

CHAPTER 76

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 00-080

BY SENATORS Perlmutter, Anderson, Dennis, and Dyer;
also REPRESENTATIVES Spradley, Clapp, Coleman, Gagliardi, Hagedorn, Kester, Leyba, Stengel, Tapia, and S. Williams.

AN ACT

CONCERNING PROTECTIONS AGAINST UNFAIR BUSINESS PRACTICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 6-1-102 (2.7), Colorado Revised Statutes, is amended to read:

6-1-102. Definitions. As used in this article, unless the context otherwise requires:

(2.7) "Buyers' club" means any person engaged in advertising or selling memberships ~~which~~ THAT provide an exclusive right to members to purchase ~~merchandise~~ GOODS, FOOD, SERVICES, OR PROPERTY at ~~alleged~~ PURPORTED discount prices.

SECTION 2. 6-1-304 (1) (c) (II), Colorado Revised Statutes, is amended to read:

6-1-304. Unlawful telemarketing practices. (1) A commercial telephone seller engages in an unlawful telemarketing practice when, in the course of any commercial telephone solicitation, the seller:

(c) Fails to refund all payments made by any purchaser in any telephone sales transaction within thirty days after the commercial telephone seller receives notice of cancellation from the purchaser; except that:

(II) If the purchaser has received services, INCLUDING THOSE RECEIVED during the course of a pay-per-call service call, which services cannot, by their nature, be returned, the commercial telephone seller is not required to refund payments to the purchaser;

SECTION 3. 6-1-708 (1) (a) and (2), Colorado Revised Statutes, are amended

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

to read:

6-1-708. Motor vehicle sales and leases - deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(a) Commits any of the following acts pertaining to the sale OR LEASE of a motor vehicle or a used motor vehicle:

(I) Guarantees to a purchaser OR LESSEE of a motor vehicle or used motor vehicle who conditions such purchase OR LEASE on the approval of a consumer credit ~~sale~~ TRANSACTION as defined in section ~~5-2-104~~ 5-1-301 (6.5), C.R.S., ~~or a consumer loan as defined in section 5-3-104, C.R.S.~~, that such purchaser OR LESSEE has been approved for ~~either a consumer credit sale or a consumer loan~~ TRANSACTION if such approval is not final. For purposes of this subparagraph (I), "guarantee" means a written document or oral representation between the purchaser OR LESSEE and the person selling OR LEASING the vehicle that leads such purchaser OR LESSEE to a reasonable good faith belief that the financing of such vehicle is certain.

(II) Accepts a used motor vehicle as a trade-in on the purchase OR LEASE of a motor vehicle or used motor vehicle and sells OR LEASES such used motor vehicle before the purchaser OR LESSEE has been approved for a consumer credit ~~sale~~ TRANSACTION as defined in section ~~5-2-104~~ 5-1-301 (6.5), C.R.S., ~~or a consumer loan as defined in section 5-3-104, C.R.S.~~, if such approval is a condition of the purchase OR LEASE;

(III) Fails to return to the purchaser OR LESSEE any collateral or down payment tendered by such purchaser OR LESSEE conditioned upon a guarantee by a motor vehicle or used motor vehicle dealer that a consumer credit ~~sale~~ TRANSACTION as defined in section ~~5-2-104~~ 5-1-301 (6.5), C.R.S., ~~or a consumer loan as defined in section 5-3-104, C.R.S.~~, has been approved for such purchaser OR LESSEE, if such approval was a condition of the sale OR LEASE and if such financing is not approved and the purchaser OR LESSEE is required to return the vehicle;

(2) For purposes of this section, if a motor vehicle or used motor vehicle dealer guarantees financing and if approval for financing is a condition of the sale OR LEASE, such motor vehicle or used motor vehicle dealer shall not retain any portion of such purchaser's down payment or any trade-in vehicle as payment of rent on any vehicle released by such dealer to such purchaser pending approval of financing even if such dealer has obtained a waiver of such purchaser's right to return a vehicle or has contracted for a rental agreement with such purchaser.

SECTION 4. The introductory portion to 6-4-110 (1), Colorado Revised Statutes, is amended to read:

6-4-110. Civil discovery request. (1) When the attorney general has reasonable cause to believe that any person has engaged in or is engaging in a violation of any provision of this article OR OF ANY PROVISION OF THE FEDERAL ANTITRUST STATUTES THAT MAY BE ENFORCED BY THE ATTORNEY GENERAL, the attorney general may:

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 30, 2000