

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 871

By: Floyd

AS INTRODUCED

An Act relating to consumer protection; amending 15 O.S. 2021, Section 753, which relates to unlawful practices; prohibiting misrepresentation as a state agency or an affiliate; and providing an effective date.

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

SECTION 1. AMENDATORY 15 O.S. 2021, Section 753, is amended to read as follows:

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

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

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

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

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

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

12 6. Knowingly or with reason to know, makes a false or
13 misleading representation or designation as a state agency or an
14 affiliate of a state agency through advertisement or publication;

15 7. Represents, knowingly or with reason to know, that the
16 subject of a consumer transaction is original or new if the person
17 knows that it is reconditioned, reclaimed, used, or secondhand;

18 ~~7.~~ 8. Represents, knowingly or with reason to know, that the
19 subject of a consumer transaction is of a particular standard, style
20 or model, if it is of another;

21 ~~8.~~ 9. Advertises, knowingly or with reason to know, the subject
22 of a consumer transaction with intent not to sell it as advertised;

23 ~~9.~~ 10. Advertises, knowingly or with reason to know, the
24 subject of a consumer transaction with intent not to supply

1 reasonably expected public demand, unless the advertisement
2 discloses a limitation of quantity;

3 ~~10.~~ 11. Advertises under the guise of obtaining sales personnel
4 when in fact the purpose is to sell the subject of a consumer
5 transaction to the sales personnel applicants;

6 ~~11.~~ 12. Makes false or misleading statements of fact, knowingly
7 or with reason to know, concerning the price of the subject of a
8 consumer transaction or the reason for, existence of, or amounts of
9 price reduction;

10 ~~12.~~ 13. Employs "bait and switch" advertising, which consists
11 of an offer to sell the subject of a consumer transaction which the
12 seller does not intend to sell, which advertising is accompanied by
13 one or more of the following practices:

- 14 a. refusal to show the subject of a consumer transaction
15 advertised,
- 16 b. disparagement of the advertised subject of a consumer
17 transaction or the terms of sale,
- 18 c. requiring undisclosed tie-in sales or other
19 undisclosed conditions to be met prior to selling the
20 advertised subject of a consumer transaction,
- 21 d. refusal to take orders for the subject of a consumer
22 transaction advertised for delivery within a
23 reasonable time,

- 1 e. showing or demonstrating defective subject of a
2 consumer transaction which the seller knows is
3 unusable or impracticable for the purpose set forth in
4 the advertisement,
- 5 f. accepting a deposit for the subject of a consumer
6 transaction and subsequently charging the buyer for a
7 higher priced item, or
- 8 g. willful failure to make deliveries of the subject of a
9 consumer transaction within a reasonable time or to
10 make a refund therefor upon the request of the
11 purchaser;

12 ~~13.~~ 14. Conducts a closing out sale without having first
13 obtained a license as required in the Oklahoma Consumer Protection
14 Act;

15 ~~14.~~ 15. Resumes the business for which the closing out sale was
16 conducted within thirty-six (36) months from the expiration date of
17 the closing out sale license;

18 ~~15.~~ 16. Falsely states, knowingly or with reason to know, that
19 services, replacements or repairs are needed;

20 ~~16.~~ 17. Violates any provision of the Oklahoma Health Spa Act;

21 ~~17.~~ 18. Violates any provision of the Home Repair Fraud Act;

22 ~~18.~~ 19. Violates any provision of the Consumer Disclosure of
23 Prizes and Gifts Act;

1 ~~19.~~ 20. Violates any provision of Section 755.1 of this title
2 or Section 1847a of Title 21 of the Oklahoma Statutes;

3 ~~20.~~ 21. Commits an unfair or deceptive trade practice as
4 defined in Section 752 of this title;

5 ~~21.~~ 22. Violates any provision of Section 169.1 of Title 8 of
6 the Oklahoma Statutes in fraudulently or intentionally failing or
7 refusing to honor the contract to provide certain cemetery services
8 specified in the contract entered into pursuant to the Perpetual
9 Care Fund Act;

10 ~~22.~~ 23. Misrepresents a mail solicitation as an invoice or as a
11 billing statement;

12 ~~23.~~ 24. Offers to purchase a mineral or royalty interest
13 through an offer that resembles an oil and gas lease and that the
14 consumer believed was an oil and gas lease;

15 ~~24.~~ 25. Refuses to honor gift certificates, warranties, or any
16 other merchandise offered by a person in a consumer transaction
17 executed prior to the closing of the business of the person without
18 providing a purchaser a means of redeeming such merchandise or
19 ensuring the warranties offered will be honored by another person;

20 ~~25.~~ 26. Knowingly causes a charge to be made by any billing
21 method to a consumer for services which the person knows was not
22 authorized in advance by the consumer;

1 ~~26.~~ 27. Knowingly causes a charge to be made by any billing
2 method to a consumer for a product or products which the person
3 knows was not authorized in advance by the consumer;

4 ~~27.~~ 28. Violates Section 752A of this title;

5 ~~28.~~ 29. Makes deceptive use of another's name in notification
6 or solicitation, as defined in Section 752 of this title;

7 ~~29.~~ 30. Falsely states or implies that any person, product or
8 service is recommended or endorsed by a named third person;

9 ~~30.~~ 31. Falsely states that information about the consumer,
10 including but not limited to, the name, address or phone number of
11 the consumer has been provided by a third person, whether that
12 person is named or unnamed;

13 ~~31.~~ 32. Acting as a debt collector, contacts a debtor and
14 threatens to file a suit against the debtor over a debt barred by
15 the statute of limitations which has passed for filing suit for such
16 debt; or

17 ~~32.~~ 33. Acting as a debt collector, contacts a debtor and uses
18 obscene or profane language to collect a debt.

19 SECTION 2. This act shall become effective November 1, 2023.

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