



UTAH DEPARTMENT
OF COMMERCE

Division of Consumer Protection

Consumer Protection Updates

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Business & Labor Interim Committee
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Overview

These proposed edits seek to:

- Enhance the mission of the Division and strengthen trust in Utah's commercial activities by protecting consumers through education and impartial enforcement
- Continue the Department's efforts to ensure regulation is Reasonable, Reliable, and Relevant
- Put industries and businesses (and ultimately the State as a whole) more clearly on notice of the responsibilities and powers of the Division
- Clarify language in the statute based on recent court rulings
- Implement lessons learned throughout the Division's activities

Clarify the Division's Powers to Recover Costs



Add language to 13-2 to recover enforcement costs related to all statutes enforced by the Division, including subpoena enforcement actions

Suggested language: “A judgment granted by a court in the division’s favor in connection with the division’s enforcement of a chapter described in Section 13-2-1, or in connection with its exercise of any authority described by Sections 13-2-5 or 13-2-6, shall include, in addition to any other relief, an award of reasonable attorney’s fees, court costs, and costs of investigation.”

Updating CSPA Language

(CSPA was adopted in 1973)

- Replace “enforcing authority” with “Division” in 13-11-3(3)
- Simplify language around the Division’s power to draft administrative rules
- Replace negatives
 - Suggested language: “Not consistent” with “inconsistent” in 13-11-2(4)
- Make terms referring to suppliers and consumers more inclusive and encompassing
 - Suggested language: “He” is replaced with “the person” in 13-11-3(6)
 - Suggested language: “He” is replaced with “a consumer” in 13-11-19(1)
- Strike unnecessary language
 - Suggested language: Replace “administer oaths and affirmations, subpoena witnesses or matter, and collect evidence” with “investigate” in 13-11-16(1)

Clarify Deceptive Acts Standard Under CSPA

Clarify 13-11-4(1)

Suggested language: “(1) A supplier that engages in any deceptive act or practice in connection with a consumer transaction violates this chapter, whether the deceptive act or practice occurs before, during, or after the transaction.”

Move “knowingly or intentionally” from 13-11-4(2) to the fine factor in 13-11-17(6) to encompass the entire statute

Suggested language: “the seriousness, nature, circumstances, extent, and persistence of the conduct constituting the violation, including whether the supplier acted knowingly or intentionally to deceive...”

These edits are consistent with other state consumer protection laws and courts interpreting them. (see e.g. Texas and Ohio).

Clarify that the Division's Powers are Complimentary

13-11-8

Suggested language: “In addition to the authority described by Sections 13-2-5 and 13-2-6, the division may conduct research, hold public hearings, make inquiries, and publish studies relating to consumer sales acts or practices.

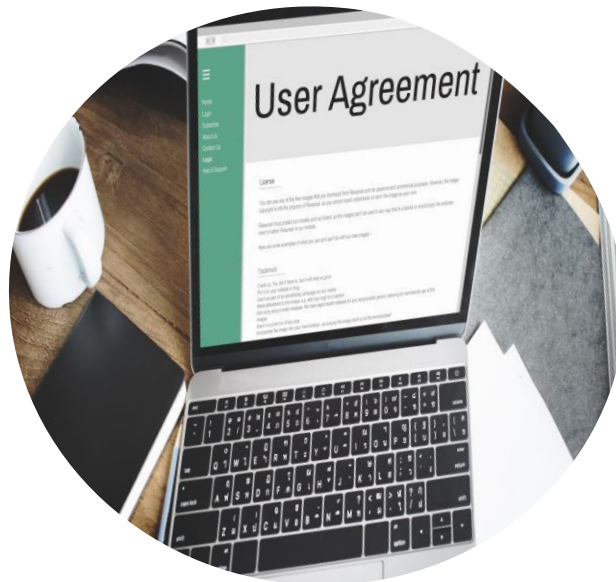
13-11-16

Suggested language: “(1) If the division has reason to believe that a person has engaged in, is engaging in, or is about to engage in an act or practice that violates this act, it may investigate and otherwise act in accordance with Sections 13-2-5, 13-2-6, and this Chapter.”

Change to Automatic Renewal Contracts Act

Amend 13-70-305(c)

The division shall deposit money received for the payment of a fine or civil penalty under this section into the General Fund the Education Fund described in Subsection 13-2-8.





Questions?

Thank you.