



UNDERSTANDING THE TEXAS DECEPTIVE TRADE PRACTICES ACT

by Texas Attorney General Greg Abbott

“OUR REMEDY CURES ARTHRITIS AND CANCER in seven days!”

“Resolve your outstanding debts! With our product, you’ll only have to pay your creditors 30 percent of what you owe!”

When a vendor or salesman uses false statements, duress, exaggerations or misleading advertisements to win a Texan’s business, he or she violates the Texas Deceptive Trade Practices Act (DTPA).

Vendors may violate the DTPA by claiming their product does something it does not or cannot do. In April, the Office of the Attorney General (OAG) charged the California based I Freedom, Inc., with violating the DTPA for selling supplies and instructions on how to install devices that promised to convert water to fuel, reduce fuel costs, increase gas mileage and enhance engine performance. Investigators have discovered no evidence that I Freedom’s claims are true.

Companies also violate the DTPA when they take advantage of a customer’s lack of knowledge or language comprehension. In March, the OAG reached an agreement with a Houston auto dealer after customers complained that they were misled into signing lease agreements when they believed they were actually purchasing vehicles.

Investigators learned that salespeople targeted customers who did not speak and read English well.

The OAG protects Texans by filing civil enforcement actions under the DTPA and other consumer protection statutes. Businesses must comply with the law when they interact with customers.

Complaints filed with the OAG may form the basis for a state investigation into a company’s business practices. In some cases, significant numbers of complaints about a business may give rise to legal action to enforce state law and protect the public interest. The decision to investigate or take legal action is based on a number of factors.

Enforcement actions are filed on behalf of the State of Texas and the public good. The OAG cannot represent individual Texans, but some legal actions do produce restitution for customers. For example, in April, the OAG reached an agreement with the owners of Extreme Fitness and Wellness, Inc., who were court-ordered to repay hundreds of customers who pre-paid their gym membership dues. The owners of the Lubbock fitness spa violated the DTPA by collecting about \$40,700 in advance membership dues for a health club that never opened.

The DTPA covers the sale, lease and

distribution of nearly all goods and services, with the exception of professional advice. Providers of professional advice would not be cited under the DTPA if opinions they give clients turn out to be “wrong.” For example, an attorney could not be sued for deceptive trade practices for advising a client to file a lawsuit that ultimately failed.

Consumer education is a vital part of the OAG’s mission. The best consumer protection is widespread public awareness of consumer rights and common scams. Texans who believe they have been subject to deceptive trade practices should file a complaint with the OAG and retain as much evidence of wrongdoing as possible, including brochures, advertisements, records of related transactions and notes about conversations with company representatives.

Texans who relied on a deceptive practice to their detriment also should make every effort to remedy the situation with the vendor. They should send a certified, return receipt letter to the vendor outlining the problem and what the company should do to make the situation right. If that fails, Texans may also consider suing in small claims court or consulting an attorney about civil litigation.

POINTS TO REMEMBER



DECEPTIVE TRADE PRACTICES ACT

Examples of deceptive trade practices include:

- False or misleading advertising
- Exaggerating or misrepresenting the benefits or endorsements of a product or service
- Making false statements about the manufacture or origin of a good/service
- Passing off used products as new ones
- Lying about the need for repairs or parts
- Making false, negative accusations toward a competitor
- Price gouging in the wake of a disaster or catastrophe

The Office of the Attorney General may take legal action to enforce state consumer protection laws. To file a complaint, contact:

**Office of Attorney General
Consumer Protection Division Hotline**
(800) 252-8011
www.texasattorneygeneral.gov



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