

# HOUSE BILL No. 4189

February 15, 1989, Introduced by Reps. Miller, Bartnik, Middaugh, Gubow, Perry Bullard, Hickner, Gnodtke, Kosteva, Ciaramitaro, Johnson, Bandstra, Gilmer, Martin, Dolan, Fitzgerald, Willis Bullard, Strand, Kilpatrick, Leland, Berman, Gire, Watkins, Barns, Stabenow, Munsell, Honigman, London, Emmons, Sparks, Camp, Randall and Palamara and referred to the Committee on Consumers.

A bill to amend section 3 of Act No. 331 of the Public Acts of 1976, entitled  
"Michigan consumer protection act,"  
being section 445.903 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 3 of Act No. 331 of the Public Acts of  
2 1976, being section 445.903 of the Michigan Compiled Laws, is  
3 amended to read as follows:

4       Sec. 3. (1) Unfair, unconscionable, or deceptive methods,  
5 acts or practices in the conduct of trade or commerce are unlaw-  
6 ful and are defined as follows:

7       (a) Causing a probability of confusion or misunderstanding  
8 as to the source, sponsorship, approval, or certification of  
9 goods or services.

1       (b) Using deceptive representations or deceptive  
2 designations of geographic origin in connection with goods or  
3 services.

4       (c) Representing that goods or services have sponsorship,  
5 approval, characteristics, ingredients, uses, benefits, or quan-  
6 tities which they do not have or that a person has sponsorship,  
7 approval, status, affiliation, or connection which he OR SHE does  
8 not have.

9       (d) Representing that goods are new if they are deterio-  
10 rated, altered, reconditioned, used, or secondhand.

11       (e) Representing that goods or services are of a particular  
12 standard, quality, or grade, or that goods are of a particular  
13 style or model, if they are of another.

14       (f) Disparaging the goods, services, business, or reputation  
15 of another by false or misleading representation of fact.

16       (g) Advertising or representing goods or services with  
17 intent not to dispose of those goods or services as advertised or  
18 represented.

19       (h) Advertising goods or services with intent not to supply  
20 reasonably expectable public demand, unless the advertisement  
21 discloses a limitation of quantity in immediate conjunction with  
22 the advertised goods or services.

23       (i) Making false or misleading statements of fact concerning  
24 the reasons for, existence of, or amounts of, price reductions.

25       (j) Representing that a part, replacement, or repair service  
26 is needed when it is not.

1 (k) Representing to a party to whom goods or services are  
2 supplied that the goods or services are being supplied in  
3 response to a request made by or on behalf of the party, when  
4 they are not.

5 (l) Misrepresenting that because of some defect in a  
6 consumer's home the health, safety, or lives of the consumer or  
7 his family are in danger if the product or services are not pur-  
8 chased, when in fact the defect does not exist or the product or  
9 services would not remove the danger.

10 (m) Causing a probability of confusion or of misunderstand-  
11 ing with respect to the authority of a salesperson, representa-  
12 tive, or agent to negotiate the final terms of a transaction.

13 (n) Causing a probability of confusion or of misunderstand-  
14 ing as to the legal rights, obligations, or remedies of a party  
15 to a transaction.

16 (o) Causing a probability of confusion or of misunderstand-  
17 ing as to the terms or conditions of credit if credit is extended  
18 in a transaction.

19 (p) Disclaiming or limiting the implied warranty of mer-  
20 chantability and fitness for use, unless a disclaimer is clearly  
21 and conspicuously disclosed.

22 (q) Representing or implying that the subject of a consumer  
23 transaction will be provided promptly, or at a specified time, or  
24 within a reasonable time, if the merchant knows or has reason to  
25 know it will not be so provided.

26 (r) Representing that a consumer will receive goods or  
27 services "free", "without charge", or words of similar import

1 without clearly and conspicuously disclosing with equal  
2 prominence in immediate conjunction with the use of those words  
3 the conditions, terms, or prerequisites to the use or retention  
4 of the goods or services advertised.

5 (s) Failing to reveal a material fact, the omission of which  
6 tends to mislead or deceive the consumer, and which fact could  
7 not reasonably be known by the consumer.

8 (t) Entering into a consumer transaction in which the con-  
9 sumer waives or purports to waive a right, benefit, or immunity  
10 provided by law, unless the waiver is clearly stated and the con-  
11 sumer has specifically consented to it.

12 (u) Failing, in a consumer transaction which is rescinded,  
13 canceled, or otherwise terminated in accordance with the terms of  
14 an agreement, advertisement, representation, or provision of law,  
15 to promptly restore to the person or persons entitled thereto any  
16 deposit, down payment, or other payment, or in the case of prop-  
17 erty traded in but not available, the greater of the agreed value  
18 or the fair market value of the property, or to cancel within a  
19 specified time or an otherwise reasonable time an acquired secur-  
20 ity interest.

21 (v) Taking or arranging for the consumer to sign an acknowl-  
22 edgement, certificate, or other writing affirming acceptance,  
23 delivery, compliance with a requirement of law, or other per-  
24 formance, if the merchant knows or has reason to know that the  
25 statement is not true.

26 (w) Representing that a consumer will receive a rebate,  
27 discount, or other benefit as an inducement for entering into a

1 transaction, if the benefit is contingent on an event to occur  
2 subsequent to the consummation of the transaction.

3 (x) Taking advantage of the consumer's inability reasonably  
4 to protect his OR HER interests by reason of disability, illiter-  
5 acy, or inability to understand the language of an agreement  
6 presented by the other party to the transaction who knows or rea-  
7 sonably should know of the consumer's inability.

8 (y) Gross discrepancies between the oral representations of  
9 the seller and the written agreement covering the same transac-  
10 tion or failure of the other party to the transaction to provide  
11 the promised benefits.

12 (z) Charging the consumer a price which is grossly in excess  
13 of the price at which similar property or services are sold.

14 (aa) Causing coercion and duress as the result of the time  
15 and nature of a sales presentation.

16 (bb) Making a representation of fact or statement of fact  
17 material to the transaction such that a person reasonably  
18 believes the represented or suggested state of affairs to be  
19 other than it actually is.

20 (cc) Failing to reveal facts which are material to the  
21 transaction in light of representations of fact made in a posi-  
22 tive manner.

23 (DD) VIOLATING THE TRAVEL PROMOTION CONSUMER PROTECTION ACT.

24 (2) The attorney general may promulgate rules to implement  
25 this act pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
26 Act No. 306 of the Public Acts of 1969, as amended, being  
27 sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled

1 Laws. The rules shall not create any additional unfair trade  
2 practices not already enumerated by this section.

3 Section 2. This amendatory act shall not take effect unless  
4 Senate Bill No. \_\_\_\_\_ or House Bill No. <sup>4188</sup>\_\_\_\_\_ (request  
5 no. 00817'89) of the 85th Legislature is enacted into law.