

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 ENGROSSED SENATE  
5 BILL NO. 871

By: Floyd of the Senate

6 and

7 Blancett of the House

8  
9 An Act relating to consumer protection; amending 15  
10 O.S. 2021, Section 753, which relates to unlawful  
11 practices; prohibiting misrepresentation as a state  
12 agency or an affiliate; and providing an effective  
13 date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 15 O.S. 2021, Section 753, is  
16 amended to read as follows:

17 Section 753. A person engages in a practice which is declared  
18 to be unlawful under the Oklahoma Consumer Protection Act when, in  
19 the course of the person's business, the person:

20 1. Represents, knowingly or with reason to know, that the  
21 subject of a consumer transaction is of a particular make or brand,  
22 when it is of another;

1           2. Makes a false or misleading representation, knowingly or  
2 with reason to know, as to the source, sponsorship, approval, or  
3 certification of the subject of a consumer transaction;

4           3. Makes a false or misleading representation, knowingly or  
5 with reason to know, as to affiliation, connection, association  
6 with, or certification by another;

7           4. Makes a false or misleading representation or designation,  
8 knowingly or with reason to know, of the geographic origin of the  
9 subject of a consumer transaction;

10          5. Makes a false representation, knowingly or with reason to  
11 know, as to the characteristics, ingredients, uses, benefits,  
12 alterations, or quantities of the subject of a consumer transaction  
13 or a false representation as to the sponsorship, approval, status,  
14 affiliation or connection of a person therewith;

15          6. Knowingly or with reason to know, makes a false or  
16 misleading representation or designation as a state agency or an  
17 affiliate of a state agency through advertisement or publication;

18          7. Represents, knowingly or with reason to know, that the  
19 subject of a consumer transaction is original or new if the person  
20 knows that it is reconditioned, reclaimed, used, or secondhand;

21          ~~7.~~ 8. Represents, knowingly or with reason to know, that the  
22 subject of a consumer transaction is of a particular standard, style  
23 or model, if it is of another;

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1       ~~8.~~ 9. Advertises, knowingly or with reason to know, the subject  
2 of a consumer transaction with intent not to sell it as advertised;

3       ~~9.~~ 10. Advertises, knowingly or with reason to know, the  
4 subject of a consumer transaction with intent not to supply  
5 reasonably expected public demand, unless the advertisement  
6 discloses a limitation of quantity;

7       ~~10.~~ 11. Advertises under the guise of obtaining sales personnel  
8 when in fact the purpose is to sell the subject of a consumer  
9 transaction to the sales personnel applicants;

10       ~~11.~~ 12. Makes false or misleading statements of fact, knowingly  
11 or with reason to know, concerning the price of the subject of a  
12 consumer transaction or the reason for, existence of, or amounts of  
13 price reduction;

14       ~~12.~~ 13. Employs "bait and switch" advertising, which consists  
15 of an offer to sell the subject of a consumer transaction which the  
16 seller does not intend to sell, which advertising is accompanied by  
17 one or more of the following practices:

- 18           a. refusal to show the subject of a consumer transaction  
19               advertised,  
20           b. disparagement of the advertised subject of a consumer  
21               transaction or the terms of sale,  
22           c. requiring undisclosed tie-in sales or other  
23               undisclosed conditions to be met prior to selling the  
24               advertised subject of a consumer transaction,

1 d. refusal to take orders for the subject of a consumer  
2 transaction advertised for delivery within a  
3 reasonable time,

4 e. showing or demonstrating defective subject of a  
5 consumer transaction which the seller knows is  
6 unusable or impracticable for the purpose set forth in  
7 the advertisement,

8 f. accepting a deposit for the subject of a consumer  
9 transaction and subsequently charging the buyer for a  
10 higher priced item, or

11 g. willful failure to make deliveries of the subject of a  
12 consumer transaction within a reasonable time or to  
13 make a refund therefor upon the request of the  
14 purchaser;

15 ~~13.~~ 14. Conducts a closing out sale without having first  
16 obtained a license as required in the Oklahoma Consumer Protection  
17 Act;

18 ~~14.~~ 15. Resumes the business for which the closing out sale was  
19 conducted within thirty-six (36) months from the expiration date of  
20 the closing out sale license;

21 ~~15.~~ 16. Falsely states, knowingly or with reason to know, that  
22 services, replacements or repairs are needed;

23 ~~16.~~ 17. Violates any provision of the Oklahoma Health Spa Act;

24 ~~17.~~ 18. Violates any provision of the Home Repair Fraud Act;

1       ~~18.~~ 19. Violates any provision of the Consumer Disclosure of  
2 Prizes and Gifts Act;

3       ~~19.~~ 20. Violates any provision of Section 755.1 of this title  
4 or Section 1847a of Title 21 of the Oklahoma Statutes;

5       ~~20.~~ 21. Commits an unfair or deceptive trade practice as  
6 defined in Section 752 of this title;

7       ~~21.~~ 22. Violates any provision of Section 169.1 of Title 8 of  
8 the Oklahoma Statutes in fraudulently or intentionally failing or  
9 refusing to honor the contract to provide certain cemetery services  
10 specified in the contract entered into pursuant to the Perpetual  
11 Care Fund Act;

12       ~~22.~~ 23. Misrepresents a mail solicitation as an invoice or as a  
13 billing statement;

14       ~~23.~~ 24. Offers to purchase a mineral or royalty interest  
15 through an offer that resembles an oil and gas lease and that the  
16 consumer believed was an oil and gas lease;

17       ~~24.~~ 25. Refuses to honor gift certificates, warranties, or any  
18 other merchandise offered by a person in a consumer transaction  
19 executed prior to the closing of the business of the person without  
20 providing a purchaser a means of redeeming such merchandise or  
21 ensuring the warranties offered will be honored by another person;

22       ~~25.~~ 26. Knowingly causes a charge to be made by any billing  
23 method to a consumer for services which the person knows was not  
24 authorized in advance by the consumer;

1       ~~26.~~ 27. Knowingly causes a charge to be made by any billing  
2 method to a consumer for a product or products which the person  
3 knows was not authorized in advance by the consumer;

4       ~~27.~~ 28. Violates Section 752A of this title;

5       ~~28.~~ 29. Makes deceptive use of another's name in notification  
6 or solicitation, as defined in Section 752 of this title;

7       ~~29.~~ 30. Falsely states or implies that any person, product or  
8 service is recommended or endorsed by a named third person;

9       ~~30.~~ 31. Falsely states that information about the consumer,  
10 including but not limited to, the name, address or phone number of  
11 the consumer has been provided by a third person, whether that  
12 person is named or unnamed;

13       ~~31.~~ 32. Acting as a debt collector, contacts a debtor and  
14 threatens to file a suit against the debtor over a debt barred by  
15 the statute of limitations which has passed for filing suit for such  
16 debt; or

17       ~~32.~~ 33. Acting as a debt collector, contacts a debtor and uses  
18 obscene or profane language to collect a debt.

19       SECTION 2. This act shall become effective November 1, 2023.

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21 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated  
22 04/05/2023 - DO PASS.

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