

Introduced: 2/2/65
Referred: Judiciary

1 IN THE SENATE

RULES COMMITTEE
BY REQUEST OF THE GOVERNOR

2 SENATE BILL NO. 63

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act prohibiting Deceptive Trade
7 Practices; and providing for an effective
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 45.50 is amended by adding new sections to
11 read:

12 ARTICLE 5. DECEPTIVE TRADE PRACTICES

13 Sec. 45.50.600. DEFINITIONS. As used in this Act,
14 unless the context otherwise requires:

15 (1) "article" means a product as distinguished
16 from its trademark, label, or distinctive dress in packaging;

17 (2) "certification mark" means a mark used in con-
18 nection with the goods or services of a person other than the
19 certifier to indicate geographic origin, material, mode of
20 manufacture, quality, accuracy, or other characteristics of
21 the goods or services or to indicate that the work or labor
22 on the goods or services was performed by members of a union
23 or other organization;

24 (3) "collective mark" means a mark used by members
25 of a cooperative, association, or other collective group or
26 organization to identify goods or services and distinguish
27 them from those of others, or to indicate membership in the
28 collective group or organization;

29 (4) "mark" means a word, name, symbol, device, or

1 any combination of the foregoing in any form or arrangement;

2 (5) "person" means an individual, corporation,
3 government, or governmental subdivision or agency, business
4 trust, estate, trust, partnership, unincorporated association,
5 two or more of any of the foregoing having a joint or common
6 interest, or any other legal or commercial entity;

7 (6) "service mark" means a mark used by a person
8 to identify services and to distinguish them from the services
9 of others;

10 (7) "trademark" means a mark used by a person to
11 identify goods and to distinguish them from the goods of
12 others;

13 (8) "trade name" means a word, name, symbol, de-
14 vice, or any combination of the foregoing in any form or
15 arrangement used by a person to identify his business, voca-
16 tion, or occupation and distinguish it from the business,
17 vocation, or occupation of others.

18 Sec. 45.50.610. ✓ DECEPTIVE TRADE PRACTICES. (a) A
19 person engages in a deceptive trade practice when, in the
20 course of his business, vocation or occupation, he:

21 (1) passes off goods or services as those of
22 another;

23 (2) causes likelihood of confusion or of misunder-
24 standing as to the source, sponsorship, approval, or certifi-
25 cation of goods or services;

26 (3) causes likelihood of confusion or of misunder-
27 standing as to affiliation, connection, or association with,
28 or certification by, another;

29 (4) uses deceptive representations or designations

1 of geographic origin in connection with goods or services;

2 (5) represents that goods or services have sponsor-
3 ship, approval, characteristics, ingredients, uses, benefits,
4 or quantities that they do not have or that a person has a
5 sponsorship, approval, status, affiliation, or connection
6 that he does not have;

7 (6) represents that goods are original or new if
8 they are deteriorated, altered, reconditioned, reclaimed,
9 used, or secondhand;

10 (7) represents that goods or services are of a
11 particular standard, quality, or grade, or that goods are of
12 a particular style or model, if they are of another;

13 (8) disparages the goods, services, or business of
14 another by false or misleading representation of fact;

15 (9) advertises goods or services with intent not
16 to sell them as advertised;

17 (10) advertises goods or services with intent not
18 to supply reasonably expectable public demand, unless the
19 advertisement discloses a limitation of quantity;

20 (11) makes false or misleading statements of fact
21 concerning the reasons for, existence of, or amounts of price
22 reductions; or

23 (12) engages in any other conduct which similarly
24 creates a likelihood of confusion or of misunderstanding.

25 (b) In order to prevail in an action under this Act, a
26 complainant need not prove competition between the parties or
27 actual confusion or misunderstanding.

28 (c) This section does not affect unfair trade practices
29 otherwise actionable at common law or under other statutes of

1 this state.

2 Sec. 45.50.620. ✓ REMEDIES. (a) A person likely to be
3 damaged by a deceptive trade practice of another may be
4 granted an injunction against it under the principles of
5 equity and on terms that the court considers reasonable.
6 Proof of monetary damage, loss of profits, or intent to de-
7 ceive is not required. Relief granted from the copying of an
8 article shall be limited to the prevention of confusion or
9 misunderstanding as to source.

10 (b) The relief provided in this section is in addition
11 to remedies otherwise available against the same conduct
12 under the common law or other statutes of this state.

13 Sec. 45.50.630. ✓ APPLICATION. (a) This Act does not
14 apply to:

15 (1) conduct in compliance with the orders or rules
16 of, or a statute administered by, a federal, state, or local
17 governmental agency;

18 (2) publishers, broadcasters, printers, or other
19 persons engaged in the dissemination of information or
20 reproduction of printed or pictorial matter who publish,
21 broadcast, or reproduce material without knowledge of its
22 deceptive character; or

23 (3) actions or appeals pending on the effective
24 date of this Act.

25 (b) AS 45.50.610(a)(2) and (a)(3) do not apply to the
26 use of a service mark, trademark, certification mark, collec-
27 tive mark, trade name, or other trade identification that was
28 used and not abandoned before the effective date of this Act,
29 if the use was in good faith and is otherwise lawful except

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for this Act.

Sec. 45.50.640. SHORT TITLE. This Act may be cited as
the Uniform Deceptive Trade Practices Act.

* Sec. 2. This Act takes effect on the day after its passage
and approval or on the day it becomes law without such approval.