CHAPTER 206

UNIFORM DECEPTIVE TRADE PRACTICES ACT

§1211. Definitions

As used in this chapter, unless the context otherwise requires: [PL 1969, c. 503 (NEW).]

1. Article. "Article" means a product as distinguished from its trademark, label or distinctive dress in packaging;
[PL 1969, c. 503 (NEW).]

2. Certification mark. "Certification mark" means a mark used in connection with the goods or services of a person other than the certifier to indicate geographic origin, material, mode of manufacture, quality, accuracy or other characteristics of the goods or services or to indicate that the work or labor on the goods or services was performed by members of a union or other organization;
[PL 1969, c. 503 (NEW).]

3. Collective mark. "Collective mark" means a mark used by members of a cooperative, association or other collective group or organization to identify goods or services and distinguish them from those of others, or to indicate membership in the collective group or organization;
[PL 1969, c. 503 (NEW).]

4. Mark. "Mark" means a word, name, symbol, device or any combination of the foregoing in any form or arrangement;
[PL 1969, c. 503 (NEW).]

5. Person. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, 2 or more of the foregoing having a joint or common interest, or any other legal or commercial entity;
[PL 1969, c. 503 (NEW).]

6. Service mark. "Service mark" means a mark used by a person to identify services and to distinguish them from the services of others;
[PL 1969, c. 503 (NEW).]

7. Trademark. "Trademark" means a mark used by a person to identify goods and to distinguish them from the goods of others;
[PL 1969, c. 503 (NEW).]

8. Trade name. "Trade name" means a work, name, symbol, device or any combination of the foregoing in any form or arrangement used by a person to identify his business, vocation or occupation and distinguish it from the business, vocation or occupation of others.
[PL 1969, c. 503 (NEW).]

SECTION HISTORY

PL 1969, c. 503 (NEW).

§1212. Deceptive trade practices

1. Lists. A person engages in a deceptive trade practice when, in the course of his business, vocation or occupation, he

A. Passes off goods or services as those of another; [PL 1969, c. 503 (NEW).]

B. Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services; [PL 1969, c. 503 (NEW).]

C. Causes likelihood of confusion or of misunderstanding as to affiliation, connection or association with, or certification by, another; [PL 1969, c. 503 (NEW).]

D. Uses deceptive representations or designations of geographic origin in connection with goods or services; [PL 1969, c. 503 (NEW).]

E. Represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have, or that a person has a sponsorship, approval, status, affiliation or connection that he does not have; [PL 1969, c. 503 (NEW).]

F. Represents that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand; [PL 1973, c. 625, §53 (AMD).]

G. Represents that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model, if they are of another; [PL 1969, c. 503 (NEW).]

H. Disparages the goods, services or business of another by false or misleading representation of fact; [PL 1969, c. 503 (NEW).]

I. Advertises goods or services with intent not to sell them as advertised; [PL 1969, c. 503 (NEW).]

J. Advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity; [PL 1969, c. 503 (NEW).]

K. Makes false or misleading statements of fact concerning the reasons for, existence of or amounts of, price reductions; or [PL 1969, c. 503 (NEW).]

L. Engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding. [PL 1969, c. 503 (NEW).]

[PL 1973, c. 625, §53 (AMD).]

2. Complaint. In order to prevail in an action under this chapter, a complainant need not prove competition between the parties or actual confusion or misunderstanding.

[PL 1969, c. 503 (NEW).]

3. Application. This section does not affect unfair trade practices otherwise actionable at common law or under other statutes of this State.

[PL 1969, c. 503 (NEW).]

SECTION HISTORY

PL 1969, c. 503 (NEW). PL 1973, c. 625, §53 (AMD).

§1213. Remedies

A person likely to be damaged by a deceptive trade practice of another may be granted an injunction against it under the principles of equity and on terms that the court considers reasonable. Proof of monetary damage, loss of profits or intent to deceive is not required. Relief granted for the copying of an article shall be limited to the prevention of confusion or misunderstanding as to source. [PL 1969, c. 503 (NEW).]

The court in exceptional cases may award reasonable attorneys' fees to the prevailing party. Costs or attorneys' fees may be assessed against a defendant only if the court finds that he has willfully engaged in a deceptive trade practice. [PL 1969, c. 503 (NEW).]

The relief provided in this section is in addition to remedies otherwise available against the same conduct under the common law or other statutes of this State. [PL 1969, c. 503 (NEW).]

SECTION HISTORY

PL 1969, c. 503 (NEW).

§1214. Application

1. Application. This chapter does not apply to:

A. Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency; [PL 1969, c. 503 (AMD).]

B. Publishers, broadcasters, printers or other persons engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character; or [PL 1969, c. 503 (NEW).]

C. Actions or appeals pending on October 1, 1969. [PL 1973, c. 625, §54 (AMD).]
[PL 1973, c. 625, §54 (AMD).]

2. Limitation. Section 1212, subsection 1, paragraphs B and C do not apply to the use of a service mark, trademark, certification mark, collective mark, trade name or other trade identification that was used and not abandoned before October 1, 1969, if the use was in good faith and is otherwise lawful except for this chapter.
[PL 1973, c. 625, §55 (AMD).]

SECTION HISTORY

PL 1969, c. 503 (NEW). PL 1973, c. 625, §§54,55 (AMD).

§1215. Uniformity of interpretation

This chapter shall be construed to effectuate its general purpose to make uniform the law of those states which enact it. [PL 1969, c. 503 (NEW).]

SECTION HISTORY

PL 1969, c. 503 (NEW).

§1216. Short title

This chapter may be cited as the Uniform Deceptive Trade Practices Act. [PL 1969, c. 503 (NEW).]

SECTION HISTORY

PL 1969, c. 503 (NEW).

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