

AMENDMENTS TO LB1037

Introduced by Brewer, 43.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 87-302, Revised Statutes Cumulative Supplement,
4 2022, is amended to read:

5 87-302 (a) A person engages in a deceptive trade practice when, in
6 the course of his or her business, vocation, or occupation, he or she:

7 (1) Passes off goods or services as those of another;

8 (2) Causes likelihood of confusion or of misunderstanding as to the
9 source, sponsorship, approval, or certification of goods or services;

10 (3) Causes likelihood of confusion or of misunderstanding as to
11 affiliation, connection, or association with, or certification by,
12 another;

13 (4) Uses deceptive representations or designations of geographic
14 origin in connection with goods or services;

15 (5) Represents that goods or services have sponsorship, approval,
16 characteristics, ingredients, uses, benefits, or quantities that they do
17 not have or that a person has a sponsorship, approval, status,
18 affiliation, or connection that he or she does not have;

19 (6) Represents that goods or services do not have sponsorship,
20 approval, characteristics, ingredients, uses, benefits, or quantities
21 that they have or that a person does not have a sponsorship, approval,
22 status, affiliation, or connection that he or she has;

23 (7) Represents that goods are original or new if they are
24 deteriorated, altered, reconditioned, reclaimed, used, or secondhand,
25 except that sellers may repair damage to and make adjustments on or
26 replace parts of otherwise new goods in an effort to place such goods in
27 compliance with factory specifications;

1 (8) Represents that goods or services are of a particular standard,
2 quality, or grade, or that goods are of a particular style or model, if
3 they are of another;

4 (9) Disparages the goods, services, or business of another by false
5 or misleading representation of fact;

6 (10) Advertises goods or services with intent not to sell them as
7 advertised or advertises the price in any manner calculated or tending to
8 mislead or in any way deceive a person;

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

12 (12) Makes false or misleading statements of fact concerning the
13 reasons for, existence of, or amounts of price reductions;

14 (13) Uses or promotes the use of or establishes, operates, or
15 participates in a pyramid promotional scheme in connection with the
16 solicitation of such scheme to members of the public. This subdivision
17 shall not be construed to prohibit a plan or operation, or to define a
18 plan or operation as a pyramid promotional scheme, based on the fact that
19 participants in the plan or operation give consideration in return for
20 the right to receive compensation based upon purchases of goods,
21 services, or intangible property by participants for personal use,
22 consumption, or resale so long as the plan or operation does not promote
23 or induce inventory loading and the plan or operation implements an
24 appropriate inventory repurchase program;

25 (14) With respect to a sale or lease to a natural person of goods or
26 services purchased or leased primarily for personal, family, household,
27 or agricultural purposes, uses or employs any referral or chain referral
28 sales technique, plan, arrangement, or agreement;

29 (15) Knowingly makes a false or misleading statement in a privacy
30 policy, published on the Internet or otherwise distributed or published,
31 regarding the use of personal information submitted by members of the

1 public;

2 (16) Uses any scheme or device to defraud by means of:

3 (i) Obtaining money or property by knowingly false or fraudulent
4 pretenses, representations, or promises; or

5 (ii) Selling, distributing, supplying, furnishing, or procuring any
6 property for the purpose of furthering such scheme;

7 (17) Offers an unsolicited check, through the mail or by other
8 means, to promote goods or services if the cashing or depositing of the
9 check obligates the endorser or payee identified on the check to pay for
10 goods or services. This subdivision does not apply to an extension of
11 credit or an offer to lend money;

12 (18) Mails or causes to be sent an unsolicited billing statement,
13 invoice, or other document that appears to obligate the consumer to make
14 a payment for services or merchandise he or she did not order;

15 (19)(i) Installs, offers to install, or makes available for
16 installation or download a covered file-sharing program on a computer not
17 owned by such person without providing clear and conspicuous notice to
18 the owner or authorized user of the computer that files on that computer
19 will be made available to the public and without requiring intentional
20 and affirmative activation of the file-sharing function of such covered
21 file-sharing program by the owner or authorized user of the computer; or

22 (ii) Prevents reasonable efforts to block the installation,
23 execution, or disabling of a covered file-sharing program;

24 (20) Violates any provision of the Nebraska Foreclosure Protection
25 Act;

26 (21) In connection with the solicitation of funds or other assets
27 for any charitable purpose, or in connection with any solicitation which
28 represents that funds or assets will be used for any charitable purpose,
29 uses or employs any deception, fraud, false pretense, false promise,
30 misrepresentation, unfair practice, or concealment, suppression, or
31 omission of any material fact;—or

1 ~~(22)(i)~~ ~~(22)~~ In the manufacture, production, importation,
2 distribution, promotion, display for sale, offer for sale, attempt to
3 sell, or sale of a substance:

4 ~~(A)~~ ~~(i)~~ Makes a deceptive or misleading representation or
5 designation, or omits material information, about a substance or fails to
6 identify the contents of the package or the nature of the substance
7 contained inside the package; or

8 ~~(B)~~ ~~(ii)~~ Causes confusion or misunderstanding as to the effects a
9 substance causes when ingested, injected, inhaled, or otherwise
10 introduced into the human body.

11 ~~(ii)~~ A person shall be deemed to have committed a violation of the
12 Uniform Deceptive Trade Practices Act for each individually packaged
13 product that is either manufactured, produced, imported, distributed,
14 promoted, displayed for sale, offered for sale, attempted to sell, or
15 sold in violation of this section. A violation under this subdivision ~~(a)~~
16 ~~(22)~~ shall be treated as a separate and distinct violation from any other
17 offense arising out of acts alleged to have been committed while the
18 person was in violation of this section; ~~or -~~

19 ~~(23)(i)~~ Advertises, promotes, offers, sells, performs, or contracts
20 to perform any service in violation of subdivision (ii) or (iii) of this
21 subdivision (a)(23).

22 ~~(ii)~~ Except as permitted under state or federal law, no person shall
23 receive compensation, directly or indirectly, for preparing, presenting,
24 prosecuting, advising, consulting, or assisting any individual with
25 regard to any veterans benefits matter before the United States
26 Department of Veterans Affairs, the United States Department of Defense,
27 or the Nebraska Department of Veterans' Affairs.

28 ~~(iii)~~ Except as permitted under state or federal law, no person
29 shall receive compensation, directly or indirectly, for referring any
30 individual to another person to prepare, present, prosecute, advise,
31 consult, or provide assistance regarding any veterans benefits matter

1 before the United States Department of Veterans Affairs, the United
2 States Department of Defense, or the Nebraska Department of Veterans'
3 Affairs.

4 (iv) For purposes of this subdivision (a)(23):

5 (A) Veterans benefits matter means the preparation, presentation, or
6 prosecution of any claim affecting any person who has filed or expressed
7 an intent to file a claim for any benefit, program, service, commodity,
8 function, or status, to which entitlement is determined under the laws
9 and regulations administered by the United States Department of Veterans
10 Affairs, the United States Department of Defense, or the Nebraska
11 Department of Veterans' Affairs pertaining to veterans, their dependents
12 or survivors, or any other individual eligible for such benefit, program,
13 service, commodity, function, or status; and

14 (B) Compensation means payment of any money, thing of value, or
15 financial benefit.

16 (v) Nothing in this subdivision (a)(23) shall be construed to
17 prohibit a division of fees between attorneys that is otherwise proper
18 under Nebraska law and the Nebraska Rules of Professional Conduct.

19 (vi) This subdivision (a)(23) does not apply to county veterans
20 service officers.

21 (b) In order to prevail in an action under the Uniform Deceptive
22 Trade Practices Act, a complainant need not prove competition between the
23 parties.

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

26 Sec. 2. Original section 87-302, Revised Statutes Cumulative
27 Supplement, 2022, is repealed.