

2020 -- S 2440

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --
DECEPTIVE TRADE PRACTICES

Introduced By: Senators Lombardo, Lombardi, McKenney, and Coyne

Date Introduced: February 13, 2020

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 6-13.1-4, 6-13.1-5, 6-13.1-5.2 and 6-13.1-8 of the General Laws in
2 Chapter 6-13.1 entitled "Deceptive Trade Practices" are hereby amended to read as follows:

3 **6-13.1-4. Exemptions.**

4 [\(a\)](#) Nothing in this chapter shall apply to actions or transactions permitted under laws
5 administered by the department of business regulation or other regulatory body or officer acting
6 under statutory authority of this state or the United States.

7 [\(b\) For actions brought by the attorney general, the exemption set forth in subsection \(a\)](#)
8 [of this section applies only if the person claiming the exemption shows that:](#)

9 [\(1\) The person's business activities are subject to regulation by a state or federal agency;](#)
10 [and](#)

11 [\(2\) The activity or conduct is in compliance with the orders or rules of, or statutes](#)
12 [administered by a federal, state, or local government agency.](#)

13 **6-13.1-5. Restraining prohibited acts.**

14 (a) Whenever the attorney general has reason to believe that any person is using, has used,
15 or is about to use any method, act, or practice declared to be unlawful by § 6-13.1-2, and that
16 proceedings would be in the public interest, the attorney general may bring an action in the name
17 of the state against the person to restrain by temporary or permanent injunction the use of the
18 method, act, or practice, upon the giving of appropriate notice to that person. The notice must

1 generally state the relief sought and be served in accordance with § 6-13.1-7 and at least three (3)
2 days before the hearing of the action.

3 (b) The action may be brought in the superior court of the county in which the person shall
4 dwell or be found; or have his principal place of business; or with consent of the parties; or if the
5 person is a nonresident or has no principal place of business within this state or if the superior court
6 shall not be in session in the counties previously said to be applicable, may be brought in the
7 superior court of Providence County. The superior courts are authorized to issue temporary or
8 permanent injunctions to restrain and prevent violations of this chapter and the injunctions shall be
9 issued without bond.

10 (c) The court may make any additional orders or judgments that may be necessary to restore
11 to any person in interest any moneys or property, real or personal, that may have been acquired by
12 means of any practice in this chapter declared to be unlawful, including the appointment of a
13 receiver in any case where the superior court finds that the assets of a corporation are in danger of
14 being misapplied, dissipated, wasted, or lost, or the revocation of a license or certificate authorizing
15 that person to engage in business in this state, or both.

16 (d) Actions under this chapter may be brought without regard to the pendency of criminal
17 proceedings arising out of the same acts or practices and no action shall bar the institution of
18 criminal proceedings arising out of the same acts or practices. No involuntary admission by any
19 person in the action shall be admissible in any subsequent criminal proceeding.

20 (e) Any person who violates the terms of an injunction issued under this section shall forfeit
21 and pay to the state a civil penalty or not more than ten thousand dollars (\$10,000) per violation.
22 For the purposes of this section, the superior court of a county issuing an injunction shall retain
23 jurisdiction, and the cause shall be continued, and in those cases the attorney general, acting in the
24 name of the state, may petition for recovery of civil penalties.

25 **6-13.1-5.2. Private and class actions.**

26 (a) Any person who purchases or leases goods or services primarily for personal, family,
27 or household purposes and thereby suffers any ascertainable loss of money or property, real or
28 personal, as a result of the use or employment by another person of a method, act, or practice
29 declared unlawful by § 6-13.1-2, may bring an action under the rules of civil procedure in the
30 superior court of the county in which the seller or lessor resides; is found; has his or her principal
31 place of business or is doing business; or in the superior court of the county as is otherwise provided
32 by law, to recover actual damages or two hundred dollars (\$200), whichever is greater. The court
33 may, in its discretion, award punitive damages and may provide other equitable relief that it deems
34 necessary or proper.

1 (b) Persons entitled to bring an action under subsection (a) of this section may, if the
2 unlawful method, act, or practice has caused similar injury to numerous other persons similarly
3 situated and if they adequately represent the similarly situated persons, bring an action on behalf
4 of themselves and other similarly injured and situated persons to recover damages as provided for
5 in subsection (a) of this section. In any action brought under this section, the court may in its
6 discretion order, in addition to damages, injunctive or other equitable relief.

7 (c) Upon commencement of any action brought under subsection (a) or (b) of this section,
8 the clerk of court shall mail a copy of the complaint or other initial pleading to the attorney general
9 and, upon entry of any judgment or decree in the action, shall mail a copy of the judgment or decree
10 to the attorney general.

11 (d) In any action brought by a person under this section, the court may award, in addition
12 to the relief provided in this section, reasonable attorney's fees and costs.

13 (e) Any permanent injunction, judgment, or order of the court made under § 6-13.1-5 shall
14 be prima facie evidence in an action brought under this section that the respondent used or
15 employed a method, act, or practice declared unlawful by § 6-13.1-2.

16 **6-13.1-8. Civil penalties.**

17 Any person who ~~violates the terms of an injunction issued under § 6-13.1-5~~, in the conduct
18 of trade or commerce, uses unfair methods of competition and unfair or deceptive acts or practices
19 as defined by § 6-13.1-1 shall forfeit and pay to the state a civil penalty of not more than ten
20 thousand dollars (\$10,000) per violation. ~~For the purposes of this section, the superior court of a~~
21 ~~county issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in those~~
22 ~~cases the~~ The attorney general, acting in the name of the state, may petition for recovery of civil
23 penalties.

24 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --
DECEPTIVE TRADE PRACTICES

- 1 This act would amend the deceptive trade practices chapter to clarify the law's exemptions
- 2 and would enhance the attorney general's authority to seek civil penalties for violations of the law.
- 3 This act would take effect upon passage.

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