

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS-
CONSUMER PROTECTION FROM MANDATED INDEMNIFIED (LIABILITY-FREE)
PRODUCTS

Introduced By: Senators Morgan, and de la Cruz

Date Introduced: March 18, 2021

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 6 of General Laws entitled "Commercial Law – General Regulatory
2 Provisions" is hereby amended by adding thereto the following chapter:

3 CHAPTER 13.4

4 CONSUMER PROTECTION FROM INDEMNIFIED (LIABILITY-FREE) PRODUCTS ACT

5 **6-13.4-1. Short title.**

6 This chapter shall be known and may be cited as the "Consumer Protection from
7 Indemnified Products Act".

8 **6-13.4-2. Definitions.**

9 As used in this chapter the following terms shall have the following meaning, unless the
10 context requires otherwise:

11 (1) "Consumer" means an individual who enters into a transaction primarily for personal,
12 family, or household purposes.

13 (2) "Educational institution" means an institution of learning not operated for profit that is
14 empowered to confer diplomas, educational, literary, or academic degrees; that has a regular
15 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
16 school year; that keeps and furnishes to students and others records required and accepted for
17 entrance to schools of secondary, collegiate, or graduate rank.

18 (3) "Employer" means the state and all political subdivisions of the state and any person in

1 this state employing four (4) or more individuals, and any person acting in the interest of an
2 employer directly or indirectly.

3 (4) "Employment" means an individual's entire service, if the service is localized in the
4 state. Service is deemed to be localized in the state if:

5 (i) The service is performed entirely within the state; or

6 (ii) The service is performed both within and without the state but the service performed
7 without the state is incidental to the individual's service within the state;

8 (iii)(A) Employment shall include an individual's service, performed within and without
9 the state, if the service is not localized in any state, but some of the service is performed in the state;
10 and

11 (B) The individual's base of operation is in the state; or

12 (C) If there is no base operations, then the place for which the service is directed or
13 controlled is in the state; or

14 (D) The individual's base of operations or place from which the service is directed or
15 controlled is not in any state in which some part of the service is performed, but the individual's
16 residence is in the state.

17 (iv) In the event that any employee is denied or fails to receive wage, benefits, or wage
18 supplements as a result of a violation of this section, the employee shall have available civil and
19 other remedies available at law or equity. The department of labor and training may take any and
20 all appropriate actions to enforce the provisions of this section, including, but not limited to,
21 injunctions, cease and desist orders, and other penalties provided by law.

22 (v) Recovery pursuant to a violation of this section shall be applicable to secure recovery
23 against the merged, consolidated, or resulting corporation or other successor employer,
24 notwithstanding anything contained in this section or elsewhere to the contrary.

25 (vi) This section is enacted in order to protect the employment interests of all persons
26 engaged in employment in the state under existing labor contracts and shall be liberally construed
27 in every case in order to achieve that purpose.

28 (5) "Government agencies" means any department, division, office, bureau, board,
29 commission, authority, nonprofit community organization, or any other agency or instrumentality
30 created by any municipality or by the state, or to which the state is a party, which is responsible for
31 the regulation, inspection, visitation, or supervision of facilities or which provides services to
32 residents of facilities.

33 (6) "Employment opportunity" means an opportunity to be employed.

34 (7) "Guardian" means a person appointed or qualified by a court as a guardian of an

1 individual, including a limited guardian, but not a person who is only a guardian ad litem.

2 (8) "Harassment" or "harassing" means following a knowing and willful course of conduct
3 directed at a specific person with the intent to seriously alarm, annoy, or bother the person, and
4 which serves no legitimate purpose. The course of conduct must be such as would cause a
5 reasonable person to suffer substantial emotional distress, or be in fear of bodily injury.

6 (9) "Loss of employment" means a person who is no longer employed.

7 (10) "Mandate" means to officially require something or to direct or require something.

8 (11) "Opt out" means to decline or defer.

9 (12) "Private or public education" means the academic program pursued by the person in
10 obtaining the bachelor's, master's, or doctorate degree, that the programs to include formal course
11 work, seminars, and practice.

12 (13) "Promotion" means employees who have been found qualified through suitable tests
13 for promotion to positions in other classes under the provisions of chapter 4 of title 36 and rules.

14 (14) "Recommendation" means representation in favor of a person or thing.

15 (15) "Requirement" means something that is needed or wanted, compulsory or a necessary
16 condition.

17 **6-13.4-3. Government agencies, employers and educational institutions making**
18 **recommendations to consumers to accept indemnified products.**

19 (a) Government agencies, employers, private businesses or educational institutions are
20 prohibited from mandating liability-free products which would result in a consumer's:

21 (1) Loss of employment, employment opportunity or promotion; or

22 (2) Losing the ability to receive a public or private education.

23 (b) A consumer or guardian of a consumer shall have the right to decline an indemnified
24 product which an employer, government agency, private business or educational institution is
25 recommending to the consumer without incurring harassment, loss of employment, loss of an
26 employment opportunity, promotion, or the ability to receive a private or public education.

27 **6-13.4-4. Complaint process.**

28 The Rhode Island consumer protection unit under the office of the attorney general shall
29 pursue a case of this nature if loss of or a threat of loss of employment, promotion, employment
30 opportunity or the loss of the ability to receive a public or private education or harassment occurs
31 due to a consumer or guardian of a consumer declining an indemnified product which an employer
32 or government agency has recommended.

33 **6-13.4-5. Public policy.**

34 Any provision of a contract or agreement of any kind that purports to waive or limit in any

1 way a consumer's rights under this chapter, including, but not limited to, any right to a remedy or
2 means of enforcement, shall be deemed contrary to public policy and shall be voided and
3 unenforceable. This section shall not prevent a consumer or the guardian of a consumer to decline
4 an indemnified product that is recommended by an employer, government agency or educational
5 institution.

6 **6-13.4-6. Consumer opt-out of indemnified products.**

7 A consumer or guardian of a consumer shall be able to opt out from recommended
8 indemnified products by submitting in writing that they are opting out and shall not be required to
9 provide specific reasoning for opting out.

10 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS-
CONSUMER PROTECTION FROM MANDATED INDEMNIFIED (LIABILITY-FREE)
PRODUCTS

1 This act prohibits mandating indemnified products to consumers which would result in loss
2 of employment, loss of employment opportunity, loss of promotion, loss of the ability to receive a
3 private or public education, or coercion or harassment if a consumer declines an indemnified
4 product.

5 This act would take effect upon passage.

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