

1 **SENATE FLOOR VERSION**

2 February 20, 2023

3 SENATE BILL NO. 871

By: Floyd

4  
5  
6 An Act relating to consumer protection; amending 15  
7 O.S. 2021, Section 753, which relates to unlawful  
8 practices; prohibiting misrepresentation as a state  
9 agency or an affiliate; and providing an effective  
10 date.

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

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

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

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

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

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

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

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

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

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

18 ~~7.~~ 8. Represents, knowingly or with reason to know, that the  
19 subject of a consumer transaction is of a particular standard, style  
20 or model, if it is of another;

21 ~~8.~~ 9. Advertises, knowingly or with reason to know, the subject  
22 of a consumer transaction with intent not to sell it as advertised;

23 ~~9.~~ 10. Advertises, knowingly or with reason to know, the  
24 subject of a consumer transaction with intent not to supply

1 reasonably expected public demand, unless the advertisement  
2 discloses a limitation of quantity;

3 ~~10.~~ 11. Advertises under the guise of obtaining sales personnel  
4 when in fact the purpose is to sell the subject of a consumer  
5 transaction to the sales personnel applicants;

6 ~~11.~~ 12. Makes false or misleading statements of fact, knowingly  
7 or with reason to know, concerning the price of the subject of a  
8 consumer transaction or the reason for, existence of, or amounts of  
9 price reduction;

10 ~~12.~~ 13. Employs "bait and switch" advertising, which consists  
11 of an offer to sell the subject of a consumer transaction which the  
12 seller does not intend to sell, which advertising is accompanied by  
13 one or more of the following practices:

- 14 a. refusal to show the subject of a consumer transaction  
15 advertised,
- 16 b. disparagement of the advertised subject of a consumer  
17 transaction or the terms of sale,
- 18 c. requiring undisclosed tie-in sales or other  
19 undisclosed conditions to be met prior to selling the  
20 advertised subject of a consumer transaction,
- 21 d. refusal to take orders for the subject of a consumer  
22 transaction advertised for delivery within a  
23 reasonable time,

24

- 1 e. showing or demonstrating defective subject of a  
2 consumer transaction which the seller knows is  
3 unusable or impracticable for the purpose set forth in  
4 the advertisement,
- 5 f. accepting a deposit for the subject of a consumer  
6 transaction and subsequently charging the buyer for a  
7 higher priced item, or
- 8 g. willful failure to make deliveries of the subject of a  
9 consumer transaction within a reasonable time or to  
10 make a refund therefor upon the request of the  
11 purchaser;

12 ~~13.~~ 14. Conducts a closing out sale without having first  
13 obtained a license as required in the Oklahoma Consumer Protection  
14 Act;

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

18 ~~15.~~ 16. Falsely states, knowingly or with reason to know, that  
19 services, replacements or repairs are needed;

20 ~~16.~~ 17. Violates any provision of the Oklahoma Health Spa Act;

21 ~~17.~~ 18. Violates any provision of the Home Repair Fraud Act;

22 ~~18.~~ 19. Violates any provision of the Consumer Disclosure of  
23 Prizes and Gifts Act;

24

1       ~~19.~~ 20. Violates any provision of Section 755.1 of this title  
2 or Section 1847a of Title 21 of the Oklahoma Statutes;

3       ~~20.~~ 21. Commits an unfair or deceptive trade practice as  
4 defined in Section 752 of this title;

5       ~~21.~~ 22. Violates any provision of Section 169.1 of Title 8 of  
6 the Oklahoma Statutes in fraudulently or intentionally failing or  
7 refusing to honor the contract to provide certain cemetery services  
8 specified in the contract entered into pursuant to the Perpetual  
9 Care Fund Act;

10       ~~22.~~ 23. Misrepresents a mail solicitation as an invoice or as a  
11 billing statement;

12       ~~23.~~ 24. Offers to purchase a mineral or royalty interest  
13 through an offer that resembles an oil and gas lease and that the  
14 consumer believed was an oil and gas lease;

15       ~~24.~~ 25. Refuses to honor gift certificates, warranties, or any  
16 other merchandise offered by a person in a consumer transaction  
17 executed prior to the closing of the business of the person without  
18 providing a purchaser a means of redeeming such merchandise or  
19 ensuring the warranties offered will be honored by another person;

20       ~~25.~~ 26. Knowingly causes a charge to be made by any billing  
21 method to a consumer for services which the person knows was not  
22 authorized in advance by the consumer;

23

24

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.

20       COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE  
21       February 20, 2023 - DO PASS