

1993

Recent Legislative Activity

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Rental Cars In Florida Will Be More Difficult To Identify

In response to the recent spate of attacks on foreign tourists to the state, Florida's Governor recently signed legislation requiring rental car agencies to replace license plates identifying a car as a for-hire vehicle. Florida law formerly required that rental vehicles bear the word "lease" at the bottom of their license plates. In addition, rental car companies are prohibited from renting vehicles with any bumper stickers, insignias, or advertising identifying it as a rental vehicle.

Under the new law, rental car companies are allowed to place a small emblem on the car for inventory purposes only. Emblems may not display the name or logo of a rental car company, must be less than two inches by four inches, and must be no more than two colors.

Rental car companies failing to comply with the new law will be punished by a fine of \$500 per occurrence. **1993 Fla. Sess. Law Serv. ch. 93-398 (West).** ♦

Recent Legislative Activity is prepared by the Research Editor, Kristin Moran. A limited number of statutes appearing here are available for a \$5 copying charge. Please be specific (include volume number, issue number, and statute cite) when ordering. Send requests to: Research Editor, *Loyola Consumer Law Reporter*, One East Pearson Street, Chicago, Illinois 60611.

Arkansas Consumers Who Call 900 Numbers Will Now Have the Option To Hang Up Before Billing Begins

The Arkansas General Assembly recently passed the Pay-Per-Call Consumer Protection Act. The new law requires that any information provider, defined as any person, company, or corporation that controls the content of 900 number pay-per-call services, must allow a minimum of twelve seconds for an information and disclosure message at the beginning of each call. Three seconds of silence must follow so that the caller can hang up at the end of the message without being billed.

Information and disclosure messages must include a description of the service that will be provided to the caller. An accurate summation of the cost of the service, including the initial flat rate charge, the per minute charge, and the maximum per call charge must also be provided. In addition, the message must state that billing will commence after a specified event following the disclosure message, such as upon a signal tone.

The 900 number services may give callers a means to bypass the information and disclosure message on subsequent calls, provided that the caller has sole control of that capability. Instructions on how to bypass can be placed in the initial message or at the end of the service. If the service implements price increases, the bypass option must be disabled for a period of thirty days.

The new law also provides that pay-per-call services likely to interest children under 18 must contain a message telling the child to hang up unless the child has parental permission to make the call.

Consumers injured by a violation of the Act may bring an action for damages up to three times the amount of the actual damages sustained, plus costs, and reasonable attorney's fees. Provid-

ers who violate the Act are subject to prosecution under the state's Deceptive Trade Practice Act. **1993 Arkansas Acts 203 §§1-8.** ♦

California Sees Baby Walkers As a Threat To Infant Safety

In response to the large number of accidents suffered by infants using baby walkers, the California Legislature added a section to its Health and Safety Code prohibiting child daycare facilities from keeping or using baby walkers on their premises.

As justification for enacting the law, the legislature relied on the following information: (1) In 1991, 27,800 children under two years of age had to be admitted to an emergency room for injuries associated with baby walkers in the United States; (2) The American Academy of Pediatrics, after reviewing the data from all previous studies, concluded that baby walkers are dangerous and should be banned from all manufacturing, sale, and distribution in the United States; (3) *Consumer Reports* found that "with a capacity to move as fast as five feet per second, a baby walker can propel your baby faster than you can rescue him; and (4) A jury in San Mateo County, California determined that baby walkers are inherently unsafe and are not capable of design changes in order to prevent accidents. **1993 Cal. Legis. Serv. ch. 336 (West).** ♦

In Illinois, Unauthorized Preparers of Living Trusts Will Be Charged With a Misdemeanor

In response to increasing complaints

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of living trust scams, the Illinois Legislature amended its Consumer Fraud and Deceptive Business Practices Act by adding a new section prohibiting corporations and nonlawyers from preparing living trust documents. The Illinois Attorney General had received complaints that nonlawyers were charging excessive prices for preparing documents, using strong-arm selling tactics, and providing dubious services.

The new law prohibits corporations and nonlawyers from assembling, drafting, executing, and funding a living trust. However, the law does not apply to banks, savings and loan associations, credit unions, savings banks, trust companies, or other corporations that have been certified to exercise trust powers under the Illinois Corporate Fiduciary Act.

Any person who violates this law will be guilty of a class A misdemeanor. Convictions for second or subsequent violations will be class four felonies. **1993 Ill. Legis. Serv. P.A. 88-305 (West).** ♦

Seller and His Agent Are Not Required To Disclose Whether a New Home Is Psychologically Affected

The Indiana Legislature passed a law in May 1993 which provides that when a property is "psychologically affected," property owners and agents need not disclose that fact to a potential buyer.

For purposes of the new law, a "psychologically affected property" includes real estate or a dwelling that is for sale, rent, or lease and one or more of the following facts or a reasonable suspicion of them apply: (1) An occupant of the property was afflicted with or died from a disease related to AIDS; or (2)

An individual died on the property; or (3) The property was the site of a felony, criminal gang activity, discharge of a firearm involving a law enforcement officer, or the illegal manufacture or distribution of drugs.

The law provides that owners and agents are not liable for failing to disclose that a dwelling or real estate is an affected property. However, an owner or agent may not intentionally misrepresent a fact concerning a property in response to a direct inquiry. **1993 Ind. Legis. Serv. P.L. 210-1993 (West).** ♦

Connecticut Parents May Receive Warnings From the Police If Their Children Ride Bicycles In the Street Without a Helmet

In Connecticut, children must now wear protective headgear when riding their bicycles on the street. Under a new law approved in June 1993, the protective headgear must conform to minimum specifications established by the American National Standards Institute.

Although children who fail to wear protective headgear will not be charged with any violation or offense, police officers may issue verbal warnings to the parent or guardian of the child.

The new law also provides that any person, firm, or corporation that rents bicycles must provide a bicycle helmet to any rider under the age of 16 if the person does not possess one. The law allows the rental facility to charge extra fees for helmet rental. Failure to provide helmets under this provision constitutes an infraction, which is defined as an unclassified misdemeanor. **1993 Conn. Legis. Serv. P.A. 93-292 (West).** ♦

By Law, Telephone Solicitors Calling Mississippi Consumers May Only Do So Between the Hours of 8 a.m. and 9 p.m. Monday Through Saturday

Mississippi passed a law to regulate telephone solicitors which took effect July 1, 1993. As a requirement of doing business in the state, every telephone solicitor phoning Mississippi residents must apply for a certificate of registration as prescribed by the Attorney General and post a surety bond of \$50,000.

Pursuant to the law, telephone solicitors making unsolicited phone calls must place calls only Monday through Saturday between the hours of 8 a.m. and 9 p.m., identify themselves by their first and last names and give the name of the business on whose behalf they are soliciting, and discontinue the call immediately if the person being solicited expresses disinterest.

The consumer is not liable for any contracts made pursuant to a telephone sales call unless the contract is in writing and signed by the consumer. Further, the contract must match the description of goods or services explained in the phone call, and contain the name, address, and telephone number of the seller. In addition, the contract must show the total price and contain a clause stating "YOU ARE NOT OBLIGATED TO PAY ANY MONEY UNLESS YOU SIGN THIS CONTRACT AND RETURN IT TO THE SELLER." Finally, the contract must also include any promises or guarantees made by the telephone solicitor to the consumer. As a result of this law, the soliciting merchant may not charge any amounts to the buyer's credit card until after the merchant receives a copy of the signed contract from the consumer.

The Act exempts certain phone solicitations, such as those in which the merchant is a charitable organization, the sale is finalized as a follow-up to negotiations previously conducted be-

tween the consumer and merchant at the merchant's office, and sales which will be consummated at a later meeting.

The new law does not apply to any licensed securities, commodities, or investments broker, dealer, or advisor. In addition, it exempts companies which provide telephone marketing services under contract to sellers if the telemarketer has been operating continuously for at least five years under the same business name and seventy-five percent of its contracts are performed on behalf of sellers exempted from the Act.

The Mississippi Attorney General may bring an action for civil penalties or injunctive relief against violators. The civil penalty shall not exceed \$10,000 per violation. **1993 Miss. Laws ch. 538 §§1-9.** ♦

Garage Door Opening Systems In Indiana Must Pass an On-site Reversal Test

Responding to the fact that since 1982 more than 48 children have been killed under automatic garage doors, the Indiana Legislature recently passed a new law regulating their installment.

Under the new law, automatic garage doors may not be repaired or installed in a residential building unless the system passes an on-site reversal test. The test requires that the door must reverse upon contact with a two-inch high obstacle or block of wood.

If the system fails to reverse, the supplier must attach a conspicuous warning to the door. The warning must state that the garage door was tested but does not have an adequate safety reverse feature. In addition, the warning must caution that without a safety reverse feature, the door can be dangerous and can cause serious injury or death. Consumers are also advised to immediately disconnect the opener from the door, and to operate the door manually until the opening system meets current safety standards.

Any supplier who knowingly violates the law is subject to a civil penalty of \$500 for each violation. **1993 Ind. Legis. Serv. P.L. 212-1993 (West).** ♦

Announcements

Tips for Paying Off Credit Cards Early

Many consumers drag out credit card debts for years, often increasing the finance charges by paying only the minimum amount required each month. Bankcard Holders of America, a consumer group in Virginia, has developed some tips for avoiding this situation.

First, cardholders should send in payments as soon as they receive the bill. Most card issuers use the "average daily balance" method for computing interest charges. That means that the interest accumulates every day. The sooner the bank receives the payment, the less interest the consumer pays.

Second, cardholders should use extra money to pay the debts with the highest interest rates. When one card is paid off, cardholders should apply the extra money they have each month as a result to another card.

Finally, cardholders should refuse all offers from card issuers to skip a payment. When cardholders skip a month, interest charges still accrue, adding to what they already owe.

Government Hotlines Offer Free Information On a Wide Range of Topics

Social Security Checks

The Social Security Hotline can help answer questions about problems with Social Security Checks and amounts. The number is (800) 772-1213.

Small Business Concerns

The Small Business Administration (SBA) has information for all small business needs, including publications, videos, sites of local SBA offices, and referrals. Call the Small Business Answer Desk at (800) 8-ASK-SBA.

Unsafe Products

The U.S. Consumer Product Safety Commission protects consumers from being injured by new products. It has information on recalls and unsafe items. Contact the Consumer Product Safety Commission Hotline at (800) 638-2772. For the hearing impaired, call (800) 638-8270 TDD.

Used Cars

If you believe that there is a safety defect in your car, or if you want to find out if a particular car or part has been recalled, call the Auto Safety Hotline at (800) 424-9393.