

JAN 23 2009

A BILL FOR AN ACT

RELATING TO DECEPTIVE TRADE PRACTICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. Section 481A-3, Hawaii Revised Statutes, is
2 amended to read as follows:
- 3 "~~§~~481A-3 ~~[+]~~ **Deceptive trade practices.** (a) A person
4 engages in a deceptive trade practice when, in the course of the
5 person's business, vocation, or occupation, the person:
- 6 (1) Passes off goods or services as those of another;
- 7 (2) Causes likelihood of confusion or of misunderstanding
8 as to the source, sponsorship, approval, or
9 certification of goods or services;
- 10 (3) Causes likelihood of confusion or of misunderstanding
11 as to affiliation, connection, or association with, or
12 certification by, another;
- 13 (4) Uses deceptive representations or designations of
14 geographic origin in connection with goods or
15 services;
- 16 (5) Represents that goods or services have sponsorship,
17 approval, characteristics, ingredients, uses,



- 1 benefits, or quantities that they do not have or that
2 a person has a sponsorship, approval, status,
3 affiliation, or connection that the person does not
4 have;
- 5 (6) Represents that goods are original or new if they are
6 deteriorated, altered, reconditioned, reclaimed, used,
7 or secondhand;
- 8 (7) Represents that goods or services are of a particular
9 standard, quality, or grade, or that goods are of a
10 particular style or model, if they are of another;
- 11 (8) Disparages the goods, services, or business of another
12 by false or misleading representation of fact;
- 13 (9) Advertises goods or services with intent not to sell
14 them as advertised;
- 15 (10) Advertises goods or services with intent not to supply
16 reasonably expectable public demand, unless the
17 advertisement discloses a limitation of quantity;
- 18 (11) Makes false or misleading statements of fact
19 concerning the reasons for, existence of, or amounts
20 of price reductions; [e]



1 (12) Advertises goods or services that are unlawful under
2 any federal, state, or county law, ordinance, rule, or
3 regulation; or

4 [~~(12)~~] (13) Engages in any other conduct which similarly
5 creates a likelihood of confusion or of
6 misunderstanding.

7 (b) In order to prevail in an action under this chapter, a
8 complainant need not prove competition between the parties or
9 actual confusion or misunderstanding.

10 (c) This section does not affect unfair trade practices
11 otherwise actionable at common law or under other statutes of
12 this State."

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun, before its effective date.

18 SECTION 4. This Act shall take effect on July 1, 2009.

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J. P. Singh

INTRODUCED BY:

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S.S.T.

Report Title:

Trade Regulation; Commercial Activity; Deceptive Trade Practices; Advertising

Description:

Clarifies prohibition on deceptive trade practices to prohibit advertisement of goods or services that violate any federal, state, or county law, ordinance, rule, or regulation.

