

HB516 INTRODUCED



1 HB516
2 ENNJ229-1
3 By Representatives Chestnut, Shaw, Lipscomb, Moore (P), Gray,
4 Robbins, Rigsby
5 RFD: Commerce and Small Business
6 First Read: 03-Apr-25



SYNOPSIS:

Under existing law, the Legislature has declared numerous deceptive acts or practices in the conduct of any trade or commerce to be unlawful.

This bill would further provide that the use of a computer to interact with a consumer as part of a commercial transaction in a manner that would deceive the consumer into reasonably believing that the consumer is interacting with a human is also an unlawful deceptive trade practice.

A BILL
TO BE ENTITLED
AN ACT

Relating to deceptive trade practices; to amend Section 8-19-5, Code of Alabama 1975, to provide that the use of a computer to interact with a consumer in a manner that deceives the consumer into believing that the interaction is with a human is an unlawful trade practice.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 8-19-5, Code of Alabama 1975, is amended to read as follows:

"§8-19-5



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The following deceptive acts or practices in the conduct of any trade or commerce are ~~hereby declared to be~~ unlawful:

(1) Passing off goods or services as those of another, provided that this section shall not prohibit the private labeling of goods or services.

(2) Causing confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.

(3) Causing confusion or misunderstanding as to the affiliation, connection, or association with, or certification by another, provided that this section shall not prohibit the private labeling of goods or services.

(4) Using deceptive representations or designations of geographic origin in connection with goods or services.

(5) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or qualities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he or she does not have.

(6) Representing that goods are original or new if they are deteriorated, reconditioned, reclaimed, used, secondhand, or altered to the point of decreasing their value or rendering the goods unfit for the ordinary purpose for which they were purchased, provided that this subdivision shall not apply to new goods which have been reconditioned, reclaimed, or repaired and such fact is disclosed to the purchaser.

(7) Representing that goods or services are of a



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particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(8) Disparaging the goods, services, or business of another by false or misleading representation of fact.

(9) Advertising goods or services with intent not to sell them as advertised.

(10) Advertising goods or services with intent not to supply reasonably expectable public demand unless the advertisement discloses a limitation of quantity.

(11) Making a false or misleading statement of fact concerning the reasons for, existence of, or amounts of ~~price~~ reductions.

(12) Knowingly failing to identify flood, water, fire, or accidentally damaged goods as damaged goods if they are damaged to the point of decreasing their value or rendering the goods unfit for the ordinary purpose for which they were purchased~~;~~: provided, that this subdivision shall not apply to accidentally damaged new goods where the goods are reconditioned, reclaimed, or repaired to substantially their original condition and such fact is disclosed to the purchaser.

(13) Knowingly making false or misleading statements of fact concerning the need for parts, replacement, or repair service.

(14) Misrepresenting the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(15) Disconnecting, turning back, replacing, or



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85 resetting the odometer of any motor vehicle so as to reduce
86 the number of miles indicated on the odometer gauge with the
87 intent of deception.

88 (16) Advertising of any sale by falsely representing
89 that a person is going out of business.

90 (17) After receipt of payment for goods or services,
91 failing to ship the goods or furnish such services within the
92 time advertised or otherwise represented or, if no specific
93 time is advertised or represented, failing to ship the goods
94 or furnish such services within 30 days, unless within the
95 applicable time period the seller provides the buyer with the
96 option to either cancel the sales agreement and receive a
97 refund of all previous payments to the seller or to extend the
98 date to a specific date proposed by the seller. Any refund
99 shall be mailed or delivered to the buyer within 10 business
100 days after the seller receives written notification from the
101 buyer of the buyer's option to cancel the sales agreement and
102 receive the refund.

103 (18) Using or employing a chain referral sales plan in
104 connection with the sale or offering for sale of goods,
105 merchandise, or anything of value, involving a sales
106 technique, plan, arrangement, or agreement in which the buyer
107 or prospective buyer is offered the opportunity to purchase
108 merchandise or goods and in connection with the purchase
109 receives the seller's promise or representation that the buyer
110 shall have the right to receive compensation or consideration
111 in any form for furnishing to the seller the names of other
112 prospective buyers, if the receipt of the compensation or



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consideration is contingent upon the occurrence of an event subsequent to the time the buyer purchased the goods, merchandise, or anything of value.

(19) Establishing, promoting, or operating a pyramid promotional scheme.

a. Nothing in this subdivision may be construed to prohibit a plan or operation, or to define a plan or operation, where the participants in the plan or operation give consideration in return for the right to receive compensation based upon purchases of goods, services, or intangible property for personal use, consumption, or resale if the plan or operation does not cause inventory loading and the plan or operation implements a bona fide inventory repurchase program.

b. A bona fide inventory repurchase program under this subdivision is subject to the following requirements:

1. The program shall be clearly described in its recruiting literature, sales manual, or contracts.

2. The recruiting literature, sales manual, or contracts shall disclose any inventory that is not eligible for repurchase under the program, including inventory that is beyond the commercially reasonable use or shelf life period or has been used or opened.

c. Before a repurchase of inventory is made, the entity operating the repurchase program shall clearly describe the inventory that is excluded from the entity's bona fide repurchase program as seasonal, discontinued, or special promotion products and the inventory that is not subject to



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the entity's bona fide inventory repurchase program.

(20) In connection with any seller-assisted marketing plan, either misrepresenting the amount or extent of earnings to result therefrom, or misrepresenting the extent or nature of the market for the goods or services, or both, sold or delivered in connection with the plan, or misrepresenting that the seller of the plan will repurchase all or part of the goods or services, or both, sold or delivered in connection with the plan, or failing to deliver goods or services, or both, within the time represented. As used herein, "seller-assisted marketing plan" includes any plan, scheme, or system in which for a consideration a buyer acquires goods or services, or both, together with a plan, scheme, or system for the resale of the goods or services, or both.

(21) Intentionally misrepresenting that a warranty or guarantee confers or involves certain rights or remedies.

(22) In selling a new motor vehicle, failing to disclose material damage to the motor vehicle as prescribed hereafter:

a. Each manufacturer, importer, or distributor of new motor vehicles sold or transferred to a motor vehicle dealer in this state, shall notify the motor vehicle dealer in writing prior to delivery of the vehicle of any material damage to the vehicle which is known to the manufacturer, importer, or distributor, and which was sustained or incurred by the motor vehicle at any time after the manufacturing process is complete but prior to delivery of the vehicle to the dealer.



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b. In selling a new motor vehicle, each motor vehicle dealer in this state shall notify the purchaser in writing at the time of sale of any material damage to the vehicle which is known to the motor vehicle dealer and which was sustained or incurred by the motor vehicle at any time after the manufacturing process is complete, but prior to delivery of the vehicle to the purchaser.

c. For purposes of this section, "material damage" means damage sustained or incurred by a motor vehicle, whether corrected or uncorrected, which cost to repair exceeds three percent of the manufacturer's suggested retail price of the vehicle based upon the dealer's retail repair cost or the sum of five hundred dollars (\$500), whichever is greater. Damage to tires, glass, bumpers, and in-dash audio equipment shall not be considered in determining the cost of repair if those components are replaced by identical manufacturer's original equipment. The failure of a manufacturer, importer, distributor, or motor vehicle dealer to give notice of damage below the threshold constituting material damage shall not provide grounds for revocation of the sale nor shall such failure constitute a material misrepresentation or omission of fact.

d. Each manufacturer, importer, or distributor of new motor vehicles shall indemnify and hold harmless the motor vehicle dealer obtaining a vehicle from the manufacturer, importer, or distributor from and against any liability, including reasonable ~~attorneys'~~attorney fees, which the motor vehicle dealer may have to the purchaser of the vehicle as a



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197 result of damage to the new motor vehicle which was known to
198 the manufacturer, importer, or distributor, which occurred
199 prior to delivery of the vehicle to the dealer, and which was
200 not disclosed in writing to the dealer prior to delivery of
201 the vehicle. This indemnity obligation of the manufacturer,
202 importer, or distributor shall apply regardless of whether the
203 damage constitutes material damage.

204 (23) Affixing an Alabama revenue stamp, including local
205 municipal or county stamps, to, or upon, any package of
206 cigarettes, or selling or holding for sale any package of
207 cigarettes to which an Alabama revenue stamp, including local
208 municipal or county stamps, has been affixed, if:

209 a. The package differs in any respect with the
210 requirements of the Federal Cigarette Labeling and Advertising
211 Act (15 U.S.C. § 1331, et seq.), for the placement of labels,
212 warnings, or any other information upon a package of
213 cigarettes that is to be sold within the United States;

214 b. The package is labeled "For Export Only", "U.S. Tax
215 Exempt," "For Use Outside U.S.," or similar wording indicating
216 that the manufacturer did not intend that the product be sold
217 in the United States;

218 c. The package, or a package containing individually
219 stamped packages, has been altered by adding or deleting the
220 wording, labels, or warnings described in paragraph a. or b.
221 of this subdivision;

222 d. With respect to the cigarettes, any person is not in
223 compliance with 15 U.S.C. § 1335a (relating to submission of
224 ingredient information to federal authorities), 19 U.S.C. §



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1681-1681b (relating to imports of certain cigarettes), 26 U.S.C. § 5754 (relating to previously exported tobacco products), or any other federal law or implementing federal regulations; or

e. The package in any way violates federal trademark or copyright laws.

For the purposes of this subdivision, the term "package" means a pack, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed, or intended for distribution, to consumers. Also for the purposes of this subdivision, the term "Alabama revenue stamp" means the stamp or stamps by the use of which the tax levied under Article 1 of Chapter 25 of Title 40^T is paid.

(24) Engaging in the sale, distribution, possession, acquisition, importation, or transportation of any cigarettes that do not comply with all applicable requirements imposed by or pursuant to federal law and federal implementing regulations.

(25) Engaging in a scheme or artifice to defraud by telephone communication. For purposes of this subdivision, a "scheme or artifice to defraud" means a systematic, ongoing course of conduct with the specific intent to defraud one or more persons in order to obtain property from that person by a telephone communication; and "telephone communication" means the transmission of information by the use of the telephone, with the specific intent of defrauding a person by a material misrepresentation and obtaining property from that person as a



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result of the fraud. Puffing or puffery does not constitute a scheme or artifice to defraud.

(26) Making any communication by telephone directly to another person which offers to the other person a gift, award, or prize, where the person making the communication has actual knowledge at the time of making the communication that the communication was materially false and the person making the communication specifically intended to deprive the other person of real or personal property as a result of the false communication.

(27) Engaging in a commercial transaction or trade practice with a consumer in which the consumer communicates or otherwise interacts with a chatbot, artificial intelligence agent, avatar, or any other computer technology that engages in a textual or aural conversation with the consumer and that may mislead or deceive a reasonable person to believe that they are communicating or interacting with a human and either of the following:

a. The consumer is not notified in a clear and conspicuous manner that the consumer is communicating or interacting with a non-human.

b. The consumer may otherwise reasonably believe that they are communicating or interacting with a human.

~~(27)~~ (28) Engaging in any other unconscionable, false, misleading, or deceptive act or practice in the conduct of trade or commerce."

Section 2. This act shall become effective on October 1, 2025.