

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

CHAPTER 5-60 OFFICE OF CONSUMER COUNSEL

SUBCHAPTER 5-60.1 RETAIL ADVERTISING PRACTICES RULES AND REGULATIONS

Part 001	Introduction	§ 5-60.1-160	“Emergency”	or
§ 5-60.1-001	Authority		“Distress” Sales	
§ 5-60.1-005	Purpose			
§ 5-60.1-010	Scope	Part 200	Customer Demand	
§ 5-60.1-015	Definitions	§ 5-60.1-201	Customer Demand	
Part 100	Comparative Price, Value, and Savings Claims	Part 300	“Bait” Advertising and Selling	
§ 5-60.1-101	Preamble	§ 5-60.1-301	“Bait and Switch”	
§ 5-60.1-105	Identifying Basis of Price Comparison	Part 400	Warrantees and Guarantees	
§ 5-60.1-110	Comparison to Seller’s Own Former (Regular) Prices	§ 5-60.1-401	Disclosure	
§ 5-60.1-115	Comparison to Future Prices	§ 5-60.1-405	“Satisfaction Guarantee”	
§ 5-60.1-120	Range of Savings or Price Comparison Claims	§ 5-60.1-410	“Lifetime” Warranties	
§ 5-60.1-125	Use of “List Price” or Similar Comparison	Part 500	Use or Condition Disclosures	
§ 5-60.1-130	Comparison to Other Sellers’ Price for Identical Product	§ 5-60.1-501	“Used”, “Secondhand”	
§ 5-60.1-135	Comparison to Sellers’ Own or Other Sellers’ Price for Comparable Product	§ 5-60.1-505	“Rebuilt”, “Reconditioned”	
§ 5-60.1-140	Use of Terms “Two for Price of One”, “Buy One, Get One Free”	§ 5-60.1-510	“As Is”	
§ 5-60.1-145	“Imperfects”, “Irregulars”, “Seconds”	§ 5-60.1-515	“Irregular”, “Imperfect”	
§ 5-60.1-150	“Factory to You”, “Factory Direct”, “Wholesaler”, “Wholesale Prices”	§ 5-60.1-520	“Discontinued”	
§ 5-60.1-155	Use of “Sale” Terminology	Part 600	Credit	
		§ 5-60.1-601	Relation to Federal Law	
		§ 5-60.1-605	“Easy Credit”, “Liberal Terms”	
		§ 5-60.1-610	“No Credit Rejected”	
		Part 700	Severability	
		§ 5-60.1-701	Severability	

Subchapter Authority: 4 CMC § 5119(a)

Subchapter History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Commission Comment: The Consumer Protection Act, codified at 4 CMC §§ 5101-5123, prohibits practices by merchants which deceive, mislead or confuse the consumer. 4 CMC § 5103(b) designates a

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

Consumer Counsel within the Attorney General's Office. The Consumer Counsel with the concurrence of the Attorney General is authorized to promulgate rules and regulations pursuant to 4 CMC § 5119(a).

Part 001 Introduction

§ 5-60.1-001 Authority

The authority for the promulgation and issuance of Office of the Attorney General, Consumer Counsel Regulations Part I [NMIAC, title 5, chapter 60] is derived from the Commonwealth Code, Consumer Protection Act, including, but not limited to, the following section: 4 CMC § 5119.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-005 Purpose

The purpose of the Retail Advertising Regulations Part I [NMIAC, title 5, subchapter 60.1] is:

- (a) To protect consumers from deceptive, misleading, and fraudulent advertising practices;
- (b) To provide guidance to sellers when designing their advertisements; and
- (c) To foster consumer confidence in the marketplace.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-010 Scope

The regulations in this subchapter apply to advertising in the CNMI of commerce and trade as defined in 4 CMC § 5104(b) of the Consumer Protection Act.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-015 Definitions

Except as hereinafter stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this chapter shall be the same as those used in the Consumer Protection Act (4 CMC §§ 5101 et seq.).

- (a) "Advertisement" (including the terms "advertise" and "advertising"), means any oral, written, graphic, or pictorial statement made by a seller in any manner in the course of the solicitation of business. Advertisement includes, without limitation, any statement

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

or representation made in a newspaper, magazine, or other publication or on radio or television or contained in any notice, handbill, sign, billboard, banner, poster, display, circular, pamphlet, or letter, or printed on or contained in any tag or label which is attached to or accompanies any product offered for sale.

(b) “Clear and conspicuous” (including the terms “clearly” and “conspicuously”) means that the statement, representation or term being conveyed is in close proximity to the statement, representation or term it clarifies, modifies, or explains, or to which it otherwise relates; readily noticeable; reasonably understandable by the person(s) to whom it is directed; and not contradictory to any terms it purports to clarify, modify or explain. A statement, representation or term is not clear and conspicuous unless it shall:

(1) For printed, written, typed or graphic advertisements:

(i) Employ abbreviations only if they are commonly understood by the public (e.g., abbreviations commonly understood — AC, AM/FM, AUTO, AIR, 2DR, CYL, MSRP, and e.g., abbreviations not commonly understood WAC, PEG) or approved by federal or state law (e.g., terms allowed by the Federal Truth in Lending Act, 15 U.S.C. §§ 1601, et seq., or the Consumer Leasing Act of 1976, 15 U.S.C. §§ 1601, et seq., such as “APR”);

(ii) Be of sufficient prominence in terms of print, size and color contrast, as compared with the remainder of the advertisement, so as to be readily noticeable to the person(s) to whom it is directed. Any type size which is 10-point type or larger is deemed readily noticeable.

(2) For radio advertisements and the audio portion of television advertisements or advertisements in any other audio-visual medium:

(i) Be at a decibel level equal to the highest decibel level used in the advertisement; and

(ii) Be at a speed equal to or slower than any other statement, representation or term contained in the advertisement.

(3) For required superimposed written copy (“super”) in a television advertisement or advertisements in any other audio-visual medium:

(i) The minimum height of supers should be:

(A) Capital and lower case letters: 24 video scanlines;

(B) Capital letters only: 18 video scanlines;

(ii) Appear on the screen for a duration sufficient to allow a viewer to have a reasonable opportunity to read and understand the statement, representation or term.

(iii) It shall be a rebuttable presumption that the super is sufficient if the super meets the following on-screen minimum display time:

(A) Three seconds for the first line of text; and

(B) One second for each additional line.

(c) “Comparative price” means the price or value of a product to which a seller is comparing its current price in any advertisement.

(d) “List price or manufacturer’s suggested retail price” means the price issued to retailers by national brand manufacturers as a suggested retail price for the manufacturer’s product.

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

(e) “Person” means any association, corporation, individual, institution, natural person, organization, partnership, trust or any other legal entity.

(f) “Price comparison” means the direct or indirect comparison in any advertisement (whether or not expressed wholly or in part in dollars, cents, fractions, or percentages) of a seller’s current price for a product with any other price or statement of value, whether or not such price is actually stated in the advertisement. Price comparison includes any price reduction claim or savings claim which a seller makes with respect to the seller’s current price for any product.

(g) “Product” means any and all goods, whether tangible or intangible, real, personal or mixed and any and all services or franchise or distribution system of any nature.

(h) “Raincheck” means a written document evidencing a consumer’s entitlement to purchase advertised items at an advertised price. Rainchecks shall be executed in duplicate, one copy being given to the consumer and one copy being kept by the issuing supplier, and shall contain at least the following information:

- (1) The name and address of the supplier;
- (2) The name, address and phone number of the consumer;
- (3) A description of the item to be purchased, including the model, make and year, if relevant;
- (4) The quantity entitled to be purchased by the consumer;
- (5) The advertised price of the item; and
- (6) The date of issuance.

(i) “Seller” means any person who offers any product for retail sale, rental or lease at any location and disseminates advertisements for that product in the Commonwealth. Seller may include any officer, agent, employee, salesperson, or representative of a seller and any advertising agency employed by a seller.

(j) “Trade area” means the geographic area where the seller’s outlets are located and where the seller’s advertisements are disseminated.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Commission Comment: The Commission changed “prices issued” to “price issued” in subsection (d).

Part 100 Comparative Price, Value, and Savings Claims

§ 5-60.1-101 Preamble

Price comparison advertising is a form of advertising used in the sale of products whereby current prices are compared with the seller’s former or future prices, the prices of other sellers, or other stated values, to demonstrate price reductions or cost savings. It is the intent of this section to ensure that the comparative price used in any price

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

comparison advertisement provides accurate information and meaningful guidance to the consumer. The use of misleading price comparisons is injurious to both the consuming public and competitors and is an unfair or deceptive act and an unfair method of competition under Section 5105 of the Consumer Protection Act (4 CMC § 5105).

Modified, 1 CMC § 3806(g).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Commission Comment: The Commission corrected the spelling of “preamble” in the section title.

§ 5-60.1-105 Identifying Basis of Price Comparison

It is an unfair or deceptive act for a seller to make a price comparison or claim a savings as to any product it offers (for example: “\$29.99 - save \$10.00” - or - “20% off all men’s shirts”) unless the seller clearly and conspicuously describes the basis for the price comparison or the savings claimed; provided, however, a seller may compare a higher and a lower price without describing the basis for the price comparison or the savings claimed if the higher price is the seller’s own former (regular) price as determined in accordance with §5-60.1-110. Terms such as “formerly,” “regularly,” “originally,” or words of similar meaning may be used by the seller to identify the higher price as its own former (regular) price.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-110 Comparison to Seller’s Own Former (Regular) Prices

It is an unfair or deceptive act for a seller to compare current price with its former (regular) price for any product or service, (for example: “\$99, now \$69 - save \$30”; “Regularly \$99, now \$69”; “Originally \$99, now \$69”; “Save \$30, now \$69”) unless one of the following criteria are met:

- (a) The former (regular) price is equal to or below the price(s) at which the seller made a substantial number of sales of such products in the recent regular course of its business; or
- (b) The former (regular) price is equal to or below the prices) at which the seller offered the product for a reasonably substantial period of time in the recent regular course of its business, openly and actively and in good faith, with an intent to sell the product at that price(s).

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-115 Comparison to Future Prices

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

It is an unfair or deceptive practice for a seller to make an introductory offer or to compare its current price for a product with the price at which the product will be offered in the future (for example: “Introductory sale, now \$69, will be \$90”), unless:

- (a) The future price takes effect within a reasonable time after the introductory offer or price comparison is published; and
- (b) The product’s future price is, subsequent to the end of an introductory sale, properly established as the seller’s former (regular) price in accordance with § 5-60.1-110 of this part.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Commission Comment: The original subsection (b) referred to section 470.220, which does not exist within the Consumer Counsel Regulations. The Commission inserted the correct NMIAC section addressing regular prices to correct a manifest error.

§ 5-60.1-120 Range of Savings or Price Comparison Claims

It is an unfair or deceptive act to state or imply that any products are being offered for sale at a range of prices or at a range of percentage or fractional discounts (for example: “Save from 10% to 50% off”) unless the highest price or lowest discount in the range is clearly and conspicuously disclosed in the advertisement and a reasonable number of these items in the advertisement are offered with at least the largest advertised discount. If at least 5% of the items in the advertisement are offered with at least the largest advertised discount it shall create a rebuttable presumption that a reasonable number were offered with at least the largest advertised discount.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-125 Use of “List Price” or Similar Comparison

It is an unfair or deceptive act to claim an actual savings from a “list price”, “manufacturer’s suggested retail price”, or term of similar meaning unless the “list price” is the price at which the product is offered by a reasonable number of sellers in the seller’s trade area (for example: “List price \$99, our price \$69, save \$30.00”). However, a seller may reference a list price in relation to its regular price as long as no savings are claimed and the seller discloses that the list price may not necessarily be the price at which the product is sold in the trade area.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-130 Comparison to Other Sellers' Price for Identical Product

It is an unfair or deceptive act for a seller to compare his price with a price currently being offered by another seller for an identical product (for example: "Sold elsewhere for \$99, our price \$69") unless the stated higher comparative price is at or below the price at which the identical product is currently being offered in the seller's trade area by:

- (a) A reasonable number of other sellers in the same trade area; or
- (b) Another seller(s) is specifically identified in the advertisement.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-135 Comparison to Sellers' Own or Other Sellers' Price for Comparable Product

It is an unfair or deceptive act for a seller to compare his price with the price at which he or any other seller is offering a comparable product (for example: "\$69, compare at \$99", "comparable value \$99") unless:

- (a) The comparable product is currently being offered at the stated higher comparative price by the seller or by a reasonable number of other sellers in the seller's trade area or another seller(s) specifically named in the ad; and
- (b) There are no substantial differences in quality, grade, materials, or craftsmanship between the comparable product and the product offered by the seller; and
- (c) If the comparable product is sold by the seller, the comparative price is determined in accordance with § 5-60.1-110.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Commission Comment: The Commission changed the position of the apostrophe in subsection (a) to reflect a singular seller to correct a manifest error.

§ 5-60.1-140 Use of Terms "Two for Price of One", "Buy One, Get One Free"

It is an unfair or deceptive act for a seller to state or imply that products are being offered at the usual price of a smaller number of the same or a different product (for example, "four pillows for the price of three" or "buy one pair of shoes, second pair free") unless:

- (a) The seller clearly and conspicuously discloses all material conditions which are imposed on the sale; and

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

(b) The price indicated by the seller as its usual and customary price for the smaller number of products is the seller's own former (regular) price for such products as determined in accordance with § 5-60.1-110.

Modified, 1 CMC § 3806(c), (f), (g).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Commission Comment: In subsection (b), the Commission changed the position of the apostrophe to reflect a singular seller and inserted a final period to correct manifest errors.

§ 5-60.1-145 “Imperfects”, “Irregulars”, “Seconds”

It is an unfair or deceptive act to use a comparative price in connection with an imperfect, irregular or second product unless it is accompanied by a clear and conspicuous disclosure that such comparative price applies to the price of the product, if perfect. The comparative price advertised shall be based on:

- (a) The price currently charged by the advertiser for the product without defects, or
- (b) The price currently charged by representative principal retailers in the trade area for the product without defects, and the advertisement discloses which basis of comparison is being used.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-150 “Factory to You”, “Factory Direct”, “Wholesaler”, “Wholesale Prices”

It is an unfair or deceptive act to use the terms “factory to you”, “factory direct”, “wholesaler”, “wholesale prices” and the like unless the implied savings can be substantiated and the terms meet all of the requirements below.

- (a) The terms “factory to you,” “direct from maker,” “factory outlet” and the like may not be used unless all advertised merchandise is actually manufactured by the advertiser or in factories owned or controlled by the advertiser.
- (b) The terms “wholesaler,” “wholesale outlet,” “distributor” and the like may not be used unless the advertiser actually owns and operates or directly and absolutely controls a wholesale or distribution facility which primarily sells products to retailers for resale.
- (c) The terms “wholesale price,” “at cost” and the like may not be used unless they are the current prices which retailers usually and customarily pay when they buy such merchandise for resale.

Modified, 1 CMC § 3806(g).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

Commission Comment: In the first sentence of this section, the Commission deleted the word “used” after “the like” to correct a manifest error.

§ 5-60.1-155 Use of “Sale” Terminology

It is an unfair or deceptive act to use the term “sale” unless the following requirements are met:

(a) The unqualified term “sale” in advertising shall not be used if there is not a significant reduction from the advertiser’s usual and customary price of the merchandise offered and the sale is not for a limited period of time. If the sale exceeds thirty days advertisers shall be prepared to substantiate that the offering is indeed a valid reduction and has not become their regular price.

(b) Time limit sales shall be rigidly observed. For example, merchandise offered in a “one-day sale,” “three-day sale,” “this week only sale,” should be taken off “sale” and reverts to the regular price immediately following expiration of the stated time. Introductory sales should be limited to a stated time period, and the selling price shall be increased to the advertised regular price immediately following termination of the stated period.

(c) Price predictions advertisers may currently advertise future increases in their own prices on a subsequent date provided that they do, in fact, increase the price to the stated amount on that date and maintain it for a reasonably substantial period of time thereafter.

Modified, 1 CMC § 3806(g).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Commission Comment: The Commission changed “this week only,” sale” to “this week only sale,” and changed “revert” to “reverts” in subsection (b) to correct manifest errors.

§ 5-60.1-160 “Emergency” or “Distress” Sales

It is an unfair or deceptive act to advertise an emergency or distress sale, including but not limited to bankruptcy, liquidation and going out of business sales unless the stated or implied reason is a fact, the sale shall be limited to a stated period of time, and shall offer only such merchandise as is affected by the emergency. “Selling out,” “closing out sale,” and similar terms shall not be used unless the concern so advertising is actually going out of business. The unqualified term “liquidation sale” means that the advertiser’s entire business is in the process of actually being liquidated prior to actual closing.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Part 200 Customer Demand

§ 5-60.1-201 Customer Demand

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

It is an unfair or deceptive act and an unfair method of competition under section 5105 of the Consumer Protection Act (4 CMC § 5105) for a seller to advertise any product for sale when the seller does not have that product in stock in sufficient quantities to meet reasonably anticipated customer demand during the effective period of the advertisement, except where:

- (a) The seller clearly and conspicuously discloses in its advertisement that quantities are limited or that restrictions apply to the advertised offer; or
- (b) Conditions beyond the seller's control (i.e. bankruptcy of source, labor stoppage, act of God, etc.) interrupted the supply of the product; or
- (c) The seller has, in good faith, ordered the product in adequate time for delivery and in sufficient quantity to satisfy reasonably anticipated consumer demand, and the seller has maintained sufficient records to substantiate such orders; or
- (d) The seller tenders a raincheck entitling prospective purchasers to buy the advertised product at the advertised price and redeems the raincheck within a reasonable time after the issuance thereof; or
- (e) The seller offers prospective customers a product of an equal or greater value at the same price which is acceptable to a reasonable consumer or is of a lesser value at the same dollar or percentage savings.

Modified, 1 CMC § 3806(f).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Part 300 "Bait" Advertising and Selling

§ 5-60.1-301 "Bait and Switch"

It is an unfair and deceptive act or practice for a seller to make an offer of sale of any products or services when such offer is not a bona fide effort to sell such products or services. An offer is not bona fide if:

- (a) A seller uses a statement or illustration or makes a representation in any advertisement which would create in the mind of a reasonable consumer, a false impression as to the grade, quality, quantity, make, model, year, price, value, size, color, utility, origin or any other material aspect of the offered products or services in such a manner that, upon subsequent disclosure or discovery of the facts, the consumer may be induced to purchase products or services other than those offered;
- (b) The first contact or interview with the consumer is secured by the seller through deception, even if the relevant facts of the offer are disclosed to the consumer before the consumer views the offered products or services;

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

(c) A seller discourages the purchase or sale of the offered products or services by any means, including but not limited to the following:

- (1) The refusal to show, demonstrate or sell the offered products or services in accordance with the terms of the offer;
- (2) Disparagement by the seller of the offered products or services;
- (3) The showing or demonstrating of offered products or services which are unusable or impractical for the purposes represented, or materially different from the offered products or services;
- (4) The use of a sales plan or method of compensation of sales personnel which is designed to penalize or prevent a salesperson from selling the advertised products or services;

(d) A seller, in the event of a sale to the consumer of the offered products or services, attempts to persuade a consumer to repudiate the purchase of the offered products or services and purchase other products or services in their stead, by any means, including but not limited to the following:

- (1) Accepting a consideration for the offered products or services, then switching the consumer to other products or services;
- (2) Failing to make delivery of the offered products or services (or, with the consent of the consumer, substituting products or services of equal or greater value) within a reasonable time, or to make a refund;
- (3) Delivering offered products or services which are unusable or impractical for the purposes represented or materially different from the offered products or services. The purchase on the part of some consumers of the offered products or services is not in itself prima facie evidence that the offer is bona fide.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Part 400 Warrantees and Guarantees

§ 5-60.1-401 Disclosure

When the term “warranty” (or “guarantee”) is used in product advertising, a clear and conspicuous disclosure shall be made that the details of the warranty can be seen at the advertiser’s store prior to sale, or in the case of mail or telephone order sales, are available free on written request. It is an unfair or deceptive act to advertise that a product is warranted or guaranteed if the seller fails to promptly and fully perform its obligations under the warranty or guarantee.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-405 “Satisfaction Guarantee”

It is an unfair or deceptive act to use the term “satisfaction guarantee,” “money back guarantee,” “free trial offer,” or the like unless:

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

(a) The seller or manufacturer refunds the full purchase price of the advertised product at the purchaser's request; and

(b) Any material limitations or conditions that apply to the guarantee are clearly and conspicuously disclosed.

Modified, 1 CMC § 3806(g).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Commission Comment: The Commission inserted the colon in this section.

§ 5-60.1-410 “Lifetime” Warranties

It is an unfair or deceptive act to use the term “lifetime,” “life” or similar representations in advertising to describe the duration of the warranty or guarantee, unless the advertisement clearly and conspicuously discloses the life to which the representation refers.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Part 500 Use or Condition Disclosures

§ 5-60.1-501 “Used”, “Secondhand”

If a product was previously used by a consumer, it is an unfair or deceptive act to not disclose such fact to the buyer in the advertising. Terms such as “used,” “secondhand,” “pre-owned,” “repossessed,” “rebuilt,” “reconditioned” shall be used and shall be clear and conspicuous in the advertising.

Modified, 1 CMC § 3806(g).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Commission Comment: In the second sentence of this section, the Commission deleted the “ly” from “clearly” and “conspicuously” to correct manifest errors.

§ 5-60.1-505 “Rebuilt”, “Reconditioned”

It is an unfair or deceptive act to use the terms “rebuilt,” “reconditioned,” or the like, in a manner out of accordance with the following:

(a) The term “rebuilt,” or the like, should be used only to describe products that have been completely disassembled, reconstructed, repaired and refinished, including replacement of parts.

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

(b) The term “reconditioned,” or the like, should be used only to describe products that have received such repairs, adjustments or finishing as were necessary to put the product in satisfactory condition without rebuilding.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-510 “As Is”

It is an unfair or deceptive act to offer merchandise on an “as is” basis (i.e., in the condition in which it is displayed at the place of sale) without disclosure of such fact to the buyer. The words “as is” shall be clearly and conspicuously indicated in any advertising for the products.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-515 “Irregular”, “Imperfect”

It is an unfair or deceptive act to offer merchandise which is defective or rejected by the manufacturer because it falls below specifications without disclosure of such fact to the buyer. Terms such a “second” “irregular”, “imperfect,” and the like shall be clearly and conspicuously indicated in any advertising for the products.

Modified, 1 CMC § 3806(g).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Commission Comment: The Commission inserted the closing quotation after “imperfect” and inserted a period at the end of this section to correct manifest errors.

§ 5-60.1-520 “Discontinued”

It is an unfair or deceptive act to describe products as “discontinued,” “discontinued model,” or by words of similar import unless the manufacturer has, in fact, discontinued its manufacture, or the retail advertiser will discontinue offering it entirely after clearance of existing inventories.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Part 600 Credit

§ 5-60.1-601 Relation to Federal Law

All credit terms must be clearly and conspicuously disclosed in the advertisement. Any violation of the federal Truth in Lending Act in this regard shall be considered an unfair or deceptive act for purposes of the Consumer Protection Act [4 CMC §§ 5101 et seq.].

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

TITLE 5: OFFICE OF THE ATTORNEY GENERAL

§ 5-60.1-605 “Easy Credit”, “Liberal Terms”

It is an unfair or deceptive act to use the terms “easy credit,” “easy credit terms,” “liberal terms,” “easy pay plan” and other similar phrases that relate to credit worthiness as well as to the terms of sale and credit repayment unless:

- (a) Consumer credit is extended to persons whose ability to pay or credit rating is below typical standards of credit worthiness;
- (b) The finance charges and annual percentage rate do not exceed those charged to persons whose credit rating has been determined and who meet generally accepted standards of credit worthiness;
- (c) The down payment is as low and the period of repayment of the same duration as in consumer credit extensions to those of previously determined credit worthiness; and
- (d) The debtor is dealt with fairly on all conditions of the transaction including the consequences of a delayed or missed payment.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

§ 5-60.1-610 “No Credit Rejected”

It is an unfair or deceptive act to use the words “no credit rejected” or the like, unless true that consumer credit will be extended to anyone regardless of the person’s credit worthiness or financial ability to pay.

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).

Part 700 Severability

§ 5-60.1-701 Severability

If any provision of this subchapter shall be held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

Modified, 1 CMC § 3806(d).

History: Adopted 28 Com. Reg. 26128 (Aug. 24, 2006); Proposed 28 Com. Reg. 25760 (June 19, 2006).