

2019 -- H 5689

LC001573

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS -
DECEPTIVE TRADE PRACTICES

Introduced By: Representatives Phillips, Millea, Hawkins, Shanley, and Edwards

Date Introduced: February 27, 2019

Referred To: House Corporations

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 6-13.1-4, 6-13.1-5, 6-13.1-5.2 and 6-13.1-8 of the General Laws in
2 Chapter 6-13.1 entitled "Deceptive Trade Practices" are hereby amended to read as follows:

3 **6-13.1-4. Exemptions.**

4 (a) Nothing in this chapter shall apply to actions or transactions permitted under laws
5 administered by the department of business regulation or other regulatory body or officer acting
6 under statutory authority of this state or the United States-;

7 (b) The exemption set forth in subsection (a) of this section applies only if the person
8 claiming the exemption shows that:

9 (1) The person's business activities are subject to regulation by a state or federal agency;
10 and

11 (2) The specific activity, and the manner in which the activity is performed, that would
12 otherwise constitute a violation of this chapter, is expressly authorized, permitted or required by a
13 state or federal agency or by applicable law, rule or regulation.

14 **6-13.1-5. Restraining prohibited acts.**

15 (a) Whenever the attorney general has reason to believe that any person is using, has
16 used, or is about to use any method, act, or practice declared to be unlawful by § 6-13.1-2, and
17 that proceedings would be in the public interest, the attorney general may bring an action in the
18 name of the state against the person to restrain by temporary or permanent injunction the use of

1 the method, act, or practice, upon the giving of appropriate notice to that person. The notice must
2 generally state the relief sought and be served in accordance with § 6-13.1-7 and at least three (3)
3 days before the hearing of the action.

4 (b) The action may be brought in the superior court of the county in which the person
5 shall dwell or be found; or have his principal place of business; or with consent of the parties; or
6 if the person is a nonresident or has no principal place of business within this state or if the
7 superior court shall not be in session in the counties previously said to be applicable, may be
8 brought in the superior court of Providence County. The superior courts are authorized to issue
9 temporary or permanent injunctions to restrain and prevent violations of this chapter and the
10 injunctions shall be issued without bond.

11 (c) The court may make any additional orders or judgments that may be necessary to
12 restore to any person in interest any moneys or property, real or personal, that may have been
13 acquired by means of any practice in this chapter declared to be unlawful, including the
14 appointment of a receiver in any case where the superior court finds that the assets of a
15 corporation are in danger of being misapplied, dissipated, wasted, or lost, or the revocation of a
16 license or certificate authorizing that person to engage in business in this state, or both.

17 (d) Actions under this chapter may be brought without regard to the pendency of criminal
18 proceedings arising out of the same acts or practices and no action shall bar the institution of
19 criminal proceedings arising out of the same acts or practices. No involuntary admission by any
20 person in the action shall be admissible in any subsequent criminal proceeding.

21 (e) Any person who violates the terms of an injunction issued under this section shall
22 forfeit and pay to the state a civil penalty of not more than ten thousand dollars (\$10,000) per
23 violation. For the purposes of this section, the superior court of a county issuing an injunction
24 shall retain jurisdiction, and the cause shall be continued, and in those cases the attorney general,
25 acting in the name of the state, may petition for recovery of civil penalties.

26 **6-13.1-5.2. Private and class actions.**

27 (a) Any person who purchases or leases goods or services primarily for personal, family,
28 or household purposes and thereby suffers any ascertainable loss of money or property, real or
29 personal, as a result of the use or employment by another person of a method, act, or practice
30 declared unlawful by § 6-13.1-2, may bring an action under the rules of civil procedure in the
31 superior court of the county in which the seller or lessor resides; is found; has his or her principal
32 place of business or is doing business; or in the superior court of the county as is otherwise
33 provided by law, to recover actual damages or ~~two hundred dollars (\$200)~~ five hundred dollars
34 (\$500), whichever is greater. The court may award damages equal to three (3) times the amount

1 of actual damages and, in its discretion, ~~award punitive damages and may provide~~ other equitable
2 relief that it deems necessary or proper.

3 (b) Persons entitled to bring an action under subsection (a) of this section may, if the
4 unlawful method, act, or practice has caused similar injury to numerous other persons similarly
5 situated and if they adequately represent the similarly situated persons, bring an action on behalf
6 of themselves and other similarly injured and situated persons to recover damages as provided for
7 in subsection (a) of this section. In any action brought under this section, the court may in its
8 discretion order, in addition to damages, injunctive or other equitable relief.

9 (c) Upon commencement of any action brought under ~~subsection~~ subsections (a) or (b) of
10 this section, the clerk of court shall mail a copy of the complaint or other initial pleading to the
11 attorney general and, upon entry of any judgment or decree in the action, shall mail a copy of the
12 judgment or decree to the attorney general.

13 (d) In any action brought by a person under this section, the court may award, in addition
14 to the relief provided in this section, reasonable attorney's fees and costs.

15 (e) Any permanent injunction, judgment, or order of the court made under § 6-13.1-5
16 shall be prima facie evidence in an action brought under this section that the respondent used or
17 employed a method, act, or practice declared unlawful by § 6-13.1-2.

18 **6-13.1-8. Civil penalties.**

19 Any person who violates the ~~terms of an injunction issued under § 6-13.1-5~~ provisions of
20 this chapter shall forfeit and pay to the state a civil penalty of not more than ten thousand dollars
21 (\$10,000) per violation. ~~For the purposes of this section, the superior court of a county issuing an~~
22 ~~injunction shall retain jurisdiction, and the cause shall be continued, and in those cases the~~ The
23 attorney general, acting in the name of the state, may petition for recovery of civil penalties.

24 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS -
DECEPTIVE TRADE PRACTICES

1 This act would amend the Deceptive Trade Practices Act to clarify the law's exemptions,
2 enable individuals subject to unfair or deceptive acts and practices to recover increased damages,
3 and permit the attorney general to seek civil penalties for initial violations of the law.

4 This act would take effect upon passage.

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