

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

SENATE BILL 72

4
5 By: Senator Madison
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For An Act To Be Entitled

8
9 AN ACT TO PROHIBIT DECEPTIVE AND UNCONSCIONABLE
10 ADVERTISING AND SALES PRACTICES RELATED TO THE
11 USE OF THE TERMS "NOTARIO", "NOTARIO PUBLICO",
12 AND SIMILAR TERMS; AND FOR OTHER PURPOSES.
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Subtitle

14
15 AN ACT TO PROHIBIT DECEPTIVE AND
16 UNCONSCIONABLE ADVERTISING AND SALES
17 PRACTICES RELATED TO THE USE OF THE
18 TERMS "NOTARIO", "NOTARIO PUBLICO", AND
19 SIMILAR TERMS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Title 4 is amended to add an additional
25 chapter to read as follows:

26 4-109-101. Definitions.

27 As used in this chapter:

28 (1) "Notary public" means a person duly appointed or
29 commissioned under § 21-14-101;

30 (2) "Person" means an individual, organization, association,
31 partnership, limited liability company, or corporation, or any combination of
32 them; and

33 (3) "Practice of law" means:

34 (A) Holding out to the public as being entitled to
35 practice law;

36 (B) Tendering or furnishing legal services or advice;



- 1 (C) Furnishing attorneys or counsel;
- 2 (D) Rendering legal services of any kind in actions or
- 3 proceedings of any nature or in any other way or manner;
- 4 (E) Acting or in any other manner assuming to be entitled
- 5 to practice law; or
- 6 (F) Advertising or assuming the title of lawyer or
- 7 attorney, attorney at law, or equivalent terms in any language in such manner
- 8 as to convey the impression that one is entitled to practice law or to
- 9 furnish legal advice, service, or counsel.

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11 4-109-102. Prohibited acts and practices.

12 It is a violation of this chapter for any person to advertise his or

13 her services using the term “notario”, “notario publico”, or any similar term

14 unless the person is a notary public as defined in this subchapter, and the

15 person complies with the notice requirements in § 4-109-103.

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17 4-109-103. Notice required.

18 (a) Any notary public who chooses to use the term “notario”, “notario

19 publico”, or any similar term in any advertisement shall include in the

20 advertisement the following notice:

21 “I AM NOT A LICENSED ATTORNEY AND CANNOT ENGAGE IN THE PRACTICE OF LAW. I AM

22 NOT A REPRESENTATIVE OF ANY GOVERNMENTAL AGENCY WITH AUTHORITY OVER

23 IMMIGRATION OR CITIZENSHIP AND I CANNOT OFFER LEGAL ADVICE OR OTHER

24 ASSISTANCE REGARDING IMMIGRATION.”

25 (b) The notice shall be provided in both English and Spanish.

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27 4-109-104. Exceptions.

28 This chapter does not apply to an attorney licensed in this state.

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30 4-109-105. Enforcement.

31 A violation of this chapter is an unconscionable or deceptive act or

32 practice under §§ 4-88-101 – 4-88-115.

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34 SECTION 2. Arkansas Code § 4-88-107(a) is amended to read as follows:

35 4-88-107. Deceptive and unconscionable trade practices generally.

36 (a) Deceptive and unconscionable trade practices made unlawful and

1 prohibited by this chapter include, but are not limited to, the following:

2 (1) Knowingly making a false representation as to the
3 characteristics, ingredients, uses, benefits, alterations, source,
4 sponsorship, approval, or certification of goods or services or as to whether
5 goods are original or new or of a particular standard, quality, grade, style,
6 or model;

7 (2) Disparaging the goods, services, or business of another by
8 false or misleading representation of fact;

9 (3) Advertising the goods or services with the intent not to
10 sell them as advertised;

11 (4) Refusal of a retailer to deliver to a customer purchasing
12 any electronic or mechanical apparatus the record of warranty and statement
13 of service availability which the manufacturer includes in the original
14 carton or container of the product or the refusal to make available on
15 request information relating thereto;

16 (5) The employment of bait-and-switch advertising consisting of
17 an attractive but insincere offer to sell a product or service which the
18 seller in truth does not intend or desire to sell, evidenced by:

19 (A) A refusal to show or a disparagement of the advertised
20 product;

21 (B) The requirement of a tie-in sale or other undisclosed
22 conditions precedent to the purchase;

23 (C) A demonstration of a defective product; or

24 (D) Other acts demonstrating an intent not to sell the
25 advertised product or services;

26 (6) Knowingly failing to identify flood, water, fire, or
27 accidentally damaged goods as to such damages;

28 (7) Making a false representation that contributions solicited
29 for charitable purposes shall be spent in a specific manner or for specified
30 purposes;

31 (8) Knowingly taking advantage of a consumer who is reasonably
32 unable to protect his or her interest because of:

33 (A) Physical infirmity;

34 (B) Ignorance;

35 (C) Illiteracy;

36 (D) Inability to understand the language of the agreement;

1 or

2 (E) A similar factor;

3 (9) The offering for sale, assembly, or drafting of any trust
4 document, including a living trust, by a nonlawyer, excluding the marketing,
5 assembly, and funding by bank trust departments and trust companies;

6 (10) Engaging in any other unconscionable, false, or deceptive
7 act or practice in business, commerce, or trade; ~~and~~

8 (11)(A) Displaying or causing to be displayed a fictitious or
9 misleading name or telephone number on an Arkansas resident's telephone
10 caller identification service.

11 (B) Subdivision (a)(11)(A) of this section does not apply
12 to the transmission of a caller identification service by a
13 telecommunications provider; and

14 (12) Violating §§ 4-109-101 – 4-109-105, pertaining to the use
15 by a notary public of “notario”, “notario publico”, and similar terms in
16 advertising.

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