

1991

Recent Legislative Activity

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Telephone Services

A new federal law, **The Telephone Operator Consumer Services Improvement Act of 1990**, sets out rules designed to protect consumers from unfair telephone operator service practices. The provider must now identify itself to the consumer at the beginning of each telephone call and before the consumer incurs a charge. Consumers must be allowed to terminate telephone calls without charge before the call is connected. The provider must disclose to the consumer, upon request and without charge, its rates or charges for the call, the methods used to collect charges, and the methods used to resolve complaints. Additionally, the provider may not transfer the consumer's call to another service without first informing the consumer that the rates may be different and obtaining the consumer's consent for the transfer. The law also requires posting in plain view near public telephones the name, address, and toll free number of the provider; a statement that the rates for operator assisted calls are available and that it is the consumer's right to obtain access to the interstate common carrier of their choice; and the name and address of where the consumer may direct complaints. **Pub. L. No. 101-435, 104 Stat. 986 (1990).**

Fastener Quality

The **Fastener Quality Act** is now federal law. It was passed in response to the health and safety problems caused by millions of mismarked, substandard, and counterfeit fasteners (screws, nuts, bolts, threaded studs, and load-indicating washers) which are sold in the United States each year. The law requires that each fastener offered for sale in commerce conform to the manufacturer's standards, and be inspected, tested, and certified. The testing and in-

spection must be performed by a laboratory accredited in accordance with conditions set by the Secretary of Commerce. The law requires that written notice of the test results be given to retail consumers upon request. The law also imposes similar conditions on foreign fasteners imported for sale in the United States. The Secretary of Commerce may waive the Act's requirements if the Secretary determines that the fastener is not used in critical applications. **Pub. L. No. 101-592, 104 Stat. 2943 (1990).**

Mailing Samples

A new federal law, **The Drug and Household Substance Mailing Act of 1990**, is designed to control the mailing of certain unsolicited substances. The law states that any unsolicited item which contains a household substance that does not comply with the Consumer Product Safety Commission's child-re-

sistant packaging requirements, is nonmailable and shall be disposed of at the Postal Service's direction. Unsolicited items which contain a fragrance advertising sample are nonmailable unless the sample is sealed, wrapped, or treated in a way which is reasonably designed to prevent persons from being involuntarily exposed to the sample. **Pub. L. No. 101-493, 104 Stat. 1184 (1990).**

Reporting Agency Information

Arizona has amended its laws regulating the disclosure of consumer information from creditors, licensing agencies, employers, and consumer reporting agencies. Consumers are no longer required to make written requests seeking the identity of the consumer reporting agency following a denial of credit, licensing or employment. Additionally, consumers may now request disclosure of the reporting agency's file in person. The agency must provide trained personnel to assist consumers in fully understanding the contents of their file. Alternatively, disclosure of information by telephone or writing must be requested in writing by the consumer. This statute also extends the time period from fifteen to thirty days that the consumer reporting agencies are given to respond to claims of inaccurate credit information by consumers. **1990 Ariz. Legis. Serv. 306 (West).**

ANNOUNCEMENT

The National Association of Retired Persons (NAARP) Consumer Affairs Section has announced the availability of two publications which are of interest to elderly consumers. NAARP has published a booklet entitled "Life Insurance For Older Adults" which details insurance programs for older consumers. In addition, the Consumer Affairs Section also introduced "Medigap: Medicare Supplement Insurance." This guide outlines how consumers can obtain insurance to supplement Medicare coverage.

Single copies of these publications are available free by writing NAARP Fulfillment, 1909 K Street N.W., Washington D.C. 20049, (202) 728-4355.

Legal Practitioners

California passed a law requiring a state bar task force to make recommendations on how consumers can file complaints against legal practitioners, out-of-state attorneys, and persons posing as attorneys. The legislature passed the bill amid growing concern that consumers of legal services, particularly immigration and amnesty, were

often victims of unscrupulous practitioners. The task force will hold two hearings and make a report which will include a response to the problem. It will also address such questions as whether there should be a method to identify out-of-state attorneys, whether the federal supremacy clause prohibits the registration or identification of out-of-state attorneys who practice before the Immigration and Naturalization Service or federal court, and whether the state can send complaints regarding out-of-state attorneys to their state bars. 1990 Cal. Legis. Serv. 1236 (West).

Environmental Advertising Claims

California law now makes it unlawful to claim that a consumer good is "recyclable," "photodegradable," "biodegradable," or "ozone friendly" unless it meets specific definitions adopted by the Federal Trade Commission. This law also requires that those who claim that their consumer goods are not harmful or are beneficial to the environment keep supportive, written documentation on file. This documentation must be furnished to the public upon request.

ANNOUNCEMENT

Read the next issue of the *Loyola Consumer Law Reporter!*

Refer to Eric F. Greenberg's article on environmental marketing claims for an in depth analysis of the legal issues surrounding the regulation of environmental claims such as the recently passed legislation in California. The article will explore current legislation in Congress to regulate environmental claims as well as federal uniformity of these regulations.

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Violation of this statute is a misdemeanor punishable by imprisonment not exceeding six months, and or by a fine not exceeding \$2,500. 1990 Cal. Legis. Serv. 1413 (West).

Health Studio Contracts

Florida law now provides that the Department of Agriculture and Consumer Services register and regulate health studios. Health studios are defined under the Act as any person or company engaged in the sale of services for instruction, training or assistance of physical exercise. Every new health studio contract must now be in writing and contain certain provisions. The consumer now has a penalty-free cancellation right within the first three days, and the right to a refund for unused services. Also, the contract can be cancelled and refunds given in the event the studio goes out of business or moves its facilities more than five miles. In turn, the consumer is required to give written notice of intent to cancel. The contract can also be cancelled if the buyer dies or becomes physically unable to use the facilities. The initial contract must not obligate the consumer for a period exceeding thirty-six months, but thereafter can be renewed annually. The law also prohibits health studios from representing that their contracts are for lifetime, perpetual, or indefinite memberships. 1990 Fla. Sess. Law Serv. 90-312 (West).

Regulating Lease Purchase Agreements

A South Dakota law now regulates lease purchase agreements of family or personal goods. A lease purchase agreement is defined as an agreement for the use of personal property for an initial period of four months or less, automatically renewable with each payment, and allowing the consumer to become the owner of the property. The law provides that the lessor must disclose certain important information to the consumer. This information includes: the total number, amount, and timing of payments required to obtain ownership; a

statement that the consumer will not own the property until the total payment is made; a statement that the consumer is responsible for the fair market value of the property if lost, stolen, or damaged; a clear statement which summarizes the terms of the consumer's option to purchase the property; and a statement that the consumer may terminate the agreement without penalty by returning the property after expiration of any lease term. 1991 S.D. Laws 393.

Child Support and Consumer Reporting Agencies

Two states have recently amended their laws to allow consumer reporting agencies to receive information regarding an individual's overdue child support obligations. Consumer reporting agencies assemble and evaluate consumer credit information to be provided to independent third parties. South Dakota's amendments permit the department of social services to furnish this information to consumer reporting agencies upon the request of the consumer reporting agency or the secretary of social services. The department must send notice to the obligor regarding the proposed release of information and the procedures for contesting the accuracy of this information. The consumer reporting agency is not obligated to either accept or use the information. The Arkansas' amendments require a written request by a consumer reporting agency before the Child Support Enforcement Unit will provide information concerning the overdue support owed by a noncustodial parent. Arkansas declared an emergency to exist, and that "child support must be collected and enforced in the most expedient manner." 1991 S.D. Laws 226; 1991 Ark. Acts 301.

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