

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 23-0424

Introduced by: Councilmember Schleifer
Introduced and read first time: August 21, 2023
Assigned to: Rules and Legislative Oversight Committee

Committee Report: Favorable, with Amendments
Council action: Adopted
Read second time: September 18, 2023

AN ORDINANCE CONCERNING

Unfair, Abusive, or Deceptive Trade Practices – Penalties

FOR the purpose of prohibiting unfair, abusive, or deceptive trade practices; establishing certain penalties; authorizing the City Solicitor to take certain action if there is reason to believe a person is engaging in certain practices; defining certain terms; and generally relating to penalties for unfair, abusive, or deceptive trade practices.

BY repealing

Article 2 - Consumer Protections
Sections 4-1 and 4-2 and the subtitle designation
“Subtitle 4. False Advertising”
Baltimore City Code
(Edition 2000)

BY adding

Article 2 - Consumer Protections
Sections 4-1 ~~and 4-2~~ to 4-7 to be under the new subtitle designation
“Subtitle 4. Unfair, Abusive, or Deceptive Trade Practices”
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 2. Consumer Protections

[Subtitle 4. False Advertising]

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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[§ 4-1. Prohibited conduct.]

[It is unlawful for any person, firm, or corporation that offers for sale merchandise, commodities, or service to make, publish, disseminate, circulate, or place before the general public within this City, in a newspaper or other publication, in a public notice or announcement broadcast on radio or television, or in the form of a book, notice, handbill poster, bill, circular, pamphlet, or letter, or in any other way, an advertisement describing such merchandise, commodities, or service, as part of a plan or scheme:]

[(1) with the intent not to sell such merchandise, commodities, or service so advertised at the price stated therein; or]

[(2) with the intent not to sell such merchandise, commodities, or service so advertised.]

[§ 4-2. Penalties.]

[Any person who violates any provision of this subtitle shall be deemed guilty of a misdemeanor and, upon conviction thereof, may be imprisoned for not exceeding 12 months; and such person or the firm or corporation under whose direction he was acting may, in the discretion of the Court, be subject to a fine of not exceeding \$500.]

SUBTITLE 4. UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICES

§ 4-1. DEFINITIONS.

THE FOLLOWING TERMS HAVE THE MEANINGS STATED IN TITLE 13 OF THE STATE COMMERCIAL LAW ARTICLE:

(1) “ADVERTISEMENT”;

(2) “CONSUMER”;

(3) “CONSUMER CREDIT”;

(4) “CONSUMER DEBTS”;

(5) “CONSUMER GOODS”;

(6) “CONSUMER REALTY”;

(7) “CONSUMER SERVICES”;

(8) “MERCHANDISE”;

(9) “MERCHANT”;

(10) “PERSON”;

(11) ~~(10)~~ “SALE”;

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1 (12) ~~(11)~~ “SERVICE”; AND

2 (13) ~~(12)~~ “UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICES”.

3 **§ 4-2. PRACTICES GENERALLY PROHIBITED.**

4 IN BALTIMORE CITY, A PERSON MAY NOT ENGAGE IN ANY UNFAIR, ABUSIVE, OR DECEPTIVE
5 TRADE PRACTICE IN:

6 (1) THE SALE, LEASE, RENTAL, LOAN, OR BAILMENT OF ANY:

7 (I) CONSUMER GOOD;

8 (II) CONSUMER REALTY; OR

9 (III) CONSUMER SERVICE;

10 (2) THE OFFER FOR SALE, LEASE, RENTAL, LOAN, OR BAILMENT OF ANY:

11 (I) CONSUMER GOOD;

12 (II) CONSUMER REALTY; OR

13 (III) CONSUMER SERVICE;

14 (3) THE OFFER FOR SALE OF COURSE CREDIT OR OTHER EDUCATIONAL SERVICES;

15 (4) THE EXTENSION OF CONSUMER CREDIT;

16 (5) THE COLLECTION OF A CONSUMER DEBT; OR

17 (6) THE PURCHASE OR OFFER FOR PURCHASE OF A CONSUMER GOOD OR CONSUMER
18 REALTY FROM A CONSUMER, BY A MERCHANT WHOSE BUSINESS INCLUDES PAYING OFF
19 CONSUMER DEBT IN CONNECTION WITH THE PURCHASE OF ANY CONSUMER GOOD OR
20 CONSUMER REALTY FROM A CONSUMER.

21 **§ 4-3. CIVIL PENALTIES.**

22 (A) *IN GENERAL.*

23 A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY OF NOT MORE
24 THAN \$1,000.

25 (B) *EACH VIOLATION A SEPARATE OFFENSE.*

26 EACH VIOLATION OF THIS SUBTITLE SHALL BE CONSIDERED A SEPARATE OFFENSE.

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1 (C) *EACH DAY A SEPARATE VIOLATION.*

2 EACH DAY UPON WHICH A VIOLATION CONTINUES SHALL BE CONSIDERED A SEPARATE
3 OFFENSE.

4 **§ 4-4. CRIMINAL PENALTIES.**

5 (A) *IN GENERAL.*

6 A PERSON WHO VIOLATES THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON
7 CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000.

8 (B) *EACH VIOLATION A SEPARATE OFFENSE.*

9 EACH VIOLATION OF THIS SUBTITLE SHALL BE CONSIDERED A SEPARATE OFFENSE.

10 (C) *EACH DAY A SEPARATE VIOLATION.*

11 EACH DAY UPON WHICH A VIOLATION CONTINUES SHALL BE CONSIDERED A SEPARATE
12 OFFENSE.

13 **§ 4-5. ACTION BY CITY SOLICITOR.**

14 (A) *INVESTIGATION.*

15 ~~THE~~ IN DETERMINING WHETHER TO INITIATE LEGAL PROCEEDINGS UNDER THIS SUBTITLE,
16 THE CITY SOLICITOR, ON BEHALF OF THE MAYOR AND CITY COUNCIL, MAY CONDUCT AN
17 INVESTIGATION ~~OF A MERCHANT~~ WHEN THERE IS REASON TO BELIEVE A PERSON IS
18 ENGAGING IN OR HAS ENGAGED IN A VIOLATION OF THIS SUBTITLE.

19 (B) *ISSUANCE OF A SUBPOENA.*

20 IN THE COURSE OF AN INVESTIGATION UNDER THIS SUBTITLE ~~AND PURSUANT TO THE~~
21 ~~MARYLAND RULES~~, THE CITY SOLICITOR MAY ISSUE IN WRITING, AND CAUSED TO BE
22 SERVED, A SUBPOENA TO REQUIRE ANY PERSON TO:

23 (1) APPEAR UNDER OATH TO PROVIDE TESTIMONIAL INFORMATION RELATED TO THE
24 ALLEGED VIOLATION UNDER INVESTIGATION; OR

25 (2) PRODUCE ANY OF THE FOLLOWING RELATED TO THE ALLEGED VIOLATION:

26 (I) INFORMATION;

27 (II) DOCUMENTS;

28 (III) REPORTS;

29 (IV) RECORDS;

30 (V) ACCOUNTS; OR

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1 (VI) ANY OTHER RELEVANT MATERIAL.

2 (C) *ENFORCEMENT OF A SUBPOENA.*

3 ~~SUBJECT TO THE MARYLAND RULES, THE~~ THE CITY SOLICITOR MAY ENFORCE ANY
4 SUBPOENA ISSUED PURSUANT TO ~~THE~~ THE SECTION IN A COURT OF COMPETENT
5 JURISDICTION.

6 (D) *INITIATION OF LEGAL PROCEEDING.*

7 IN ADDITION TO ANY OTHER ENFORCEMENT ACTION AUTHORIZED BY LAW, THE CITY
8 SOLICITOR, ON BEHALF OF THE MAYOR AND CITY COUNCIL, MAY INITIATE A LEGAL
9 PROCEEDING FOR INJUNCTIVE RELIEF AND FOR THE IMPOSITION AND COLLECTION OF CIVIL
10 PENALTIES IN A COURT OF COMPETENT JURISDICTION FOR A VIOLATION OF THIS SUBTITLE.

11 **§ 4-6. RULES AND REGULATIONS.**

12 SUBJECT TO TITLE 4 {“ADMINISTRATIVE PROCEDURE ACT – REGULATIONS”} OF THE CITY
13 GENERAL PROVISIONS ARTICLE, THE CITY SOLICITOR MAY ADOPT RULES AND REGULATIONS
14 TO CARRY OUT THIS SUBTITLE.

15 **§ 4-7. EXCEPTION.**

16 THIS SUBTITLE DOES NOT APPLY TO THE ENTITIES EXEMPTED BY TITLE 13 OF THE STATE
17 COMMERCIAL LAW ARTICLE.

18 **SECTION 2. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
19 after the date it is enacted.

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Certified as duly passed this 18 day of September, 2023



President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this 18 day of September, 2023



Chief Clerk

Approved this 11th day of October, 2023



Mayor, Baltimore City

Approved for Form and Legal Sufficiency
This 18th Day of September, 2023.

Elena R. DiPietro

Chief Solicitor