



State of Tennessee

PUBLIC CHAPTER NO. 594

SENATE BILL NO. 1928

By Johnson, Bell, Briggs; Mr. Speaker Ramsey; Norris, Stevens, Gardenhire, Watson, Tracy, Bowling, Ketron, Roberts

Substituted for: House Bill No. 2049

By Eldridge, Clemmons, Hardaway, Miller, Turner, Mitchell, Lynn, Casada, Pody, Terry, Farmer, Fitzhugh, Kevin Brooks, McDaniel, McCormick, Rogers, Kumar, Smith, Mark White, Moody, Byrd, Hawk, Jenkins, McManus, Windle, Favors, Powell, Dunlap, Daniel

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18, relative to misrepresenting status as governmental entity or agent.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, Part 1, is amended by adding the following new section thereto:

(a) This section shall be known and may be cited as the "Government Impostor and Deceptive Advertisements Act."

(b) For purposes of this section:

(1) "Advertisement" means any written, oral, graphic, or electronic statement, solicitation, marketing, illustration, label, or other depiction, including labeling that is designed or used to create interest in the purchasing of, or consideration for purchase, impart information about the attributes of, publicize the availability of, or affect the sale or use of, goods or services, whether the statement appears in a brochure, newspaper, magazine, free standing insert, marketing kit, leaflet, mailer, book insert, letter, catalogue, poster, chart, billboard, electronic mail, web site, or other digital form, slide, or on the radio, broadcast television, cable television, or commercial or infomercial whether live or recorded or elsewhere; and

(2) "Governmental entity" means all units, subdivisions, entities of state, federal, or local governmental, including, but not limited to, a board, a department, an office, an agency, a military veteran entity, or a military or veteran service organization by whatever name.

(c) The following unfair or deceptive acts or practices constitute a violation of this part:

(1) Using or employing in any manner an advertisement for purposes of selling goods or services that:

(A) Simulates a summons, complaint, jury notice, or other court, judicial, or administrative process of any kind; or

(B) Represents, implies, or otherwise causes a likelihood of confusion that the person using or employing the advertisement is a part of or associated with a unit of any governmental entity, when such is not true;

(2) Representing, implying, or otherwise causing a likelihood of confusion that goods or services, advertisement, or offer was sent or distributed by or has been approved, authorized, or endorsed, in whole or in part, by a governmental entity, when such is not true;

(3) Using or employing language, symbols, logos, representations, statements, titles, names, seals, emblems, insignia, trade or brand names, business or control tracking numbers, web site or email address, or any other term, symbol, or content that represents or implies or otherwise causes a likelihood of confusion that goods or services, advertisement, or offer is from a governmental entity, when such is not true; and

(4)(A) Failing to provide the disclosure described in subdivision (c)(4)(B) either in the largest font type on the entire advertisement, but in no event smaller than bold fourteen (14) point black type, when offering documents that are available free of charge or at a lesser price from a governmental entity:

- (i) On the front and outside of the mailing envelope;
- (ii) At the top of the e-mail message;
- (iii) On each web page; or
- (iv) On the top of each page of any advertisement.

(B) The following disclosure shall be displayed in accordance with subdivision (c)(4)(A):

IMPORTANT NOTICE:

The documents offered by this advertisement are available to Tennessee consumers free of charge or for a lesser price from (insert name, telephone number, and mailing address of the applicable governmental entity). You are NOT required to purchase anything from this company and the company is NOT affiliated, endorsed, or approved by any governmental entity. The item offered in this advertisement has NOT been approved or endorsed by any governmental agency, and this offer is NOT being made by an agency of the government.

(d) Notwithstanding any law to the contrary, the attorney general and reporter has the following authority:

- (1) Investigate potential violations of this section;
- (2) Issue requests for information consistent with § 47-18-106, regarding potential violations of this section;
- (3) Settle, including entering into assurances of voluntary compliance consistent with § 47-18-107; and
- (4) Commence litigation as set forth in § 47-18-108, when a violation of this section has occurred.

(e) Upon receipt of a written request from the attorney general and reporter or the attorney general and reporter's designee, failing to timely submit written responses and answers concerning the alleged prohibited practices or violations in this section, including, but not limited to, supplying the attorney general and reporter with copies of customer lists, invoices, receipts, or other business records, shall be considered a failure to cooperate in a consumer protection investigation and thus be considered a violation of this section.

(f)(1) Any act set out in subsection (c) shall be an unfair and deceptive act or practice affecting the conduct of trade and commerce and subject to the penalties and remedies provided in this part. A violation of subsection (e) shall also be subject to the penalties and remedies provided in this part.

(2) In addition to other remedies provided in this part, a court may order:

(A) Payment to the state of up to one hundred dollars (\$100) for each person who receives a written or electronic advertisement distributed in violation of this section; and

(B) Reimbursement to the state for the reasonable costs and expenses of investigating and prosecuting a violation of this section, including attorneys' fees.

(3) All funds recovered pursuant to this subsection (f) shall be retained by the attorney general and reporter to be used in the enforcement of this section and other consumer protection related activities.

SECTION 2. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to acts or practices occurring on or after the effective date of this act.

SENATE BILL NO. 1928

PASSED: February 25, 2016



RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 10th day of March 2016



BILL HASLAM, GOVERNOR