

## Appx. A-ID

*Unfair and Deceptive Acts and Practices*

*Special Requirements:* None specified.

*Scope:* Actions in course of business, vocation or occupation by individuals, corporations, partnerships, trusts, estates, governmental agency or subdivision, unincorporated association, or any other legal or commercial entity.

*Exclusions:* Conduct complying with orders, rules, or statutes of federal, state or local government; publishers, broadcasters, printers or others who disseminate information without knowledge of deceptive character.

*Private Remedies:* Injunction; costs unless court directs otherwise; attorney fees to prevailing party “may” be awarded if suit is groundless or willful violation.

*Limitations:* None specified.

*Precedential Value of FTC Interpretations:* None specified.

**Idaho Code §§ 48-601 to 48-619 Consumer Protection Act**

*Prohibited Practices:* 18 enumerated unfair methods of competition and unfair or deceptive acts or practices including catchalls prohibiting misleading consumer practices and unconscionable practices, except the latter catchall does not apply to regulated lenders; special restrictions on home solicitation sales, tax return preparers, and junk e-mail.

*Special Requirements:* Respondent knows or should know of violation.

*Scope:* Trade or commerce by definition means the advertising, sale or offer of sale of any goods or services.

*Exclusions:* Specific acts, practices, or transactions authorized by public utility or state or U.S. regulatory body; advertisements done by publisher, broadcasters, printers or retailers in good faith reliance on material supplied by others and without knowledge of deceptive or misleading character; persons subject to unfair insurance practices statute; actions complying with applicable FTC statutes or regulations. Burden of proving any exemption is on the seller.

*Private Remedies:* Void contract for purchase or lease of goods or services; actual damages and minimum \$1000 damages, but a class action may only obtain actual damages or \$1000 for the whole class, whichever is greater; punitive damages in court’s discretion; restitution; injunction; punitive damages; other equitable relief if repeated or flagrant violations; attorney fees to prevailing plaintiff, to defendant in court’s discretion if action spurious or to harass.

*Limitations:* Must suffer ascertainable loss of money or property; statute of limitations for private action is 2 years after cause accrues.

*State Remedies:* AG enforces and has substantive rulemaking authority; may bring action if has reason to believe in public interest; declaratory judgment; actual damages or restitution for consumers; revocation of state license; receiver; court makes additional orders “as may be necessary”; maximum \$10,000 and dissolution of corporation, in court’s discretion, for violation of injunction; specific performance, \$5000 per violation as civil penalty for initial violations; attorney fees and investigative costs; consent order can specify various remedies for its violation. AG must, with certain exceptions, give notice before suit.

*State UDAP Regulations:* Idaho Consumer Protection Regulations, Idaho Admin. Code §§ 04.02.01.020 to 04.02.02.999—definition of deception; bait and switch; contests; deceptive pricing; delay and nondelivery; failure to disclose; door-to-door sales; home improvements; layaway plans; mail order; misrepresentations of method of selecting consumer and of legal rights; pyramid sales; referral sales; used for new; standards of deception; defenses

against assignees; automobile advertising and sales; loan broker fees; preservation of consumer claims and defenses (holder rule); subsequent correction; unordered goods or services; unsubstantiated claims; violation of FTC consent and other orders; telephone solicitation and pay per call; use of the word “free”; going out of business sales; insufficient supply/limitation of offers; estimates.

*Precedential Value of FTC Interpretations:* Given due consideration and great weight; construe statute uniformly with federal law and regulations.

**815 Ill. Comp. Stat. Ann. §§ 505/1 to 505/12 Consumer Fraud and Deceptive Business Practices Act**

*Prohibited Practices:* Unfair methods of competition and unfair or deceptive acts or practices including concealment or omission of any material fact with intent to cause reliance, including 36 enumerated prohibitions; violation of UDTPA.

*Special Requirements:* None specified. Proof of a public injury, a pattern, or an effect on consumers generally shall not be required, except for suits against vehicle dealers and holder of motor vehicle installment contracts.

*Scope:* Trade or commerce means advertising, sale, or offer for sale or distribution of any real, personal or intangible property or services, and any other thing of value.

*Exclusions:* Actions or transactions specifically authorized by state or U.S. laws administered by regulatory body; those governed by trademark laws; advertisements done by disinterested publisher, radio and television media, with no knowledge of falsity or it did not prepare the ad; unknowing deceptive communication by licensed realtor. The statute also states that it does not apply to conduct that results in bodily injury, death, or damage to property not the subject of the alleged unlawful practice, but this language had been added by the Civil Justice Reform Act, an act declared unconstitutional by *Best v. Taylor Machine Works*, 689 N.E.2d 1057 (Ill. 1997).

*Private Remedies:* Actual damages, injunctive relief, or other proper relief in court’s discretion; court “may” award attorney fees and costs to prevailing party.

*Limitations:* AG action in public interest; statute of limitations for private suit is 3 years from accrual, action by AG tolls private action for pendency of suit and one year after. If defendant is motor vehicle dealer or holder of motor vehicle installment contract, must give 30-day notice before suit and show public injury, pattern, or effect on consumers and public interest, and punitive damages are barred unless conduct willful or intentional and done with evil motive or reckless indifference. Private plaintiff must mail complaint and judgment or order to AG. Three year limitation period does not apply to state attorney general actions.

*State Remedies:* AG enforces and has rulemaking power; court has discretion to exercise all powers necessary including injunction, revoke license, receiver; restitution; maximum \$50,000 civil penalty (\$50,000 per violation if intent to defraud shown); costs; forfeiture or suspension of any authority for person to do business in the State. The penalty can be enhanced by \$10,000 if the victim is elderly.

*State UDAP Regulations:* Illinois Attorney General Consumer Protection Rules, Ill. Admin. Code tit. 14, parts 460, 470, 475, 485—Buyers Clubs, Price Comparisons, Availability of Advertised Merchandise, Motor Vehicle Advertising (including credit sales advertising and leasing advertising), Immigration Services.

*Precedential Value of FTC Interpretations:* Consideration given.

**815 Ill. Comp. Stat. Ann. §§ 510/1 to 510/7 Uniform Deceptive Trade Practices Act**

*Prohibited Practices:* 11 enumerated deceptive trade practices plus a catchall prohibiting any conduct likely to cause confusion or misunderstanding.

*Special Requirements:* None specified.

*Scope:* In course of business, vocation or occupation.

*Exclusions:* Conduct complying with orders or rules of or statute administered by federal, state, or local agency; publishers, broadcasters, printers or other persons who disseminate information without knowledge of its deceptive character.

*Private Remedies:* Injunctive relief; costs or attorney fees if defendant willfully violated act.

*Limitations:* None specified.

*State Remedies:* None specified.

*Precedential Value of FTC Interpretations:* Construed to promote uniformity among states enacting.

**Ind. Code Ann. §§ 24-5-0.5-1 to 24-5-0.5-12 Deceptive Consumer Sales Act**

*Prohibited Practices:* Numerous enumerated deceptive acts, including transactions involving contracts with unconscionable clauses.

*Special Requirements:* None specified.

*Scope:* Consumer transactions, defined as sale, lease, assignment, award by change, or other disposition of real or personal property, intangibles, or services, with or without an extension of credit, to a person for purposes that are primarily personal, familial, charitable, agricultural or household, or solicitations to supply any of these things.

*Exclusions:* Supplier in good faith reliance or representation made by another if discloses source to consumer; acts required or expressly permitted by federal or state law; insurance, securities. Telephone company or other directory provider not liable for misleading business name in directory.

*Private Remedies:* Actual damages in individual or class actions; attorney fees “may” be awarded prevailing party; court may void contracts; security for costs may be imposed. While private remedies are not available for real estate transactions, they *are* available for practices involving timeshares and camping club memberships. Elderly victims may seek treble damages.

*Limitations:* No private action unless plaintiff relied on uncured or incurable deceptive act; notice to supplier within 6 months of discovery, 1 year of act, or 30 days of warranty; statute of limitations 2 years after act.

*State Remedies:* AG enforces; injunction; restitution; court may void or limit contract; \$15,000 per violation of injunction with costs to the state; maximum \$500 per knowing initial violation; maximum \$500 per incurable violation done with intent to defraud. Rulemaking (see Ind. Code Ann. § 4-6-9-8); costs of prosecution; restitution where contracts are voided.

*Precedential Value of FTC Interpretations:* None specified.

**Iowa Code Ann. §§ 714.16 to 714.16A**

*Prohibited Practices:* Unfair or deceptive acts or concealment, suppression or omission of material fact with intent to cause reliance including 13 enumerated practices.

*Special Requirements:* None specified.

*Scope:* Lease, sale, offer of sale, attempt to sell, or advertisement of any goods, commodities, intangibles, stocks, bonds, securities,

debentures, realty or services, or solicitation of charitable contributions.

*Exclusions:* Advertisements done by publisher, radio, television, and other electronic media, with no knowledge of falsity; advertisements that comply with FTC rules, regulations and statutes; retailer not liable for using certain ads prepared by supplier except in certain circumstances.

*Private Remedies:* None specified. See § 7.2.2, *supra*.

*Limitations:* None specified.

*State Remedies:* AG enforces; injunction; dissolve corporation or revoke state licenses if fail to respond to subpoena or file statement or report; \$40,000 penalty for initial violations; \$5,000 per day per violation for violation of injunction; restitution; receiver for substantial and willful violation; costs and attorney fees; rulemaking. If costs of administering restitution order outweigh the benefits to consumers or the consumers entitled to restitution cannot be located, the restitution amount may be used for implementation of state’s consumer fraud act. If violation committed against a person 65 years of age or older, court may impose or Attorney General may accept additional penalties up to \$5000 for each violation, to go to a fund for investigation and administration of frauds against the elderly.

*State UDAP Regulations:* 61 Iowa Admin. Code chs. 25–31—membership campgrounds, health spas, salvaged vehicles, automobile repair, price gouging during an emergency, prize promotions. The state Department of Justice has also issued guidelines for motor vehicle advertising.

*Precedential Value of FTC Interpretations:* None specified.

**Kan. Stat. Ann. §§ 50-623 to 50-640 Consumer Protection Act**

*Prohibited Practices:* Any deceptive acts or practices including 12 enumerated prohibitions; unconscionable practice including 7 enumerated prohibitions; willful concealment of material fact.

*Special Requirements:* Most enumerated deceptive prohibitions require seller know or have reason to know of violation or require intent. Prohibitions apply only to suppliers, defined as manufacturers, distributors, dealers, sellers, lessors, assignors, or other persons who, in the ordinary course of business, solicit, engage in or enforce consumer transactions, directly or indirectly.

*Scope:* Sale, lease, assignment, or other disposition for value of property or services, including real estate and intangibles, or solicitation by supplier, to individual, sole proprietor, or family partnership for personal, family, household, business or agricultural purposes.

*Exclusions:* Insurance contracts regulated under state law; publisher, broadcaster, printer or other person who disseminates information without actual knowledge of violation.

*Private Remedies:* Consumer may seek declaratory judgment and injunction regardless of whether entitled to damages or has adequate remedy at law or equity; actual damages; maximum statutory damages of \$5000 per violation; class actions for declaratory judgment or injunction, or, if consumer suffers loss from a specific act proscribed by statute, judgment or consent decree, then for actual damages; reasonable attorney fees to prevailing party, to supplier if suit groundless. Elderly or disabled person can also recover punitive damages.

*Limitations:* Must give notice of certain suits to AG.

*State Remedies:* AG or local prosecuting attorney enforces; procedural rulemaking by AG; declaratory judgment; injunction; actual damages; reasonable expenses and investigation fees; consent

judgments including restitutionary relief and expenses; court may make other orders “necessary”; receiver; revoke licenses; order transactions carried out in accordance with consumers’ reasonable expectations; grant other appropriate relief; maximum \$5000 per violation; maximum \$10,000 per willful violation of injunction or other penalties court may deem proper. Under Kan. Stat. Ann. § 50-677, the penalty can be enhanced by \$10,000 if the victim is elderly or disabled.

*Precedential Value of FTC Interpretations:* None specified.

**Ky. Rev. Stat. §§ 367.110 to 367.990 Consumer Protection Act Prohibited Practices:** Unfair or deceptive acts or practices; unfair construed to mean unconscionable; antitrust violations.

*Special Requirements:* None specified.

*Scope:* In trade or commerce defined as the advertising, offer for sale, or distribution of any service, real, personal, tangible or intangible property and any other thing of value.

*Exclusions:* Advertisements done by publisher, radio and television media, with no knowledge of falsity; activities authorized or approved under federal or state law or regulation.

*Private Remedies:* Actual damages; equitable relief court deems “necessary or proper”; punitive damages where appropriate; attorney fees and costs may be awarded to prevailing party.

*Limitations:* Private cause of action extended only to persons who purchase or lease goods or services primarily for personal, family, or household purposes and thereby suffer ascertainable loss of money or property as result of unlawful act; statute of limitations is 1 year after end of AG suit or 2 years after violation.

*State Remedies:* AG, and, in certain situations, Commonwealth and county attorneys have enforcement authority; injunction; restitution; receiver; revoke license; \$2000 civil penalty per initial violation (\$10,000 in some circumstances if elderly victim); \$25,000 per injunction violation. Ky. Rev. Stat. § 15.180 gives general rulemaking authority to attorney general.

*Precedential Value of FTC Interpretations:* None specified.

**La. Rev. Stat. Ann. §§ 51:1401 to 51:1420 Unfair Trade Practices and Consumer Protection Law**

*Prohibited Practices:* Unfair methods of competition and unfair or deceptive acts or practices.

*Special Requirements:* Must mail copy of complaint and any judgment or order to AG.

*Scope:* Trade or commerce defined as advertising, sale, offers of sale, or distribution of any service, property (corporeal or incorporeal, movable or immovable), and any thing of value.

*Exclusions:* Actions or transactions subject to State Public Service Commission, other public utility regulatory body, commissioner of financial institutions, or insurance commissioner; certain banks; advertisements done by publisher, radio, television, or other media, with no knowledge of falsity, no direct financial interest, and no participation in preparation of ad; acts complying with FTC; seller of products or services who disseminates advertisements or promotional material and agrees to assurance of voluntary compliance, unless refuses AG request to reveal name and address of advertiser.

*Private Remedies:* Actual damages; treble damages for knowing violation done after notice given by director or AG; attorney fees and costs to successful consumer, to defendant if suit in bad faith and groundless or brought for harassment. No class action for damages, although may be available for restitution.

*Limitations:* Need ascertainable loss of money or movable property

for private action; statute of limitations one year from transaction for private action; investigation by AG if in public interest.

*State Remedies:* Department of Justice, Consumer Protection Section has rulemaking authority, subject to AG approval; AG and DA enforces; injunction; restitution; court “may” issue additional relief necessary to compensate aggrieved party; \$5000 per violation of injunction.

*State UDAP Regulations:* Louisiana Consumer Protection Division Rules and Regulations, La. Admin. Code tit. 3, II.5007, La. Admin. Code tit. 16, § III.501–515—bait and switch; charitable solicitations; damaged goods; deceptive pricing; endorsements; magazine subscriptions; pyramid sales; used for new.

*Precedential Value of FTC Interpretations:* Statute does not apply to conduct that complies with FTC Act, rules, and court decisions.

**Me. Rev. Stat. Ann. tit. 5, §§ 205A to 214 Unfair Trade Practices Act**

*Prohibited Practices:* Unfair methods of competition and unfair or deceptive acts or practices.

*Special Requirements:* None specified.

*Scope:* Trade or commerce defined as advertising, sale, offer for sale, or distribution of any services, real or personal property, intangibles or any thing of value.

*Exclusions:* Actions permitted under laws administered by state or U.S. regulatory board.

*Private Remedies:* Restitution; actual damages; injunction; other equitable relief court may deem necessary; attorney fees and costs if violation proven. Right to jury trial if action brought in Superior Court.

*Limitations:* AG acts in public interest and upon notice; private actions require consumer transaction resulting loss of money or property, 30-day prior notice attempting to settle before bringing suit.

*State Remedies:* AG enforces and has rulemaking power; injunction; restitution if defendant violates injunction; \$10,000 maximum for violation of injunction; costs of investigation and suit if permanent injunction granted to AG; costs of defense to prevailing party if action frivolous; maximum \$5000 for intentional avoidance or knowledgeable concealment during AG examination; \$10,000 maximum for intentional initial violation involving unfair or deceptive conduct.

*State UDAP Regulations:* Maine Unfair Trade Practices Act Regulations, Code Me. R. §§ 26-239-100, 102, 105, and 107—urea formaldehyde foam insulation; motor vehicle sales; sale of residential heating oil; door-to-door sales of frozen food.

*Precedential Value of FTC Interpretations:* Guided by FTC interpretations of FTC Act. State regulations may not be inconsistent with FTC rules.

**Me. Rev. Stat. Ann. tit. 10, §§ 1211 to 1216 Uniform Deceptive Trade Practices Act**

*Prohibited Practices:* 12 enumerated deceptive practices including a catchall provision prohibiting any conduct likely to create confusion or misunderstanding.

*Special Requirements:* None specified.

*Scope:* In course of business, vocation or occupation.

*Exclusions:* Conduct complying with orders, rules, or statute administered by federal, state or local agency; publishers, broadcasters, printers or other persons who disseminate information without knowledge of deceptive character.

*Private Remedies:* Injunction; attorney fees to prevailing party “may” be awarded in exceptional cases; costs of attorney fees against defendant only if willful violation.

*Limitations:* None specified.

*State Remedies:* None specified.

*Precedential Value of FTC Interpretations:* Construed to create uniformity among states which enact statute.

**Md. Com. Law Code Ann. §§ 13-101 to 13-501 Maryland Consumer Protection Act**

*Prohibited Practices:* Numerous enumerated unfair or deceptive trade practices. *See also* Md. Com. Law Code Ann. tit. 14 for additional consumer protection provisions regarding unit pricing, guaranties, door-to-door sales, debt collection, and other topics.

*Special Requirements:* None specified.

*Scope:* Trade practices in sale, offer for sale, or lease, loan, or bailment of consumer goods, realty or services; extension of consumer credit or consumer debt collection.

*Exclusions:* Professional services by insurance company authorized to do business in the state, insurance agent or broker licensed by state, real estate brokers and salespersons, CPA, lawyer, medical or dental practitioner, or certain other professionals; a public service company to the extent its services and operations are regulated by Public Service Commission; publisher, printer, radio, television, or newspaper that disseminates advertising with no knowledge of falsity and not involving its own goods.

*Private Remedies:* Actual damages; attorney fees “may” be awarded; seller receives attorney fees if action in bad faith or is frivolous.

*Limitations:* Must sustain loss or injury for private action.

*State Remedies:* More stringent rulemaking by county or municipal agency; Division of Consumer Protection may issue cease and desist order, may seek injunction to obtain compliance with order, and has rulemaking power; AG can seek injunction against violations, restitution, and receiver after giving notice; AG can recover costs; \$1000 civil fine per initial violation by merchant; \$5000 per repeat violation; criminal penalties; restitution; receiver if willful violation.

*State UDAP Regulations:* Maryland Regulations of the Consumer Protection Division, Code Md. Regs. §§ 02.01.01.99 to 02.01.01.15, 02.01.05.00 to 02.01.05.05, and 02.01.07.00 to 02.01.07.10—*invention services; refunds; unit pricing.*

*Precedential Value of FTC Interpretations:* Due consideration and weight given.

**Mass. Gen. Laws Ann. ch. 93A Regulation of Business Practice and Consumer Protection Act**

*Prohibited Practices:* Unfair methods of competition and unfair or deceptive acts or practices.

*Special Requirements:* None specified.

*Scope:* Trade or commerce includes advertising, distribution, offers or consummation of sale, rent or lease, of any services, real or personal property, commodity for future delivery, intangibles, or any other article of value; securities explicitly included.

*Exclusions:* Actions permitted under laws administered by regulatory board or officer.

*Private Remedies:* § 9 allows actual damages and equitable relief, including injunction, as court deems necessary and proper; class actions; minimum \$25 damages; double or treble damages for willful or knowing violation or bad faith refusal to settle with

reason to know of violation; attorney fees and costs to prevailing plaintiff unless rejected reasonable offer of settlement. Persons engaged in conduct of trade or commerce who are injured by persons who also engage in trade or commerce have right to bring private action but must proceed under somewhat different provisions of § 11.

*Limitations:* AG acts in public interest and must give prior notice except when seeking temporary restraining order; consumer action if injured and provides notice letter; consumer limited to reasonable relief tendered if rejects a settlement offer; respondent may suspend court action to bring action before appropriate regulatory board if court action would require acts inconsistent with regulatory scheme or regulatory board had substantial interest court may issue interlocutory orders to preserve status quo.

*State Remedies:* AG has rulemaking power consistent with FTC and federal court interpretations of FTC Act; AG enforces; injunction; restitution; special penalties, damages, and restitution provisions for securities violations; civil penalty of \$5000 per violation and costs of investigation and litigation if the defendant knew or should have known it was violating the Act; \$10,000 penalty for each violation of injunction or court order; corporation may be dissolved or banned from doing business for habitual injunction violations.

*State UDAP Regulations:* Massachusetts Consumer Protection Regulations, Code Mass. Reg. tit. 940, chs. 3–9, 15, 16, 18, 19, 21, and 22—*advertising practices; automobile repair; automobile sales; bait and switch advertising; business opportunities; credit; debt collection; deceptive pricing; delay and nondelivery; failure to disclose; door-to-door sales; vocational schools; home improvements; landlord-tenant; layaway plans; magazine subscriptions; mail order; nursing homes; misrepresentations of methods of manufacture and quantity; mortgage brokers and mortgage lenders; other prohibited practices; petroleum product price gouging; referral sales; refunds; repairs and services; used for new; liability disclaimers; warranties; leases; rent-to-own; termination of group health insurance; mobile home parks; travel services; retail marketing and sale of electricity; handgun sales; smokeless tobacco; viatical settlements and viatical loans.*

*Precedential Value of FTC Interpretations:* Guided by FTC interpretations; rules cannot be inconsistent with FTC rules.

**Mich. Comp. Laws Ann. §§ 445.901 to 445.922 Consumer Protection Act**

*Prohibited Practices:* 32 enumerated unfair, unconscionable or deceptive practices.

*Special Requirements:* None specified.

*Scope:* Trade or commerce defined as conduct of business providing goods, property, or service primarily for personal, family, household purposes, including advertising, solicitation, sale or offer for sale, rent, lease or distribution of service, real or personal property, intangible, or any other article. Includes business opportunities and pyramid schemes but not franchises.

*Exclusions:* A transaction or conduct specifically authorized under laws administered by state or U.S. regulatory board; advertisements done by disinterested publisher, radio, television station, or other communications medium without knowledge of falsity or financial interest in sale; violations of 5 enumerated Michigan statutes except for private actions.

*Private Remedies:* Declaratory judgment; injunction; if consumer has suffered loss, may seek greater of actual damages or \$250