,
6 alterations, or quantities of the subject of a consumer transaction
7 or a false representation as to the sponsorship, approval, status,
8 affiliation or connection of a person therewith;

9 6. Represents, knowingly or with reason to know, that the
10 subject of a consumer transaction is original or new if the person
11 knows that it is reconditioned, reclaimed, used, or secondhand;

12 7. Represents, knowingly or with reason to know, that the
13 subject of a consumer transaction is of a particular standard, style
14 or model, if it is of another;

15 8. Advertises, knowingly or with reason to know, the subject of
16 a consumer transaction with intent not to sell it as advertised;

17 9. Advertises, knowingly or with reason to know, the subject of
18 a consumer transaction with intent not to supply reasonably expected
19 public demand, unless the advertisement discloses a limitation of
20 quantity;

21 10. Advertises under the guise of obtaining sales personnel
22 when in fact the purpose is to sell the subject of a consumer
23 transaction to the sales personnel applicants;

24

1 11. Makes false or misleading statements of fact, knowingly or
2 with reason to know, concerning the price of the subject of a
3 consumer transaction or the reason for, existence of, or amounts of
4 price reduction;

5 12. Employs "bait and switch" advertising, which consists of an
6 offer to sell the subject of a consumer transaction which the seller
7 does not intend to sell, which advertising is accompanied by one or
8 more of the following practices:

9 a. refusal to show the subject of a consumer transaction
10 advertised,

11 b. disparagement of the advertised subject of a consumer
12 transaction or the terms of sale,

13 c. requiring undisclosed tie-in sales or other
14 undisclosed conditions to be met prior to selling the
15 advertised subject of a consumer transaction,

16 d. refusal to take orders for the subject of a consumer
17 transaction advertised for delivery within a
18 reasonable time,

19 e. showing or demonstrating defective subject of a
20 consumer transaction which the seller knows is
21 unusable or impracticable for the purpose set forth in
22 the advertisement,

23

24

1 f. accepting a deposit for the subject of a consumer
2 transaction and subsequently charging the buyer for a
3 higher priced item, or

4 g. willful failure to make deliveries of the subject of a
5 consumer transaction within a reasonable time or to
6 make a refund therefor upon the request of the
7 purchaser;

8 13. Conducts a closing out sale without having first obtained a
9 license as required in the Oklahoma Consumer Protection Act;

10 14. Resumes the business for which the closing out sale was
11 conducted within thirty-six (36) months from the expiration date of
12 the closing out sale license;

13 15. Falsely states, knowingly or with reason to know, that
14 services, replacements or repairs are needed;

15 16. Violates any provision of the Oklahoma Health Spa Act;

16 17. Violates any provision of the Home Repair Fraud Act;

17 18. Violates any provision of the Consumer Disclosure of Prizes
18 and Gifts Act;

19 19. Violates any provision of Section 755.1 of this title or
20 Section 1847a of Title 21 of the Oklahoma Statutes;

21 20. Commits an unfair or deceptive trade practice as defined in
22 Section 752 of this title;

23 21. Violates any provision of Section ~~169.1~~ 7111 of Title ~~8~~ 36
24 of the Oklahoma Statutes in fraudulently or intentionally failing or

1 refusing to honor the contract to provide certain cemetery services
2 specified in the contract entered into pursuant to the Perpetual
3 Care Fund Act;

4 22. Misrepresents a mail solicitation as an invoice or as a
5 billing statement;

6 23. Offers to purchase a mineral or royalty interest through an
7 offer that resembles an oil and gas lease and that the consumer
8 believed was an oil and gas lease;

9 24. Refuses to honor gift certificates, warranties, or any
10 other merchandise offered by a person in a consumer transaction
11 executed prior to the closing of the business of the person without
12 providing a purchaser a means of redeeming such merchandise or
13 ensuring the warranties offered will be honored by another person;

14 25. Knowingly causes a charge to be made by any billing method
15 to a consumer for services which the person knows was not authorized
16 in advance by the consumer;

17 26. Knowingly causes a charge to be made by any billing method
18 to a consumer for a product or products which the person knows was
19 not authorized in advance by the consumer;

20 27. Violates Section 752A of this title;

21 28. Makes deceptive use of another's name in notification or
22 solicitation, as defined in Section 752 of this title;

23 29. Falsely states or implies that any person, product or
24 service is recommended or endorsed by a named third person;

1 30. Falsely states that information about the consumer,
2 including, but not limited to, the name, address or phone number of
3 the consumer has been provided by a third person, whether that
4 person is named or unnamed;

5 31. Acting as a debt collector, contacts a debtor and threatens
6 to file a suit against the debtor over a debt barred by the statute
7 of limitations which has passed for filing suit for such debt; ~~or~~

8 32. Acting as a debt collector, contacts a debtor and uses
9 obscene or profane language to collect a debt; or

10 33. Fails to use a written redirect statement on its on-line
11 business website to notify the customer that he or she is being
12 redirected away from the original on-line business website to a
13 third-party website to complete a financial transaction. The
14 redirect statement shall have language substantially similar to:
15 "You are being redirected to a third-party website that (is/is not)
16 (associated/affiliated) with this business".

17 SECTION 4. It being immediately necessary for the preservation
18 of the public peace, health or safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
22 February 11, 2021 - DO PASS
23
24