

## Chapter 5a Unfair Competition Act

### 13-5a-101 Title.

This chapter is known as the "Unfair Competition Act."

Enacted by Chapter 372, 2004 General Session

### 13-5a-102 Definitions.

As used in this chapter:

- (1) "Control" means:
  - (a) ownership of more than 5% of the voting shares or ownership interests of an entity;
  - (b) the power to vote more than 5% of the voting shares of an entity; or
  - (c) the ability to influence the management of an entity.
- (2) "Depository institution" is as defined in Section 7-1-103.
- (3) "Malicious cyber activity" means:
  - (a) the unlawful use of computing resources to intimidate or coerce others;
  - (b) accessing a computer without authorization or exceeding authorized access;
  - (c) willfully communicating, delivering, or causing the transmission of a program, information, code, or command without authorization or exceeding authorized access; and
  - (d) intentionally or recklessly:
    - (i) intends to defraud or materially cause damage or disruption to any computing resources or to the owner of any computing resources; or
    - (ii) intends to materially cause damage or disruption to any computing resources indirectly through another party's computing resources.
- (4)
  - (a) Except as provided in Subsection (4)(b), "unfair competition" means an intentional business act or practice that:
    - (i)
      - (A) is unlawful, unfair, or fraudulent; and
      - (B) leads to a material diminution in value of intellectual property; and
    - (ii) is one of the following:
      - (A) malicious cyber activity;
      - (B) infringement of a patent, trademark, or trade name;
      - (C) a software license violation; or
      - (D) predatory hiring practices.
  - (b) Notwithstanding Subsection (4)(a), "unfair competition" does not include the departure and hiring of an employee by a competitor.

Amended by Chapter 340, 2011 General Session

### 13-5a-103 Private action for unfair competition.

- (1)
  - (a) Except as provided in Subsection (2), a person injured by unfair competition may bring a private cause of action against a person who engages in unfair competition.
  - (b) In an action under this Subsection (1), a person injured by unfair competition may recover:
    - (i) actual damages;

- (ii) costs and attorney fees; and
  - (iii) if the court determines that the circumstances are appropriate, punitive damages.
- (2) A person may not bring an action described in Subsection (1) against:
- (a) a depository institution; or
  - (b) an entity that:
    - (i) controls a depository institution;
    - (ii) is controlled by an entity that controls a depository institution; or
    - (iii) is controlled by a depository institution.

Enacted by Chapter 372, 2004 General Session