

The Sale of Furniture In New Jersey

What Furniture Stores Should Know

Copy of Laws & Regulations for Sale of Furniture

- Contract Requirements, Delivery, Notice, Damaged Furniture and More
- Advertising, Rain Checks, Duration of Sale and More
- Unconscionable Commercial Practice
- Sale Involving Seniors over 60 or People with a Disability
- Posting of Signs – Price Tag or Label
- Posting if Signs – Refund Policy
- Gift Cards, Gift Certificate
- Towing off Private Property
- Consumer Review Fairness Act (Federal)

SUBCHAPTER 5.
DELIVERY OF HOUSEHOLD FURNITURE AND FURNISHINGS

13:45A-5.1 DELIVERY PRACTICES; GENERALLY

- a) Any person who is engaged in the sale of household furniture for which contracts of sale or sale orders are used for merchandise ordered for future delivery shall:
- 1) Deliver all of the ordered merchandise by or on the promised delivery date; or
 - 2) Provide written notice to the consumer of the impossibility of meeting the promised delivery date. The notice shall offer the consumer the option to cancel said order with a prompt, full refund of any payments already made or to accept delivery at a specified later time. Said written notice shall be provided prior to the delivery date.
- b) In the event a seller fails to deliver all of the ordered merchandise on the promised delivery date and makes only a partial delivery, the seller shall comply with the notice requirement of (a) above. Said notice shall offer the consumer the option of cancelling the order with a prompt, full refund of any payments already made or accepting delivery of the balance of the ordered merchandise at a specified later date.
- c) Failure to comply with (a) above shall constitute a deceptive practice under the Consumer Fraud Act.
- d) For purposes of this rule, "household furniture" includes, but is not limited to, furniture, major electrical appliances, and such items as carpets and draperies.

- e) For the purposes of this section, delivery of furniture or furnishings that are damaged or that are not the exact size, style, color or condition indicated on the sales contract, shall not constitute delivery as required by (a)1 above.
- 1) Upon receipt of such non-conforming merchandise, the consumer shall have the option of either accepting the furniture or of exercising any of the options set forth in (a)2 above.

13:45A-5.2 CONTRACT FORMS; DATE OF ORDER

- a) The contract forms or sales documents shall show the date of the order and shall contain the following sentence in ten-point bold face type:

The merchandise you have ordered is promised for delivery to you on or before (insert date or length of time agreed upon).

- b) The blank for the delivery date referred to in (a) above shall be filled in by the seller at the time the contract of sale is entered into by the parties or when the sales documents are issued, either as a specific day of a specific month or as a length of time agreed upon by the buyer and seller (for example, "six weeks from date of order"). The date for delivery shall not be pre-printed in the contract prior to the time the contract of sale is entered into by the parties or when the sales documents are issued.

13:45A-5.3 CONTRACT FORM; DELAYED DELIVERY

- a) The contract forms or sales documents shall conspicuously disclose the seller's obligations in the case of delayed delivery in compliance with N.J.A.C. 13:45A-5.1 and shall contain, on the first page of the contract form or sales document, the following notice in ten-point bold face type:

If the merchandise ordered by you is not delivered by the promised delivery date, (insert name of seller) must offer you the choice of (1) canceling your order with a prompt, full refund of any payments you have made, or (2) accepting delivery at a specific later date.

- b) The provisions of this subchapter shall apply to any person who sells household furniture in or from the State of New Jersey or to any person located outside of the State of New Jersey who sells household furniture into this State.
- c) It shall be unlawful for any person to use any contract or sales agreement that contains any terms, such as "all sales final," "no cancellations" or "no refunds," which violate or are

contrary to the rights and responsibilities provided for by this rule. Any contract or sales agreement which contains such a provision shall be null and void and unenforceable.

13:45A-5.4 VIOLATIONS; SANCTIONS

Without limiting the prosecution of any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., any violation of the provisions of this subchapter shall be subject to the sanctions contained in said Consumer Fraud Act.

Advertising

13:45A-9.2 GENERAL ADVERTISING PRACTICES

- a) Without limiting the application of N.J.S.A. 56:8-1 et seq., the following practices shall be unlawful with respect to all advertisements:
- 1) The failure of an advertiser to maintain and offer for immediate purchase advertised merchandise in a quantity sufficient to meet reasonably anticipated consumer demand therefor. When an advertisement states a specific period of time during which merchandise will be available for sale, a sufficient quantity of such merchandise shall be made available to meet reasonably anticipated consumer demand during the stated period. When no stated period appears in the advertisement, a sufficient quantity of merchandise shall be made available to meet reasonably anticipated consumer demand during three consecutive business days commencing with the effective date of the advertisement. The requirement of this subsection shall not be applicable to merchandise which is advertised:
 - i) On an in-store sign only with no corresponding out-of-store sign;
 - ii) As being available in a specific quantity; or
 - iii) As being available in a "limited supply," pursuant to a "closeout sale" or pursuant to a "clearance sale" if such offering meets the definition of a closeout sale; or if represented to be permanently reduced.
 - 2) The failure of an advertiser to specifically designate within an advertisement which merchandise items possess special or limiting factors relating to price, quality, condition or availability. By way of illustration, and not by limitation, the following shall be deemed violative of this sub-paragraph:
 - i) The failure to specifically designate which merchandise items are below cost, if any amount less than all advertised items are below cost, when a statement of below cost sales is set forth in an advertisement;
 - ii) The failure to specifically designate which merchandise items, if any, are damaged or in any way less than first quality condition;
 - iii) The failure to specifically designate merchandise as floor models, discontinued models or one of a kind, when applicable;

- iv) The failure to clearly designate or describe the retail outlets at which advertised merchandise will or will not be available. Such information need not be disclosed on any in-store advertisement.
- 3) The failure to conspicuously post notice of advertised merchandise, on the business premises to which the advertisement applies, in proximity to the advertised merchandise or at all entrances to the business premises. Such notice may consist of a copy of the advertisement or may take the form of a tag attached to the merchandise or any sign with such terms as "sale," "as advertised," "20% off."
- 4) In any price advertisement in which a home appliance is offered for sale, the failure of an advertiser to disclose the following information relating to the advertised merchandise: the manufacturer's name or the merchandise trade name, the model or series number and such other information as may be necessary to clearly delineate the advertised item from other similar merchandise produced by the same manufacturer.
- 5) The use of any type, size, location, lighting, illustration, graphic depiction or color resulting in the obscuring of any material fact. Disclaimers permitted or required under this section, such as "terms and conditions apply" and "quantities limited," shall be set forth in a type size and style that is clear and conspicuous relative to the other type sizes and styles used in the advertisement.
- 6) The use of the terms "Public Notice," "Public Sale" or words or terms of similar meaning in any advertisement offering merchandise for sale, where such sale is not required by court order or by operation of law, other than a sale conducted by an auctioneer on behalf of a nonbusiness entity.
- 7) Describing the advertiser through the use of the terms "warehouse," "factory outlet," "discount," "bargain," "clearance," "liquidators," "unclaimed freight," or other words or terms of similar meaning, whether in the advertiser's corporate, partnership or trade name or otherwise, where such terms do not reflect a bona fide description of the advertiser being described.
- 8) Whenever an advertiser provides a raincheck for an advertised item which is not available for immediate purchase, the failure to:
 - i) Honor or satisfy such raincheck within 60 days of issuance unless an extension of such time period is agreed to by the holder thereof or, if after a good faith effort an advertiser cannot procure for the holder of the raincheck the advertised merchandise within the 60-day period, failure to offer the holder of the raincheck a different item of merchandise of substantially the same kind, quality and price as the original advertised merchandise; and

- ii) Give written or telephonic notice to the holder thereof when the merchandise is available and hold such merchandise for not less than 10 days after giving such notice or to the end of the 60-day period for which the raincheck is valid, whichever is longer, for all merchandise with an advertised unit price greater than \$15.00;
- iii) Offer a raincheck to all customers who are unable, due to the unavailability thereof, to purchase the advertised merchandise during the period of time during which the merchandise has been advertised as available for sale; and
- iv) Conspicuously post its raincheck policy on a sign in at least one of the following locations:
 - (1) Affixed to a cash register or location of the point of sale;
 - (2) So situated as to be clearly visible to the buyer;
 - (3) Posted at each store entrance used by the public;
 - (4) At the location where the merchandise was offered for sale;
 - (5) In an advertisement for merchandise; or
 - (6) Printed on the receipt of sale.
- 9) The making of false or misleading representations of facts concerning the reasons for, existence or amounts of price reductions, the nature of an offering or the quantity of advertised merchandise available for sale.
- 10) The failure of an advertiser to substantiate through documents, records or other written proof any claim made regarding the safety, performance, availability, efficiency, quality or price of the advertised merchandise, nature of the offering or quantity of advertised merchandise available for sale. Such records shall be made available upon request for inspection by the Division or its designee at the advertiser's regular place of business or central office in New Jersey, or, at the advertiser's option, the Division's designated offices, for a period of 90 days following the effective date of the advertisement.
- 11) The use, directly or indirectly, of a comparison to a suggested retail price, inventory price, invoice price or similar terms that directly or indirectly compare or suggest the comparison between the cost of supply and the price at retail for the advertised merchandise.

- 12) Use of the term "cost," "wholesale" or other similar terms to describe an advertised price where such price is not equal to or less than the price per unit paid by the advertiser to the manufacturer or distributor of the merchandise. In the computation of the price per unit of the advertised merchandise, freight may be included if the advertiser pays for same and is not reimbursed therefore, but handling and all overhead or operating expenses shall be excluded.
- 13) The advertising of a free-to-pay conversion as a "risk free trial," or a "free trial," or as any other offer that requires the consumer to do nothing other than accept merchandise or a service without any obligation, unless the advertisement clearly states the length of the period the offer is without obligation or that terms and conditions apply.

13:45A-9.3 PRICE REDUCTION ADVERTISEMENTS; MERCHANDISE ADVERTISED AT A PRICE OF LESS THAN \$100.00

- a) An advertiser offering a price reduction on merchandise at a price of less than \$100.00 shall, in addition to complying with the provisions of N.J.A.C. 13:45A-9.2:
 - 1) State with specificity in any price reduction advertisement the period of time during which the price reduction shall be applicable, unless that merchandise is advertised in the manner set forth in N.J.A.C. 13:45A-9.2(a)1i through iii;
 - 2) Ensure that the amount of the price reduction is sufficiently large that the consumer, if he or she knew what the former price was, would believe that a genuine bargain or saving was being offered; and
 - 3) Comply with the provisions of N.J.A.C. 13:45A-9.4 if the advertisement makes reference to a former price or price range; however, this requirement shall not apply to merchandise discount offers made in accordance with N.J.A.C. 13:45A-9.8.

13:45A-9.4 PRICE REDUCTION ADVERTISEMENTS; ITEMS OF MERCHANDISE SPECIFICALLY ADVERTISED AT A PRICE OF MORE THAN \$100.00

- a) An advertiser offering an item of merchandise specifically advertised for sale at a price of \$100.00 or more shall, in addition to complying with the provisions of N.J.A.C. 13:45A-9.2:
 - 1) State the selling price or price range;
 - 2) State the former price or price range or the amount of the reduction in dollars;

- 3) State with specificity in any price reduction advertisement the period of time during which the price reduction shall be applicable, unless the merchandise is advertised in the manner set forth in N.J.A.C. 13:45A-9.2(a)1i through iii;
 - 4) Set forth the former price or price range or the amount of reduction in dollars in close proximity to the selling price or price range and the advertised item;
 - 5) Set forth the basis upon which the former price or price range or the amount of reduction in dollars was established in close proximity to the former price or price range of the advertised item. In this regard, terms such as "comparable value," "competitor's price," "our regular price," or words of similar import shall be used to designate the basis for the former price; and
 - 6) Set forth with specificity when in the remote past a former price of an item of merchandise was effective if it was not actively or openly offered for sale within the advertiser's trade area in the regular course of business during at least 28 of the 90 days before the effective date of the advertisement. In this regard, when advertising a seasonal sale, such as Christmas dishes, pool supplies, outdoor furniture, etc., actual dates, specific holidays or terms such as "last season," may be used to describe when the former price was used in the remote past.
- b) A former price or a selling price may be stated in terms of a price range when, and only when:
- 1) An advertiser operates more than one retail outlet at which advertised merchandise has been or will be available for purchase at different prices in the ordinary course of business. In such case, the price range shall be based upon the sales or offers of sale at the advertiser's retail outlets; or
 - 2) An advertiser advertises two or more items of comparable merchandise as available at reduced prices, in which case the price range shall be based upon former or usual selling prices of the advertised products.
 - i) The following examples would comply with this paragraph: "Regular price \$110 to \$125—On sale for \$100"; "Brand X 19" color TV—Regularly \$250 to \$300. Now \$150 to \$200."

13:45A-9.5 PRICE REDUCTION ADVERTISEMENTS; MERCHANDISE ADVERTISED AS A SAVINGS OF A PERCENTAGE OR A RANGE OF PERCENTAGES

- a) An advertiser offering merchandise for sale at a savings of a percentage or a range of percentages (such as "save 20% or 20% to 50% off") shall, in addition to complying with the provisions of N.J.A.C. 13:45A-9.2:
- 1) State the minimum percentage reduction as conspicuously (such as the same size print) as the maximum percentage reduction when applicable; and
 - 2) Set forth the basis upon which the former price was established pursuant to N.J.A.C. 13:45A-9.6(b), in close proximity to the percentage reduction. In this regard, terms such as "competitor's price" or "our regular price" or words of similar import shall be used to designate the basis for the former price.
- b) Percentage-off discounts made in accordance with N.J.A.C. 13:45A-9.8 shall be exempt from the requirements of (a) above.

13:45A-9.6 PRICING; PROHIBITION ON FICTITIOUS PRICING AND METHODS OF SUBSTANTIATION

- a) An advertiser shall not use a fictitious former price. Use of a fictitious former price will be deemed to be a violation of the Consumer Fraud Act.
- b) A former price or price range or the amount of reduction shall be deemed fictitious if it can not be substantiated, based upon proof:
- 1) Of a substantial number of sales of the advertised merchandise, or comparable merchandise of like grade or quality made within the advertiser's trade area in the regular course of business at any time within the most recent 60 days during which the advertised merchandise was available for sale prior to, or which were in fact made in the first 60 days during which the advertised merchandise was available for sale following the effective date of the advertisement;
 - 2) That the advertised merchandise, or comparable merchandise of like grade or quality, was actively and openly offered for sale at that price within the advertiser's trade area in the regular course of business during at least 28 days of the most recent 90 days before or after the effective date of the advertisement; or
 - 3) That the price does not exceed the supplier's cost plus the usual and customary mark-up used by the advertising merchant in the actual sale of the advertised merchandise or comparable merchandise of like grade or quality in the recent regular course of business.

- c) If the former price specifically references a time in the remote past during which it was offered, it shall be deemed fictitious unless substantiated pursuant to either (b)1 or 3 above.
- d) The following examples of fictitious pricing are provided for illustration only and are not intended to limit the types of advertising the Division shall consider to be fictitious:
 - 1) John Doe is a retailer of Brand X fountain pens which cost him \$5.00 each. His usual markup is 50 percent over cost. That is, his regular retail price is \$7.50. In order subsequently to offer an unusual "bargain," Doe temporarily raises the price of Brand X pens to \$10.00 each. In so doing, Doe realizes that he will only be able to sell a few pens, if any, at this inflated price. But he does not care, because he intends to maintain that price for only a few days. Then he "cuts" the artificially inflated price of \$10.00 to the usual price—\$7.50 at which time he advertises: "Terrific Bargain: X Pens, Were \$10, Now Only \$7.50." This is obviously a false claim. The advertised "bargain" is not genuine.
 - 2) Retailer Doe advertises Brand X pens as having a "Retail Price \$15.00, My Price \$7.50," when, in fact, only a few small suburban boutique-type stores in the area charge \$15.00. All of the larger outlets, like retailer Doe's, located in and around the main shopping areas charge approximately \$7.50. This advertisement would be deceptive because the price charged by the small suburban boutique or specialty stores would have no real significance to Doe's customers, to whom the advertisement of "Retail Value \$15.00" would suggest a prevailing, and not merely an isolated and unrepresentative price in the area in which they shop.
 - 3) Retailer Doe advertises Brand X pen as "Comparable Value \$15.00" when only a small number of unrepresentative specialty stores in the trade area offer Brand Y, an essentially similar pen, for that price. This is a related form of misleading advertising because the price of the comparable merchandise (that is, Brand Y), which is cited for comparison is not representative of the price for Brand Y being charged by representative retail outlets in the advertiser's trade area.

13:45A-9.7 APPLICATION OF REGULATION

- a) This subchapter shall apply to the following advertisements:
 - 1) Any advertisement uttered, issued, printed, disseminated or distributed within this State concerning goods and services advertised as available at locations exclusively within this State; and
 - 2) Any advertisement, other than radio and television broadcasts, issued, printed, disseminated or distributed to any substantial extent within this State concerning goods

and services advertised as available at locations within this State and outside this State;
and

- 3) Any advertisement, other than radio and television broadcasts, issued, printed, disseminated or distributed primarily within this State concerning goods and services advertised as available at locations exclusively outside this State; and
 - 4) Any radio and television broadcasts uttered, issued, disseminated or distributed primarily within this State and outside this State, or at locations exclusively outside this State.
- b) An advertiser, a manufacturer, an advertising agency and the owner or publisher of a newspaper, magazine, periodical, circular, billboard or radio or television station acting on behalf of an advertising seller shall be deemed an advertiser within the meaning of this subchapter, when such entity prepares or places an advertisement for publication. No such entity shall be liable for a violation of this subchapter when the entity reasonably relies upon data, information or materials supplied by an advertising seller for whom the advertisement is prepared or placed or when the violation is caused by an act, error or omission beyond the entity's control, including but not limited to, the post-publication performance of the advertising seller. Notwithstanding that an advertisement has been prepared or placed for publication by one of the aforementioned entities, the advertiser on whose behalf such advertisement was placed may be liable for any violation of this subchapter.
- c) An advertiser has no liability under this subchapter for a failure to comply with any requirement thereof if the advertiser shows by a preponderance of evidence that failure to comply resulted from actions of persons other than the advertiser which were not, or should not have been reasonably anticipated by the advertiser; or that such failure was the result of a labor strike or a natural disaster such as, but not limited to, fires, floods and earthquakes.
- d) If any provisions of this subchapter or the application thereof to any person or circumstances is held unconstitutional or beyond the statutory powers of the Attorney General, the remainder of this subchapter and the application of such provisions to other persons or circumstances shall not be affected.

13:45A-9.8 RETAIL DISCOUNTS IN SCANNER STORES; PERCENTAGE-OFF DISCOUNTS; POINT-OF-SALE DISCOUNTS; MULTI-TIERED PRICING OFFERS; TARGETED DISCOUNTS

- a) Retail establishments which use scanners that have the capability of providing percentage-off discounts, and wish to offer percentage-off discounts at the point of sale shall set forth the regular price and the price after any discounts are taken relating to the merchandise purchased by the consumer on the register receipt given to the consumer at the point of sale.

- b) An advertiser who offers a percentage-off discount is not required to disclose the basis of the percentage reduction or the regular price or price range in an advertisement pursuant to N.J.A.C. 13:45A-9.5 provided that:
- 1) The retail price per unit of merchandise is less than \$100.00; and
 - 2) The regular price and the price after any discounts are taken are set forth on the register receipt given to the consumer at the point of sale.
- c) An advertiser may discount merchandise at the point of sale without marking the merchandise with the discounted price provided that the following information is posted conspicuously in the form of a notice at the point of display:
- 1) A description of the merchandise or the range or category of merchandise and the price to which the discount shall apply;
 - 2) A notice that the discount will be taken at the time of purchase; and
 - 3) The specific amount or type of discount applicable, such as "\$10.00 off" or "25% off posted price."
- d) Advertisements and point of display materials involving multi-tiered pricing offers made by advertisers shall contain the following:
- 1) All retail prices or discounts comprising the offer and the types of purchases to which they apply, for example:
 - i) "Treefree Paper Towels—Get first roll at 79 2nd roll at 690 and each additional roll at 590";
 - ii) "Wonder Hot Dog Rolls—\$1.09 only; 790 with purchase of Plochman's Mustard"; and
 - 2) Any limitations applicable to the offer, such as the type, brand or size of the merchandise or restrictions on the number of units which may be purchased.
- e) Advertisements containing targeted discounts shall conspicuously state that the offer is limited to a certain category of consumer and shall specifically identify those consumers. If the merchandise to be discounted is also being advertised at a reduced price for all consumers, the advertisement shall clearly distinguish between the types of offers made by the advertiser and identify those consumers who are entitled to each offer.

- 1) Any targeted discounts or pricing information posted at the point of display shall clearly and conspicuously state that the offer is limited, and shall identify the customers who are entitled to take advantage of the offer.
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Consumer Fraud Act

56:8-2. Fraud, etc., in connection with sale or advertisement of merchandise or real estate as unlawful practice

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice; provided, however, that nothing herein contained shall apply to the owner or publisher of newspapers, magazines, publications or printed matter wherein such advertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher, or operator has no knowledge of the intent, design or purpose of the advertiser.

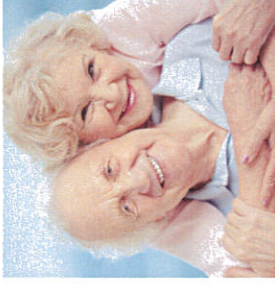
Consumer Fraud Act

56:8-14.3. Additional Penalties

Person with Disability or Senior Citizen over age of 60

2. a. In addition to any other penalty authorized by law, a person who violates the provisions of P.L.1960, c.39 (C.56:8-1 et seq.) shall be subject to additional penalties as follows:

- (1) A penalty of not more than \$10,000 if the violation caused the victim of the violation pecuniary injury and the person knew or should have known that the victim is a senior citizen or a person with a disability; or
- (2) A penalty of not more than \$30,000 if the violation was part of a scheme, plan, or course of conduct directed at senior citizens or persons with disabilities in connection with sales or advertisements.



Posting of Signs – Sales Tags



N.J.S.A. 56:8-2.5 Sale, attempt to sell or offer for sale of merchandise without tag or label with selling price

It shall be an unlawful practice for any person to sell, attempt to sell or offer for sale any merchandise at retail unless the total selling price of such merchandise is plainly marked by a stamp, tag, label or sign either affixed to the merchandise or located at the point where the merchandise is offered for sale.

N.J.S.A. 56:8-2.6 Daily failure to tag as separate violation

For the purposes of this act, each day for which the total selling price is not marked in accordance with the provisions of this act for each group of identical merchandise shall constitute a separate violation of this act and the act of which this act is a supplement.

Posting of Signs - Refund Policy

N.J.S.A. 56:8-2.16 / N.J.A.C. 13:45A 15.2 Posting of Signs

Every retail mercantile establishment shall conspicuously post its refund policy as to all merchandise on a sign in at least one of the following locations:

- a. Attached to the item itself, or
- b. Affixed to each cash register or point of sale, or
- c. So situated as to be clearly visible to the buyer from the cash register, or
- d. Posted at each store entrance used by the public.

13:45A-9.2 Gift Cards

56:8-110. Gift certificate, card, validity, terms, required; definitions

- a. A gift certificate or gift card sold after the effective date of this amendatory act shall retain full unused value until presented in exchange for merchandise, or shall have any and all conditions and limitations, as permitted in paragraphs (1) through (3) of this subsection, disclosed to the purchaser of the gift certificate or gift card at the time of purchase as provided in subsection b. of this section.
- b. (1) **In no case shall** the underlying funds associated with a **gift certificate or gift card expire within the 24 months** immediately following the date of sale.
- c. (2) **No dormancy fee** shall be charged **against a gift certificate or a gift card within the 24 months** immediately following the date of sale, nor shall one be charged within the 24 months immediately following the most recent activity or transaction in which the certificate or card was used.
- d. (3) **A dormancy fee** charged against a gift certificate or gift card as permitted by this subsection **shall not exceed \$2.00 per month.**

13:45A-9.2 Gift Cards

56:8-110. Gift certificate, card, validity, terms, required; definitions

- b. The terms of any expiration date or dormancy fee applicable to a gift certificate or gift card, as permitted by subsection a. of this section, shall be disclosed to a consumer by:
- (1) **written notice of the expiration date or dormancy fee or both printed in at least 10 point font**, on the gift certificate or gift card, or the sales receipt for the certificate or card, or the package for the certificate or card; and
 - (2) written notice, in at least 10 point font, on the gift certificate or gift card, or the sales receipt for the certificate or card, or the package for the certificate or card, of **a telephone number which the consumer may call, for information concerning any expiration date or dormancy fee**. c. Beginning September 1, 2012 if a stored value card deemed a gift card or gift certificate pursuant to section 5 of P.L.2010, c.25 (C.46:30B-42.1) is redeemed and a balance of less than \$5 remains on the card after redemption, at the owner's request the merchant or other entity redeeming the card shall refund the balance in cash to the owner.

13:45A-9.2 Gift Cards

56:8-110. Gift certificate, card, validity, terms, required; definitions

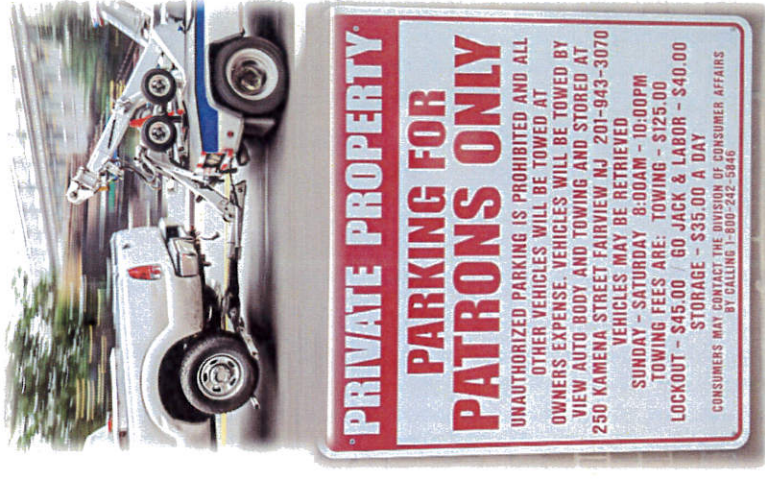
This subsection **shall not apply to**

- (1) a non-reloadable stored value card with an initial value of \$5 or less; or
- (2) a stored value card that is not purchased but is provided in lieu of a refund for returned merchandise; or
- (3) a stored value card that can be redeemed at multiple merchants that are not under common ownership or control, including but not limited to network-branded stored value cards; or
- (4) a rewards card; or
- (5) a stored value card that is donated or sold below face value to a nonprofit or charitable organization or an educational organization; or
- (6) a stored value card that is redeemable for admission to events or venues at a particular location or group of affiliated locations, or for goods or services in conjunction with admission to those events or venues, or both, at the event or venue or at specific locations affiliated with and in geographic proximity to the event or venue.

Private Property and Non-Consensual Towing

13:45A-31.6 Towing From Private Parking Lots

- Unattended cars can not be towed from private parking lots unless
 - There is a sign 36" by 36" Posted at entrances
 - Times and purpose when parking is permitted
 - Posted that unauthorized vehicles will be towed
 - Contact Information of the Towing Company, and when vehicle can be redeemed
 - NJ Consumer Affairs Telephone Number
 - Charge Amount for Tow and Storage Fees
- Written Contract between Property Owner & Tow Company
- Tow agency must secure vehicle
- Must be open 10AM - 6 PM
- Several other requirements



Consumer
Review
Fairness
Act



FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

Consumer Review Fairness Act: What Businesses Need to Know

TAGS: [Advertising and Marketing](#) | [Advertising and Marketing Basics](#) | [Endorsements](#) | [Online Advertising and Marketing](#)

The Consumer Review Fairness Act protects consumers' ability to share their honest opinions about a business's products, services, or conduct in any forum – and that includes social media. The FTC has tips to help your company comply with the law.

The Consumer Review Fairness Act (CRFA) protects people's ability to share their honest opinions about a business's products, services, or conduct, in any forum, including social media. Is your company complying?

Contracts that prohibit honest reviews, or threaten legal action over them, harm people who rely on reviews when making their purchase decisions. But another group is also harmed when others try to squelch honest negative reviews: businesses that work hard to earn positive reviews.

The [Consumer Review Fairness Act](#) was passed in response to reports that some businesses try to prevent people from giving honest reviews about products or services they received. Some companies put contract provisions in place, including in their online terms and conditions, that allowed them to sue or penalize consumers for posting negative reviews.

Here are some basic tips for complying with the law.

What kind of reviews does the law protect?

The law protects a broad variety of honest consumer assessments, including online reviews, social media posts, uploaded photos, videos, etc. And it doesn't just cover product reviews. It also applies to consumer evaluations of a company's customer service.

What does the Consumer Review Fairness Act prohibit?

In summary, the Act makes it illegal for a company to use a contract provision that:

1. bars or restricts the ability of a person who is a party to that contract to review a company's products, services, or conduct;
2. imposes a penalty or fee against someone who gives a review; or
3. requires people to give up their intellectual property rights in the content of their reviews.

What specific conduct is prohibited by the statute?

The Consumer Review Fairness Act makes it illegal for companies to include standardized provisions that threaten or penalize people for posting honest reviews. For example, in an online transaction, it would be illegal for a company to include a provision in its terms and conditions that prohibits or punishes negative reviews by customers. (The law doesn't apply to employment contracts or agreements with independent contractors, however.)

What can a company do to protect itself from inappropriate or irrelevant content?

The law says it's OK to prohibit or remove a review that:

1. contains confidential or private information – for example, a person's financial, medical, or personnel file information or a company's trade secrets;
2. is libelous, harassing, abusive, obscene, vulgar, sexually explicit, or is inappropriate with respect to race, gender, sexuality, ethnicity, or other intrinsic characteristic;
3. is unrelated to the company's products or services; or
4. is clearly false or misleading.

However, it's unlikely that a consumer's assessment or opinion with which you disagree meets the "clearly false or misleading" standard.

What's the penalty for violating the Consumer Review Fairness Act?

Congress gave enforcement authority to the Federal Trade Commission and the state Attorneys General. The law specifies that a violation of the CRFA will be treated the same as violating an FTC rule defining an unfair or deceptive act or practice. This means that your company could be subject to financial penalties, as well as a federal court order.

To make sure your company is complying with the Consumer Review Fairness Act:

- Review your form contracts, including online terms and conditions; and

- Remove any provision that restricts people from sharing their honest reviews, penalizes those who do, or claims copyright over peoples' reviews (even if you've never tried to enforce it or have no intention of enforcing it).

The wisest policy: Let people speak honestly about your products and their experience with your company.

Opportunity to Comment

The National Small Business Ombudsman and 10 Regional Fairness Boards collect comments from small businesses about federal compliance and enforcement activities. Each year, the Ombudsman evaluates the conduct of these activities and rates each agency's responsiveness to small businesses. Small businesses can comment to the Ombudsman without fear of reprisal. To comment, call toll-free 1-888-REGFAIR (1-888-734-3247) or go to www.sba.gov/ombudsman.

February 2017



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H.R.5111 - Consumer Review Fairness Act of 2016

114th Congress (2015-2016)

Sponsor: [Rep. Lance, Leonard \[R-NJ-7\]](#) (Introduced 04/28/2016)
Committees: House - Energy and Commerce
Committee Reports: [H. Rept. 114-731](#)
Latest Action: 12/14/2016 Became Public Law No: 114-258. ([TXT](#) | [PDF](#)) ([All Actions](#))

Tracker: Introduced Passed House Passed Senate To President **Became Law**

Summary: H.R.5111 — 114th Congress (2015-2016)

[All Information](#) (Except Text)

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There are 5 summaries for H.R.5111. [Public Law \(12/14/2016\)](#)



[Bill summaries](#) are authored by [CRS](#).

Shown Here:

Public Law No: 114-258 (12/14/2016)

(This measure has not been amended since it was reported to the House on September 9, 2016. The summary of that version is repeated here.)

Consumer Review Fairness Act of 2016

(Sec. 2) This bill makes a provision of a form contract void from the inception if it: (1) prohibits or restricts an individual who is a party to such a contract from engaging in written, oral, or pictorial reviews, or other similar performance assessments or analyses of, including by electronic means, the goods, services, or conduct of a person that is also a party to the contract; (2) imposes penalties or fees against individuals who engage in such communications; or (3) transfers or requires the individual to transfer intellectual property rights in review or feedback content (with the exception of a nonexclusive license to use the content) in any otherwise lawful communications about such person or the goods or services provided by such person.

A "form contract" is a contract with standardized terms: (1) used by a person in the course of selling or leasing the person's goods or services, and (2) imposed on an individual without a meaningful opportunity to negotiate the standardized terms. The definition excludes an employer-employee or independent contractor contract.

The standards under which provisions of a form contract are considered void under this bill shall not be construed to affect:

- legal duties of confidentiality;
- civil actions for defamation, libel, or slander; or

- a party's right to establish terms and conditions for the creation of photographs or video of such party's property when those photographs or video are created by an employee or independent contractor of a commercial entity and are solely intended to be used for commercial purposes by that entity.

Such standards also shall not be construed to affect any party's right to remove or refuse to display publicly on an Internet website or webpage owned, operated, or controlled by such party content that: (1) contains the personal information or likeness of another person or is libelous, harassing, abusive, obscene, vulgar, sexually explicit, inappropriate with respect to race, gender, sexuality, ethnicity, or other intrinsic characteristic; (2) is unrelated to the goods or services offered by or available at such party's website; or (3) is clearly false or misleading.

A provision shall not be considered void under this bill to the extent that it prohibits disclosure or submission of, or reserves the right of a person or business that hosts online consumer reviews or comments to remove, certain: (1) trade secrets or commercial or financial information; (2) personnel and medical files; (3) law enforcement records; (4) content that is unlawful or that a party has a right to remove or refuse to display; or (5) computer viruses or other potentially damaging computer code, processes, applications, or files.

A person is prohibited from offering form contracts containing a provision that is considered void under this bill.

Enforcement authority is provided to the Federal Trade Commission (FTC) and states.

The FTC must provide businesses with nonbinding best practices for compliance.

Nothing in this bill shall be construed to limit, impair, or supersede the Federal Trade Commission Act or any other federal law.

Public Law 114–258
114th Congress

An Act

To prohibit the use of certain clauses in form contracts that restrict the ability of a consumer to communicate regarding the goods or services offered in interstate commerce that were the subject of the contract, and for other purposes.

Dec. 14, 2016

[H.R. 5111]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Consumer
Review Fairness
Act of 2016.
15 USC 58 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Consumer Review Fairness Act of 2016”.

SEC. 2. CONSUMER REVIEW PROTECTION.

15 USC 45b.

(a) **DEFINITIONS.**—In this section:

(1) **COMMISSION.**—The term “Commission” means the Federal Trade Commission.

(2) **COVERED COMMUNICATION.**—The term “covered communication” means a written, oral, or pictorial review, performance assessment of, or other similar analysis of, including by electronic means, the goods, services, or conduct of a person by an individual who is party to a form contract with respect to which such person is also a party.

(3) **FORM CONTRACT.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term “form contract” means a contract with standardized terms—

(i) used by a person in the course of selling or leasing the person’s goods or services; and

(ii) imposed on an individual without a meaningful opportunity for such individual to negotiate the standardized terms.

(B) **EXCEPTION.**—The term “form contract” does not include an employer-employee or independent contractor contract.

(4) **PICTORIAL.**—The term “pictorial” includes pictures, photographs, video, illustrations, and symbols.

(b) **INVALIDITY OF CONTRACTS THAT IMPEDE CONSUMER REVIEWS.**—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), a provision of a form contract is void from the inception of such contract if such provision—

(A) prohibits or restricts the ability of an individual who is a party to the form contract to engage in a covered communication;

(B) imposes a penalty or fee against an individual who is a party to the form contract for engaging in a covered communication; or

(C) transfers or requires an individual who is a party to the form contract to transfer to any person any intellectual property rights in review or feedback content, with the exception of a non-exclusive license to use the content, that the individual may have in any otherwise lawful covered communication about such person or the goods or services provided by such person.

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to affect—

(A) any duty of confidentiality imposed by law (including agency guidance);

(B) any civil cause of action for defamation, libel, or slander, or any similar cause of action;

(C) any party's right to remove or refuse to display publicly on an Internet website or webpage owned, operated, or otherwise controlled by such party any content of a covered communication that—

(i) contains the personal information or likeness of another person, or is libelous, harassing, abusive, obscene, vulgar, sexually explicit, or is inappropriate with respect to race, gender, sexuality, ethnicity, or other intrinsic characteristic;

(ii) is unrelated to the goods or services offered by or available at such party's Internet website or webpage; or

(iii) is clearly false or misleading; or

(D) a party's right to establish terms and conditions with respect to the creation of photographs or video of such party's property when those photographs or video are created by an employee or independent contractor of a commercial entity and solely intended for commercial purposes by that entity.

(3) EXCEPTIONS.—Paragraph (1) shall not apply to the extent that a provision of a form contract prohibits disclosure or submission of, or reserves the right of a person or business that hosts online consumer reviews or comments to remove—

(A) trade secrets or commercial or financial information obtained from a person and considered privileged or confidential;

(B) personnel and medical files and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(C) records or information compiled for law enforcement purposes, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(D) content that is unlawful or otherwise meets the requirements of paragraph (2)(C); or

(E) content that contains any computer viruses, worms, or other potentially damaging computer code, processes, programs, applications, or files.

(c) PROHIBITION.—It shall be unlawful for a person to offer a form contract containing a provision described as void in subsection (b).

(d) ENFORCEMENT BY COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of subsection (c) by a person with respect to which the Commission is empowered under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) POWERS OF COMMISSION.—

(A) IN GENERAL.—The Commission shall enforce this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(B) PRIVILEGES AND IMMUNITIES.—Any person who violates this section shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(e) ENFORCEMENT BY STATES.—

(1) AUTHORIZATION.—Subject to paragraph (2), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person subject to subsection (c) in a practice that violates such subsection, the attorney general of the State may, as *parens patriae*, bring a civil action on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate relief.

(2) RIGHTS OF FEDERAL TRADE COMMISSION.—

(A) NOTICE TO FEDERAL TRADE COMMISSION.—

(i) IN GENERAL.—Except as provided in clause (iii), the attorney general of a State shall notify the Commission in writing that the attorney general intends to bring a civil action under paragraph (1) before initiating the civil action against a person described in subsection (d)(1).

(ii) CONTENTS.—The notification required by clause (i) with respect to a civil action shall include a copy of the complaint to be filed to initiate the civil action.

(iii) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notification required by clause (i) before initiating a civil action under paragraph (1), the attorney general shall notify the Commission immediately upon instituting the civil action.

(B) INTERVENTION BY FEDERAL TRADE COMMISSION.—
The Commission may—

(i) intervene in any civil action brought by the attorney general of a State under paragraph (1) against a person described in subsection (d)(1); and

(ii) upon intervening—

(I) be heard on all matters arising in the civil action; and

(II) file petitions for appeal of a decision in the civil action.

(3) INVESTIGATORY POWERS.—Nothing in this subsection may be construed to prevent the attorney general of a State

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from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary or other evidence.

(4) **PREEMPTIVE ACTION BY FEDERAL TRADE COMMISSION.**—If the Federal Trade Commission institutes a civil action or an administrative action with respect to a violation of subsection (c), the attorney general of a State may not, during the pendency of such action, bring a civil action under paragraph (1) against any defendant named in the complaint of the Commission for the violation with respect to which the Commission instituted such action.

(5) **VENUE; SERVICE OF PROCESS.**—

(A) **VENUE.**—Any action brought under paragraph (1) may be brought in—

(i) the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code; or

(ii) another court of competent jurisdiction.

(B) **SERVICE OF PROCESS.**—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(6) **ACTIONS BY OTHER STATE OFFICIALS.**—

(A) **IN GENERAL.**—In addition to civil actions brought by attorneys general under paragraph (1), any other consumer protection officer of a State who is authorized by the State to do so may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.

(B) **SAVINGS PROVISION.**—Nothing in this subsection may be construed to prohibit an authorized official of a State from initiating or continuing any proceeding in a court of the State for a violation of any civil or criminal law of the State.

Deadline.

(f) **EDUCATION AND OUTREACH FOR BUSINESSES.**—Not later than 60 days after the date of the enactment of this Act, the Commission shall commence conducting education and outreach that provides businesses with non-binding best practices for compliance with this Act.

(g) **RELATION TO STATE CAUSES OF ACTION.**—Nothing in this section shall be construed to affect any cause of action brought by a person that exists or may exist under State law.

(h) **SAVINGS PROVISION.**—Nothing in this section shall be construed to limit, impair, or supersede the operation of the Federal Trade Commission Act or any other provision of Federal law.

Applicability.

(i) **EFFECTIVE DATES.**—This section shall take effect on the date of the enactment of this Act, except that—

(1) subsections (b) and (c) shall apply with respect to contracts in effect on or after the date that is 90 days after the date of the enactment of this Act; and

(2) subsections (d) and (e) shall apply with respect to contracts in effect on or after the date that is 1 year after the date of the enactment of this Act.

Approved December 14, 2016.

LEGISLATIVE HISTORY—H.R. 5111:

HOUSE REPORTS: No. 114-731 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 162 (2016):

Sept. 12, considered and passed House.

Nov. 28, considered and passed Senate.



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