

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend Chapter 39 of Title 28 of the District of Columbia Official Code to clarify the definition of unfair or deceptive trade practice, to clarify that an unfair or deceptive trade practice shall be considered a violation of the District's consumer protection laws, to include as an enumerated unfair or deceptive trade practice the violation of an agreement with the Attorney General for the District of Columbia for compliance with the provisions of Chapter 39, to clarify that the equitable relief available in an action brought by the Attorney General for the District of Columbia for a violation of the District's consumer protection laws includes an order requiring a violator to take affirmative action, including making restitution of money or property, and to increase the amount of the civil penalty for a violation of the District's consumer protection laws in an action brought by the Attorney General for the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Consumer Protection Clarification and Enhancement Amendment Act of 2018".

Sec. 2. Chapter 39 of Title 28 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) Strike the phrase "28-3904. Unlawful trade practices" and insert the phrase "28-3904. Unfair or deceptive trade practices" in its place.

(2) Strike the phrase "28-3910. Investigatory powers of Corporation Counsel." and insert the phrase "28-3910. Investigatory powers of Attorney General." in its place.

(b) Section 28-3901 is amended by adding a new subsection (d) to read as follows:

"(d) In construing the term "unfair or deceptive trade practice" due consideration and weight shall be given to the interpretation by the Federal Trade Commission and the federal courts of the term "unfair or deceptive act or practice," as employed in section 5(a) of An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes, approved September 26, 1914 (38 Stat. 719; 15 U.S.C. § 45(a))."

(c) Section 28-3904 is amended as follows:

(1) The section heading is amended to read as follows:

"28-3904. Unfair or deceptive trade practices."

(2) The lead-in language is amended to read as follows:

“It shall be a violation of this chapter for any person to engage in an unfair or deceptive trade practice, whether or not any consumer is in fact misled, deceived, or damaged thereby, including to:”.

(3) Subsection (hh) is amended by striking the word “or”.

(4) Subsection (ii) is amended by striking the period and inserting the phrase “; or” in its place.

(5) A new subsection (jj) is added to read as follows:

“(jj) violate any agreement entered into pursuant to section 28-3909(c)(6).”.

(d) Section 28-3909 is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a) Notwithstanding any provision of law to the contrary, if the Attorney General for the District of Columbia has reason to believe that any person is using or intends to use any method, act, or practice in violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-3812, 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904, and if it is in the public interest, the Attorney General, in the name of the District of Columbia, may bring an action in the Superior Court of the District of Columbia to obtain a temporary or permanent injunction prohibiting the use of the method, act, or practice and requiring the violator to take affirmative action, including the restitution of money or property. In any action under this section, the Attorney General shall not be required to prove damages and the injunction shall be issued without bond.”.

(2) Subsection (b) is amended to read as follows:

“(b) In addition, in an action under this section, the Attorney General for the District of Columbia may recover:

“(1) From a merchant who engaged in a first violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-3812, 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904, a civil penalty of not more than \$5,000 for each violation;

“(2) From a merchant who engaged in a first violation of section 28-3803, 28-3805, 28-3807, 28-3810, 28-3811, 28-3812, 28-3814, 28-3817, 28-3818, 28-3819, or 28-3904 and who subsequently repeats the same violation, a civil penalty of not more than \$10,000 for each subsequent violation;

“(3) Economic damages; and

“(4) The costs of the action and reasonable attorneys’ fees.”.

(3) Subsection (c) is amended as follows:

(A) The lead-in language is amended by striking the phrase “Corporation Counsel” and inserting the phrase “Attorney General for the District of Columbia” in its place.

(B) Paragraph (5) is amended by striking the phrase “Corporation’s Counsel’s” and inserting the phrase “Attorney General’s” in its place.

(e) Section 28-3910 is amended as follows:

(1) The section heading is amended by striking the phrase “Corporation Counsel” and inserting the phrase “Attorney General” in its place.

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(2) Subsection (a) is amended by striking the phrase “Corporation Counsel” and inserting the phrase “Attorney General for the District of Columbia” in its place.

**Sec. 3. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

**Sec. 4. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia