ADVERTISEMENTS
Act 98 of 1988

AN ACT to prescribe the contents of certain advertisements; and to provide penalties.

History: 1988, Act 98, Imd. Eff. Apr. 11, 1988.

The People of the State of Michigan enact:

445.811 Definitions.

Sec. 1. As used in this act:

(a) "Advertisement" means a representation that is intended to induce, or is likely to induce, directly or indirectly, the purchase of a consumer item, service, good, merchandise, commodity, or real property.

(b) "Mail order business" means a person that solicits an order for the sale of merchandise to be ordered by the buyer through the mails and is regulated by 16 C.F.R. part 435.

(c) "Person" means an individual, partnership, corporation, association, or other legal entity.

History: 1988, Act 98, Imd. Eff. Apr. 11, 1988.

445.812 Street address in advertisement.

Sec. 2. A person shall not knowingly give a street address for publication, dissemination, circulation, or placement before the public in an advertisement unless the street address that indicates where business is actually conducted by the owner, manager, or repairperson or, if applicable, where parts may be purchased is included within that advertisement.

History: 1988, Act 98, Imd. Eff. Apr. 11, 1988.

445.813 Applicability of act.

Sec. 3. (1) This act shall not apply to an owner, publisher, printer, agent, or employee of a newspaper or other publication, periodical, circular, including those circulars prepared for national distribution, or outdoor advertising or of a radio or television station, who publishes, causes to be published, or takes part in the publication of an advertisement in violation of this act unless done with actual knowledge of the violation of this act.

(2) This act shall not apply to a mail order business.

History: 1988, Act 98, Imd. Eff. Apr. 11, 1988.

445.814 Injunction; assurance of discontinuance; notice of violation; penalty; rules.

Sec. 4. (1) The attorney general may maintain an action to enjoin a continuing violation of this act. If the court finds that the defendant is violating or has violated this act, the court shall enjoin that defendant from a continuance of the violation. The court may enjoin the defendant from a continuance of the violation, even if actual damages are not alleged or proved.

(2) The attorney general shall not institute an action for an injunction unless the attorney general has notified the defendant of the attorney general's intention to seek an injunction if the defendant does not stop violating or does not take positive action to stop violating this act. The attorney general shall serve notice upon the defendant at least 48 hours before the filing of the action. The court shall not issue an injunction if the defendant has stopped violating or has taken positive action to stop violating this act after receipt of the notice.

(3) The attorney general may accept an assurance of discontinuance of a practice alleged to be in violation of this act from the person engaging in, or who was engaged in, that practice. The person offering an assurance of discontinuance shall place the assurance in writing and shall file the assurance with the clerk of the circuit court of the county in which the alleged violator resides or has his or her principal place of business. The clerk of the circuit court shall not require a filing fee for the filing of an assurance. The person offering the assurance of discontinuance shall sign the assurance and shall include in the assurance a statement describing the acts or practices for which the assurance of discontinuance is being given and the specific sections of the law prohibiting those acts or practices. The assurance is not an admission of any fact or issue at law.

(4) A prosecuting attorney or law enforcement officer receiving notice of an alleged violation of this act, or of a violation of an injunction, order, decree, or judgment issued in an action brought pursuant to this section, or of an assurance under this act, shall immediately forward written notice of the violation together with any information the prosecuting attorney or law enforcement officer may have to the office of the attorney general.

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(5) A person who knowingly violates this act or the terms of an injunction, order, decree, or judgment issued pursuant to this section shall forfeit and pay to the state a civil penalty of not more than $200.00 for the first violation and not more than $1,000.00 for the second and any subsequent violation. For the purposes of this section, the court issuing an injunction, order, decree, or judgment shall retain jurisdiction, the cause shall be continued, and the attorney general may petition for recovery of a civil penalty as provided by this section.

(6) The attorney general may promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, to implement and administer sections 2 to 7.

History: 1988, Act 98, Imd. Eff. Apr. 11, 1988.

445.815 Individual or class action; damages; attorneys' fees.

Sec. 5. (1) Whether a person seeks damages or has an adequate remedy at law, a person may bring an action to do either of the following, or both, if the attorney general or prosecuting attorney fails to initiate action within 60 days after receiving notice of an alleged violation of this act:

(a) Obtain a declaratory judgment that a practice is in violation of this act.

(b) Enjoin by temporary or permanent injunction a person who is engaging or is about to engage in a practice in violation of this act.

(2) A person who suffers loss as a result of a violation of this act may bring an individual or a class action to recover actual damages or $50.00, whichever is greater, for each day on which violations of this act have been found together with reasonable attorneys' fees not to exceed $300.00 in an individual action.

History: 1988, Act 98, Imd. Eff. Apr. 11, 1988.

445.816 Investigation by prosecuting attorney; instituting and prosecuting action.

Sec. 6. A prosecuting attorney may conduct an investigation pursuant to this act and may institute and prosecute an action under this act in the same manner as the attorney general.

History: 1988, Act 98, Imd. Eff. Apr. 11, 1988.

445.817 Other cause of action; liberal construction; ordinance or other regulation.

Sec. 7. This act shall not affect any other cause of action that is available and shall be liberally construed to effectuate its purpose. A city, village, township, or county shall not enact an ordinance or other regulation inconsistent with this act or with a rule promulgated under this act.

History: 1988, Act 98, Imd. Eff. Apr. 11, 1988.

445.818 Effective date.

Sec. 8. This act shall take effect for advertisements sold after June 1, 1988.

History: 1988, Act 98, Imd. Eff. Apr. 11, 1988.

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