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Unfair Sales Practices and Consumer Fraud

Unfair sales practices have existed for as long as people have been buying and selling goods. Long before there was any law protecting consumers, the rule was “buyer beware.” Careful shopping still is your best protection.

- Be careful about the person or firm selling the goods or services.
- Be careful about the quality of the goods or services.
- Be careful about the price and terms of payment.

What does signing a contract mean?

Signing a contract means you read it, understood it, and agreed with it. This is usually true even if you haven’t or couldn’t read it. This usually is true even if you were physically or mentally impaired. If you don’t understand a contract, get individual legal advice before signing.

There are cases where someone was so impaired that signing the contract was no good. With a few exceptions, once you sign a contract, it is valid and can be enforced right away. There is no “three day cooling off” period, except in the following cases.

- Home solicitation sales (door-to-door sales), that is, a sale made away from the seller’s place of business.
- Home mortgages which are not “purchase money mortgages,” that is, a mortgage not taken out to buy the house.

Are there laws that protect people who buy things?

When you buy something, the seller must tell the truth. The seller can’t use any trick or falsehood. Since 1977, Virginia has had a Consumer Protection Act. This law says certain practices are fraudulent and unlawful. Among other practices, a seller may not do these things.

- Falsely state the type, source or quality of a product or service.
- Fail to state that a used, secondhand, repossessed or defective product is used, secondhand, repossessed or defective.
- Fail to sell at an advertised price.
- Falsely state that a product costs a certain price somewhere else, or previously had a certain price.
- Falsely state that a repair or service was done, or a part was installed.

- Fail to state all conditions and charges for returning goods for refund, exchange or credit.

- Fail to state all conditions and charges for a layaway agreement.
- Use any deception, fraud, false pretense, false promise, or misrepresentation.
- Violating any of more than two dozen other consumer protection laws.

If a seller does an unlawful act, you may sue the seller for your damages, or \$500, whichever is greater. If the seller's act was done on purpose, you may sue the seller for three times your damages or \$1,000, whichever is greater.

What is consumer fraud?

Sellers can't make false and material (important) statements of fact, with the intent that you rely on them. A sale may be fraudulent if all the following are true.

- The seller made a false statement of fact (not an expression of opinion).
- The seller knew the statement of fact was false.
- The seller knew you relied on the false statement of fact.
- You relied on the false statement of fact.
- You were injured because you relied on the false statement of fact

If you are harmed by fraud, you can sue for your damages. However, it is harder to prove fraud than it is to prove that a consumer protection law was violated.

Are there other consumer protection laws?

In addition to the Consumer Protection Act and the rules against fraud, Virginia has more than 45 laws about unfair sales. This article describes some of the more important laws.

What is the Home Solicitation Sales Act?

This law covers a sale or rental of a product or service done at any place other than that of the seller's business. Sometimes, this is called a "door-to-door" sale. The seller must give you a statement of your right to cancel the sale. The seller also must give you a separate form that you can use to cancel the sale. You have the right to cancel the sale until midnight of the third business day after you got the statement and the form. Saturday is a business day. Sundays and legal holidays are not business days. You must cancel by a written notice.

Within ten days after you cancel, the seller must give you back any money or trade-in. Until the seller does this, you may keep any product from the seller. If the seller doesn't ask for the product back within twenty days after you cancel, you may keep the product. You also may sue the seller for your damages, or \$500, whichever is greater.

What is the Automobile Repairs Facilities Act?

Before any repair work is done on your car which may cost more than \$25, you have the

right to ask for a written estimate. The estimate does not have to be given to you before 10:00 a.m. or after 4:00 p.m. This estimate must tell you these things.

- The work to be done.
- The costs of parts and labor.
- The time by which the work will be done.

No charge for car repair work can be greater than ten percent of the written estimate. You have the right to have replaced parts returned to you. A car repair shop must post a sign that tells you about these rights. If the law is violated, you may sue for your damages, or \$500, whichever is greater.

What is the Lease-Purchase Agreement Act?

This law covers rent-to-own contracts. If you enter a rent-to-own contract, you must be given a written agreement. The agreement must say these things.

- The number, amount and timing of all payments you must make to own the property.
- That you will not own the property until you make all the payments.
- The cash price of the property.
- That you may buy the property.
- That you may end the agreement without penalty by returning the property and making all past due payments.
- Your right to reinstate (or restore) the agreement if you break it.

If you don't make a payment on time, you have five days to reinstate the agreement. You do this by paying all past due payments, any costs of pickup and delivery, and any late fees. If the law is violated, you may sue for your damages, or \$500, whichever is greater.

What is the Prizes and Gifts Act?

This law covers prizes and gifts, and contests to win prizes and gifts. A seller can't say you have won anything of value unless you get the prize or gift for free, and with no duty to pay anything. This includes language such as "You have won," or "You are the winner of." A seller also can't say you have a chance to win a prize or gift unless you are told these things.

- The value of the prize or gift.
- The actual number of prizes or gifts.
- Your chances of winning each prize or gift.

If the law is violated, you may sue for your damages, or \$500, whichever is greater.

What is the Pay-Per-Call Services Act?

This law covers any telephone call to a "900" number for which you are charged a fee.

Before you make a “900” call, you must be told the cost per minute, or flat rate cost, for the call; the average length of a call needed to get the service; and whether more calls are needed to get full service. If the law is violated, you may sue for your damages, or \$500, whichever is greater.

What is a scam?

Many of these laws were passed to protect people against scams. A scam is a trick or deception which tries to convince you that you will get something of great value for little or nothing. The best thing to remember about scams is this: “If it seems too good to be true, it probably is too good to be true.”

Is there a government agency that can help me?

The Office of the Attorney General of Virginia has a Consumer Protection Section. You may call their Consumer Protection Hotline toll-free at (800) 552-9963, if calling from Virginia. You also may call at (804) 786-2042, if calling from the Richmond area or from outside Virginia. Their business hours are 8:30 a.m. to 5:00 p.m., Monday through Friday.

The Consumer Protection Section handles problems between individuals and businesses. They do not handle problems between individuals where no business or merchant is involved. They also do not handle problems about products or services intended for business use.

The Consumer Protection Section does not give legal advice or representation. They do not file lawsuits for individuals. However, they will look into your complaint and try to solve your problem. To get their help, you need to send them an Official Consumer Complaint Form. You may get this by writing to the Office of the Attorney General of Virginia - Consumer Protection Section, 900 East Main Street, Richmond, VA 23219. You also may get the form by calling the Consumer Protection Hotline. You can find the form at the web site: <http://www.oag.state.va.us/files/ConsumerComplaintFormOAG.pdf>

How do I complain to the Consumer Protection Section of the Office of the Attorney General?

You should fill out the complaint form as completely and accurately as possible. When you are done, make a copy for yourself. Mail back the original complaint form, copies of all your papers about the complaint, and copies of your complaint letters.

When the Consumer Protection Section gets your complaint form, they should contact the business named in the complaint. They will ask the business to help solve the problem. The Consumer Protection Section will tell you about their actions. They will give the business 30 to 45 days to respond. If the problem can't be solved in 45 days, you will be told this and get advice about other things to do. This includes filing a lawsuit in the General District Court.