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Judiciary

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1 IN THE HOUSE

2 HOUSE BILL NO. 193

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act prohibiting deceptive trade practices; and
7 providing for an effective date."

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

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

10 ARTICLE 5. DECEPTIVE TRADE PRACTICES.

11 Sec. 45.50.600. DECEPTIVE TRADE PRACTICES. (a) A person engages
12 in a deceptive trade practice when, in the course of his business,
13 vocation or occupation, he

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

15 (2) causes likelihood of confusion or of misunderstanding as
16 to the source, sponsorship, approval, or certification of goods or
17 services;

18 (3) causes likelihood of confusion or of misunderstanding
19 as to affiliation, connection, or association with, or certification
20 by, another;

21 (4) uses deceptive representations or designations of
22 geographic origin in connection with goods or services;

23 (5) represents that goods or services have sponsorship, ap-
24 proval, characteristics, ingredients, uses, benefits, or quantities
25 that they do not have or that a person has a sponsorship, approval,
26 status, affiliation, or connection that he does not have;

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

29 (7) represents that goods or services are of a particular

1 standard, quality, or grade, or that goods are of a particular style or
2 model, if they are of another;

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

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

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

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

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

14 (b) In order to prevail in an action under secs. 600 - 640 of
15 this chapter, a complainant need not prove competition between the
16 parties or actual confusion or misunderstanding.

17 (c) This section does not affect unfair trade practices otherwise
18 actionable at common law or under other statutes of this state.

19 Sec. 45.50.610. REMEDIES. (a) A person likely to be damaged by
20 a deceptive trade practice of another may be granted an injunction
21 against it under the principles of equity and on terms that the court
22 considers reasonable. Proof of monetary damage, loss of profits, or
23 intent to deceive is not required. Relief granted from the copying of
24 an article shall be limited to the prevention of confusion or misunder-
25 standing as to source.

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

29 Sec. 45.50.620. APPLICATION. (a) Secs. 600 - 640 of this chapter

1 do not apply to

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

4 (2) publishers, broadcasters, printers, or other persons
5 engaged in the dissemination of information or reproduction of printed
6 or pictorial matter who publish, broadcast, or reproduce material with-
7 out knowledge of its deceptive character; or

8 (3) actions or appeals pending on the effective date of secs.
9 600 - 640 of this chapter.

10 (b) Sec. 600(a)(2) and (a)(3) of this chapter do not apply to
11 the use of a service mark, trademark, certification mark, collective
12 mark, trade name, or other trade identification that was used and not
13 abandoned before the effective date of secs. 600 - 640 of this chapter
14 if the use was in good faith and is otherwise lawful except for secs.
15 600 - 640 of this chapter.

16 Sec. 45.50.630. SHORT TITLE. Secs. 600 - 640 of this chapter
17 may be cited as the Uniform Deceptive Trade Practices Act.

18 Sec. 45.50.640. DEFINITIONS. In secs. 600 - 640 of this chapter
19 unless the context otherwise requires

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

22 (2) "certification mark" means a mark used in connection with
23 the goods or services of a person other than the certifier to indicate
24 geographic origin, material, mode of manufacture, quality, accuracy, or
25 other characteristics of the goods or services or to indicate that the
26 work or labor on the goods or services was performed by members of a
27 union or other organization;

28 (3) "collective mark" means a mark used by members of a
29 cooperative, association, or other collective group or organization to

1 identify goods or services and distinguish them from those of others,
2 or to indicate membership in the collective group or organization;

3 (4) "mark" means a word, name, symbol, device, or any
4 combination of the foregoing in any form or arrangement;

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

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

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

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

18 * Sec. 2. This Act takes effect on the day after its passage and ap-
19 proval or on the day it becomes law without approval.