

SHOPPING REFORM AND MODERNIZATION ACT (EXCERPT)
Act 15 of 2011

***** 445.315.new THIS NEW SECTION IS EFFECTIVE SEPTEMBER 1, 2011 *****

445.315.new Untrue, deceptive, or misleading advertisement; "not first class" defined.

Sec. 5. (1) A person shall not knowingly make, publish, disseminate, circulate, or place before the public an advertisement that contains a statement or representation that is untrue, deceptive, or misleading.

(2) A failure to sell goods, merchandise, or commodities in the manner advertised, or a refusal to sell at the price at which they are advertised or in accordance with other terms and conditions of the advertisement, creates a rebuttable presumption of an intent to violate this act.

(3) For purposes of this section, the extent to which an advertising fails to reveal facts that are material in light of the representations made or suggested in a positive manner shall be considered in determining whether the advertising is deceptive or misleading.

(4) A person shall not make, publish, disseminate, circulate, or place before the public an advertisement with the intent, design, or purpose not to sell the goods, merchandise, or commodities at the price stated in the advertisement or otherwise communicated, or with intent not to sell the goods, merchandise, or commodities included in the advertisement.

(5) A person shall not advertise, call attention to, or give publicity to the sale of goods, merchandise, or commodities that the person knows are not first class, if the manufacturer of those goods, merchandise, or commodities has rejected them as not first class, unless there is displayed directly in connection with the name and description of the goods, merchandise, or commodities, a direct and unequivocal statement, phrase, or word that clearly indicates that the advertised goods, merchandise, or commodities are seconds or are blemished goods, merchandise, or commodities, or have been rejected by the manufacturer of the goods, merchandise, or commodities. For purposes of this section, goods, merchandise, or commodities that are advertised, offered for sale, and sold as a unit or set consisting of more than 1 part or piece are sufficiently identified as not first class if advertised, offered for sale, and sold as a unit or set at the single price advertised, and are displayed in connection with a direct and unequivocal statement, phrase, or word identifying the goods as not first class. As used in this subsection, "not first class" means the goods, merchandise, or commodities are substantially defective or consist of articles or units or parts commonly referred to as seconds or blemished goods, merchandise, or commodities.

History: 2011, Act 15, Eff. Sept. 1, 2011.