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NINTH GUAM LEGISLATURE
1967 (FIRST) Regular Session

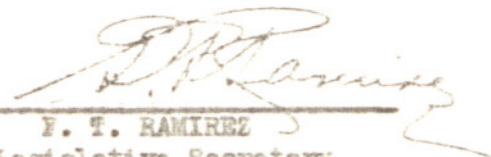
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This certifies that Bill No. 107, "An Act to add a new Title LV to the Government Code of Guam relative to unfair Trade Practices and Consumer Protection", was on the 20th day of June, 1967, duly and regularly passed.



J. C. ARRIOLA
Speaker

ATTESTED:




F. T. RAMIREZ
Legislative Secretary

This Act was received by the Governor this 26th
day of June, 1967 at 9:20 o'clock A..M.

/s/ Rudolph G. Sablan

Secretary of Guam

APPROVED:



MANUEL L. GUERRERO
Governor of Guam

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NINTH GUAM LEGISLATURE
1967 (FIRST) Regular Session

Bill No. 107

Introduced by

Committee on Rules, by
request of the Governor in
accordance with Section 6(b)
of the Organic Act of Guam.

AN ACT TO ADD A NEW TITLE LV TO THE GOVERNMENT
CODE OF GUAM RELATIVE TO UNFAIR TRADE PRACTICES
AND CONSUMER PROTECTION.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. A new Title LV is hereby added to the Government Code
3 of Guam to read as follows:

4 "Title LV

5 TRADE PRACTICES AND CONSUMER PROTECTION

6 Chapter 1

7 General Enforcement

8 Section 53600. Definitions. As used in this Chapter:

9 (a) 'Person' means natural persons, corporations, trusts,
10 partnerships, incorporated or unincorporated associations, and
11 any other legal entity.

12 (b) 'Trade' and 'commerce' mean the advertising, offering
13 for sale, or distribution of any services and any property,
14 tangible and intangible, real, personal or mixed, and any other
15 article, commodity, or thing of value wherever situate, and
16 shall include any trade or commerce directly or indirectly
17 affecting the people of Guam.

18 (c) 'Documentary material' means the original or a
19 copy of any book, record, report, memorandum, paper, communication,
20 tabulation, map, chart, photograph, mechanical transcription,
21 or other tangible document or recording, wherever situate.

22 (d) 'Unfair methods of competition and unfair or deceptive
23 acts or practices' means any one or more of the following:

- 1 (1) passing off goods or services as those of another;
- 2 (2) causing likelihood of confusion or of misunder-
- 3 standing as to the source, sponsorship, approval, or certi-
- 4 fication of goods or services;
- 5 (3) causing likelihood of confusion or of misunder-
- 6 standing as to affiliation, connection, or association with,
- 7 or certification by, another;
- 8 (4) using deceptive representation or designation of
- 9 geographic origin in connection with goods or services;
- 10 (5) representing that goods or services have spon-
- 11 sorship, approval, characteristics, ingredients, uses,
- 12 benefits, or quantities that do not have or that a person
- 13 has a sponsorship, approval, status, affiliation, or
- 14 connection that he does not have;
- 15 (6) representing that goods are original or new if
- 16 they are deteriorated, altered, reconditioned, reclaimed,
- 17 used, or secondhand;
- 18 (7) representing that goods or services are of
- 19 particular standard, quality, or grade, or that goods are
- 20 of a particular style or model, if they are of another;
- 21 (8) disparaging the goods, services, or business
- 22 of another by false or misleading representation of fact;
- 23 (9) advertising goods or services with intent not to
- 24 sell them as advertised;
- 25 (10) advertising goods or services with intent not to
- 26 supply reasonably expectable public demand, unless the
- 27 advertisement discloses a limitation of quantity;
- 28 (11) making false or misleading statements of fact
- 29 concerning the reasons for, existence of, or amounts of
- 30 price reductions; or

1 (12) engaging in any other conduct which similarly
2 creates a likelihood of confusion or of misunderstanding.

3 Section 53601. Unlawful Acts or Practices. Unfair methods
4 of competition and unfair or deceptive acts or practices in the
5 conduct or any trade or commerce are hereby declared unlawful.

6 Section 53602. Restraining Prohibited Acts. Whenever
7 the Attorney General has reason to believe that any person is
8 using or is about to use any method, act or practice declared by
9 Section 53601 of this Chapter to be unlawful, and that proceedings
10 would be in the public interest, he may bring an action in the
11 name of the Government of Guam against such person to restrain
12 by temporary or permanent injunction the use of such method, act
13 or practice. The Island Court is authorized to issue temporary
14 or permanent injunctions to restrain and prevent violation of
15 this Chapter and such injunctions shall be issued without bond.

16 Section 53603. Assurances of Voluntary Compliance. In the
17 administration of this Chapter, the Attorney General may accept an
18 assurance of voluntary compliance with respect to any method, act
19 or practice deemed to be violative of the Chapter from any person
20 who has engaged or was about to engage in such method, act or
21 practice. Any such assurance shall be in writing and filed with
22 and subject to the approval of the Island Court. Such assurance
23 of voluntary compliance shall not be considered an admission of
24 violation for any purpose. Matters thus closed may at any time
25 be reopened by the Attorney General for further proceedings in
26 the public interest, pursuant to Section 53602.

27 Section 53604. Civil Investigative Demand.

28 (a) Whenever the Attorney General believes that any person
29 may be in possession, custody, or control of the original or a
30 copy of any documentary material relevant to the subject matter of

1 an investigation of a possible violation of this Chapter, he may
2 execute in writing and cause to be served upon such a person a
3 civil investigative demand requiring such person to produce such
4 documentary material and permit inspection and copying: Provided
5 that this Section shall not be applicable to criminal prosecutions.

6 (b) Each such demand shall:

7 (1) State the statute and section thereof, the alleged
8 violation of which is under investigation, and the general
9 subject matter of the investigation;

10 (2) Describe the class or classes of documentary
11 material to be produced thereunder with reasonable specificity
12 so as fairly to indicate the material demanded;

13 (3) Prescribe a return date within which the documen-
14 tary material is to be produced; and

15 (4) Identify the members of the Attorney General's
16 staff to whom such documentary material is to be made
17 available for inspection and copying.

18 (c) No such demand shall:

19 (1) Contain any requirement which would be unreasona-
20 ble or improper if contained in a subpoena duces tecum
21 issued by a court; or

22 (2) Require the disclosure of any documentary material
23 which would be privileged, or which for any other reason
24 would not be required by a subpoena duces tecum issued by a
25 court;

26 (d) Service of any such demand may be made by:

27 (1) Delivering a duly executed copy thereof to the
28 person to be served or to a partner or to any officer or
29 agent authorized by appointment or by law to receive service
30 of process on behalf of such person;

1 (2) Delivering a duly executed copy thereof to the
2 principal place of business in Guam of the person to be
3 served; or

4 (3) Mailing by registered or certified mail a duly
5 executed copy thereof addressed to the person to be served
6 at the principal place of business in Guam, or if said person
7 has no place of business in Guam, to his principal office or
8 place of business.

9 (e) Documentary material demanded pursuant to the provisions
10 of this Section shall be produced for inspection and copying
11 during normal business hours at the principal office or place of
12 business of the person served, or at such other times and places
13 as may be agreed upon by the person served and the Attorney General.

14 (f) No documentary material produced pursuant to a demand
15 under this Section shall, unless otherwise ordered by a court for
16 good cause shown, be produced for inspection or copying by, nor
17 shall contents thereof be disclosed to, any person other than the
18 authorized employee of the Attorney General, without the consent
19 of the person who produced such material; provided that under
20 such reasonable terms and conditions as the Attorney General shall
21 prescribe, such documentary material shall be available for inspection
22 and copying by the person who produced such material or any duly
23 authorized representative of such person. The Attorney General
24 or any attorney designated by him may use such documentary
25 material or copies thereof as he determines necessary in the
26 enforcement of this Chapter, including presentation before any
27 court; provided that any such material which contains trade
28 secrets shall not be presented except with the approval of the
29 court in which the act is pending after adequate notice to the
30 person furnishing such material.

1 (g) At any time before the return date specified in the
2 demand, or within twenty (20) days after the demand has been
3 served, whichever period is shorter, a petition to extend the
4 return date for, or to modify or set aside the demand, stating
5 good cause, may be filed in the Island Court.

6 (h) A person upon whom a demand is served pursuant to the
7 provisions of this Section shall comply with the terms thereof,
8 unless otherwise provided by order of court. Any person who, with
9 intent to avoid, evade, or prevent compliance, in whole or in part,
10 with any civil investigative demand under this Section, removes
11 from any place, conceals, withholds, or destroys, mutilates, alters,
12 or by any other means falsifies any documentary material in the
13 possession, custody or control of any person subject of any such
14 demand shall be guilty of a misdemeanor and shall be subject,
15 upon conviction, to a fine not to exceed \$500 or to imprisonment
16 for a term of not more than one (1) year, or both.

17 (i) Whenever any person fails to comply with any civil
18 investigative demand duly served upon him under this Section or
19 whenever satisfactory copying or reproduction of any such material
20 cannot be done and such person refuses to surrender such material,
21 the Attorney General, through such officers or attorneys as he may
22 designate, may file, in the Island Court, and serve upon such a
23 person a petition for an order of such court for the enforcement
24 of this Section. Whenever any petition is filed in the Island
25 Court, under this Section, such court shall have jurisdiction to
26 hear and determine the matter so presented, and to enter such
27 order or orders as may be required to carry into effect the
28 provisions of this Section. Any disobedience of any final order
29 entered under this Section by any court, appellate or otherwise,
30 shall be punished as a contempt thereof.

1 Section 53605. Civil Penalties. Any person who violates
2 the terms of an injunction issued under Section 53602 shall forfeit
3 and pay to the Government of Guam a civil penalty of not more than
4 \$1,000 per violation.

5 Section 53606. Forfeiture of Corporate Franchise. Upon
6 petition by the Attorney General, the Island Court may, in its
7 discretion, order the dissolution or suspension or forfeiture
8 of franchise of any corporation which violates the terms of an
9 injunction issued under Section 53602."