

**REGISTRATION OF PERSONAL
INTRODUCTION SERVICES**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Afton B. Bradshaw

AN ACT RELATING TO COMMERCE AND TRADE; ENACTING THE UTAH PERSONAL INTRODUCTION SERVICES PROTECTION ACT; DEFINING TERMS; REQUIRING REGISTRATION; PROVIDING EXEMPTIONS; REQUIRING BOND, CERTIFICATE OF DEPOSIT, OR LETTER OF CREDIT; ADDRESSING CONTRACT REQUIREMENTS; REQUIRING RECORDKEEPING; PROVIDING A STATUTE OF LIMITATIONS; AND PROVIDING FOR PENALTIES AND REMEDIES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

13-2-1, as last amended by Chapters 26 and 79, Laws of Utah 1996

ENACTS:

13-30-101, Utah Code Annotated 1953

13-30-102, Utah Code Annotated 1953

13-30-103, Utah Code Annotated 1953

13-30-104, Utah Code Annotated 1953

13-30-105, Utah Code Annotated 1953

13-30-106, Utah Code Annotated 1953

13-30-107, Utah Code Annotated 1953

13-30-108, Utah Code Annotated 1953

13-30-109, Utah Code Annotated 1953

13-30-110, Utah Code Annotated 1953

13-30-111, Utah Code Annotated 1953

13-30-112, Utah Code Annotated 1953

13-30-113, Utah Code Annotated 1953

13-30-114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-2-1** is amended to read:

13-2-1. Consumer protection division established -- Functions.

There is established within the Department of Commerce the Division of Consumer Protection. The division shall administer and enforce the following:

- (1) Chapter 5, Unfair Practices Act;
- (2) Chapter 11, Consumer Sales Practices Act;
- (3) Chapter 15, Business Opportunity Disclosure Act;
- (4) Chapter 16, Motor Fuel Marketing Act;
- (5) Chapter 20, New Motor Vehicle Warranties Act;
- (6) Chapter 21, Credit Services Organizations Act;
- (7) Chapter 22, Charitable Solicitations Act;
- (8) Chapter 23, Health Spa Services Protection Act;
- (9) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (10) Chapter 26, Telephone Fraud Prevention Act; [and]
- (11) Chapter 28, Prize Notices Regulation Act[-]; and
- (12) Chapter 30, Utah Personal Introduction Services Protection Act.

Section 2. Section **13-30-101** is enacted to read:

**CHAPTER 30. UTAH PERSONAL INTRODUCTION SERVICES
PROTECTION ACT**

13-30-101. Title.

This chapter is known as the "Utah Personal Introduction Services Protection Act."

Section 3. Section **13-30-102** is enacted to read:

13-30-102. Definitions.

As used in the chapter:

- (1) "Department" means the Department of Commerce.
- (2) "Director" means the director of the Division of Consumer Protection.
- (3) "Division" means the Division of Consumer Protection within the department.

(4) "Executive director" means the executive director of the department.

(5) "Personal introduction service" means a person who, for compensation, regularly engages in the business of offering dating, matrimonial, or social referral services by:

(a) an exchange of names, telephone numbers, addresses, and statistics;

(b) a photograph or video selection process; or

(c) a personal introduction provided by the person at its place of business.

(6) "Personal introduction services contract" means a written contract between a buyer and a provider of personal introduction services.

Section 4. Section **13-30-103** is enacted to read:

13-30-103. Operation without registration unlawful.

It is unlawful for any person to engage in a personal introduction service unless the person:

(1) registers with the division in accordance with this chapter; and

(2) maintains a valid registration.

Section 5. Section **13-30-104** is enacted to read:

13-30-104. Records of the division.

(1) The director shall keep a complete record of:

(a) all registered personal introduction services stating the name and address of each personal introduction service; and

(b) the bonds, certificates of deposit, or letters of credit filed with the division under Section 13-30-106, stating:

(i) the name, place of residence, and place of business of the principals and sureties; and

(ii) the name of the officer before whom the bond, certificate of deposit, or letter of credit was executed or acknowledged.

(2) The division shall provide a copy of a record maintained under Subsection (1) to a person:

(a) that requests a copy; and

(b) pays a fee established by the division in accordance with Section 63-38-3.2.

Section 6. Section **13-30-105** is enacted to read:

13-30-105. Registration.

(1) A personal introduction service shall register with the division by:

(a) filing an application with the division in the form prescribed by the division that includes the following:

(i) the name and address of the personal introduction service;

(ii) a statement by the applicant that local municipal ordinances do not prohibit the operation of the personal introduction service;

(iii) if the personal introduction service is carried on under a fictitious name, the fictitious name;

(iv) if the personal introduction service is a partnership, the names and addresses of each partner;

(v) if the personal introduction service is a corporation, the names and address of:

(A) each director or officer of the corporation; and

(B) the manager in charge of the business in this state; and

(vi) if the personal introduction service is a limited liability company, the names and addresses of all managers or members of the limited liability company; and

(b) paying the fee established by the division in accordance with Section 63-38-3.2.

(2) (a) Each place of business operated in this state by a personal introduction service is required to be registered under this chapter.

(b) Notwithstanding Subsection (2)(a), a personal introduction service that maintains more than one place of business may file a single application that applies to all places of business. In addition to the information required by Subsection (1), the application shall state:

(i) the location of each place of business; and

(ii) the manager in charge of each place of business.

(3) A registration shall cease to be valid when the director finds that any of the information provided by the application form is:

(a) relevant, as defined by rule; and

(b) (i) false; or

(ii) no longer current.

Section 7. Section **13-30-106** is enacted to read:

13-30-106. Bond, certificate of deposit, or letter of credit.

(1) (a) A person may not conduct a personal introduction service unless at the time of conducting the personal introduction service the person has on file with the division a good and sufficient bond, certificate of deposit, or letter of credit.

(b) If a personal introduction service business obtains and maintains a bond, the bond shall be a performance bond issued by a surety authorized to transact surety business in this state.

(2) The bond, certificate of deposit, or letter of credit shall be for at a minimum \$50,000 or a higher amount prescribed by rule, payable to the division.

(3) (a) The bond, certificate of deposit, or letter of credit shall provide that the person giving it shall, upon written demand, remit to the division the amount necessary:

(i) as reimbursement for both administrative and civil violations of this chapter; and

(ii) in satisfaction of any civil and or criminal judgments rendered by a court of competent jurisdiction for violations of this chapter.

(b) Notwithstanding Subsection (3)(a), recovery from a bond, certificate of deposit, or letter of credit is limited to the amount of the bond, certificate of deposit, or letter of credit.

(4) The division may:

(a) specify the form of the bond, certificate of deposit, or letter of credit; and

(b) require that the bond, certificate of deposit, or letter of credit contain additional provisions and conditions that the division considers necessary or proper to protect the persons for whom the collection is undertaken.

(5) (a) A bond, certificate of deposit, or letter of credit required under this section shall be for the term of one year from the date of issuance and shall run concurrently with the registration.

(b) The applicant shall maintain the bond, certificate of deposit, or letter of credit for the entire duration of the registration and for a period of not less than one year after the division receives notice in writing from the person engaged in the business of a personal introduction service that all activities have ceased.

(c) An action on a bond, certificate of deposit, or letter of credit may not be initiated more than two years from the date the bond, certificate of deposit, or letter of credit expires.

Section 8. Section **13-30-107** is enacted to read:

13-30-107. Annual expiration.

A registration shall cease to be valid on June 30 of each year unless the personal introduction service has:

- (1) paid a renewal fee; and
- (2) filed a renewal application required by the division by rule.

Section 9. Section **13-30-108** is enacted to read:

13-30-108. Requirements to personal services contracts.

(1) (a) A personal introduction service may not perform personal introduction services prior to executing a written personal services contract with a buyer.

(b) A copy of the contract shall be provided to the buyer at the time the buyer signs the contract.

(c) A personal introduction services contract shall contain on its face, and in close proximity to the space reserved for the signature of the buyer, a conspicuous statement in a size equal to at least 12-point boldface type, as follows:

"You, the buyer, may cancel this agreement, without any penalty or obligation, at any time prior to midnight of the original contract seller's third business day following the date of this contract, excluding Sundays and holidays. To cancel this agreement, mail, deliver, or fax a signed and dated notice, or send a telegram or email that states that you, the buyer, are canceling this agreement, or words of similar effect. This notice shall be sent to the personal introduction service at the location specified by the contract."

(d) A personal introduction services contract shall contain on the first page, in a type size no smaller than that generally used in the body of the document:

- (i) the name and address of the personal introduction service operator to which the notice of cancellation is to be mailed; and
- (ii) the date the buyer signed the contract.

(2) (a) A buyer may terminate a personal introduction services contract for any reason without penalty or obligation at any time prior to midnight of the third business day following the date that the personal introduction services contract is executed.

(b) A personal introduction services contract is cancelled on the date the buyer gives written notice of cancellation by mail, email, fax, telegram, or delivery to the personal introduction service at the address specified in the personal introduction services contract.

(c) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(d) (i) Notice of cancellation given by the buyer is effective if it indicates the intention of the buyer not to be bound by the personal introduction services contract.

(ii) A personal introduction service may not require a buyer to give a notice of cancellation in a particular form to be effective.

(iii) All moneys paid under a personal introduction services contract shall be refunded within ten days of receipt of the notice of cancellation.

(3) (a) If a buyer notifies the personal introduction service by telephone that the buyer is canceling the contract within the three-day period specified in this section, the personal introduction service shall stop the processing of a credit card voucher or check.

(b) Notwithstanding Subsection (3)(a), in addition to the telephone notice to cancel a personal services contract, the buyer shall provide written notice in accordance with Subsection (2).

(4) During the three business days between the date of the contract and the expiration of the buyer's right to cancel, the personal introduction service may not restrict the buyer's access or use of available services and benefits under the terms of the contract.

(5) A personal introduction services contract is void and unenforceable if the contract:

(a) does not comply with this chapter; or

(b) is entered into under willful and fraudulent or misleading information either as a result of or at the time of the sales presentation or advertisements or otherwise resultant from the seller's action.

(6) (a) Notwithstanding the provisions of any contract to the contrary, if the contract price

is payable in installments and the buyer is relieved from making further payments or entitled to a refund under this chapter, the buyer is entitled to receive a refund or refund credit of that portion of the cash price that is allocable to the services not actually received by the buyer.

(b) The refund of any finance charge shall be calculated according to rules made by the division.

(7) Any waiver by the buyer of this chapter is void and unenforceable.

Section 10. Section **13-30-109** is enacted to read:

13-30-109. Recordkeeping.

(1) A personal introduction service shall maintain any record that is required by rules made by the division.

(2) The records described under Subsection (1) shall be:

(a) open for reasonable inspection by the division or other law enforcement officials; and

(b) maintained for at least three years.

Section 11. Section **13-30-110** is enacted to read:

13-30-110. Registration nontransferable -- Change of name -- Change of location -- Change of ownership.

(1) A personal introduction service may not transfer its registration under this chapter.

(2) A personal introduction service shall notify the division no later than 30 days prior to a change regarding any:

(a) change in:

(i) its name;

(ii) ownership; or

(iii) location; or

(b) change that may significantly affect the ability of the personal introduction service to meet requirements for registration.

(3) If the personal introduction service makes a change described in Subsection (2)(a)(ii), (a)(iii), or (b), the personal introduction service shall return its registration to the division for cancellation and file a new registration application form including:

- (a) a new bond, certificate of deposit, or letter of credit; and
- (b) the registration fee.

Section 12. Section **13-30-111** is enacted to read:

13-30-111. Statute of limitations.

An administrative or civil action may not be maintained by the state related to any party under this chapter unless filed within two years after the act or omission alleged as the ground for division action.

Section 13. Section **13-30-112** is enacted to read:

13-30-112. Powers of director -- Administrative actions -- Civil actions by division.

(1) The director may take any of the following actions against a personal introduction service after a hearing pursuant to Title 63, Chapter 46b, Administrative Procedures Act:

- (a) imposing probation upon terms and conditions to be set forth by the director;
- (b) suspending the registration; and
- (c) revoking the registration.

(2) (a) After suspension of the registration on any of the grounds set forth in this chapter or rules made pursuant to this chapter, the director may reinstate the registration upon proof of compliance by the applicant with all provisions of the decision as to reinstatement.

(b) After revocation of a registration upon any of the grounds set forth in this chapter or rules made pursuant to this chapter, the registration may not be reinstated or reissued within a period of one year after the effective date of revocation.

(3) (a) In addition to other penalties and remedies set out under this chapter, and in addition to its other enforcement powers under Title 13, Chapter 2, Division of Consumer Protection, the director may issue a cease and desist order and impose an administrative fine of up to \$1,000 for each violation of this chapter.

(b) All money received through administrative fines imposed under this section shall be deposited in the Consumer Protection Education and Training Fund created by Section 13-2-8.

(4) The division may bring civil action to:

- (a) recover, for each violation, actual damages, or obtain relief under Subsection (5), on

behalf of persons who have complained to the division under this chapter and or who complain to the division within a reasonable period of time after the division has instituted proceedings under this section;

(b) obtain a declaratory judgment that an act or practice violates this chapter; and

(c) enjoin, in accordance with the principles of equity, a personal introduction service that has violated, is violating, or is otherwise likely to violate this chapter.

(5) The division may bring a class action on behalf of a person for the actual damages caused by an act or practice that violates this chapter or a rule adopted by the division pursuant to this chapter.

(6) Any civil judgment granted in favor of the division in connection with the enforcement of this chapter shall include, in addition to any other monetary award or injunctive relief, an award of:

(a) reasonable attorney's fees;

(b) court costs; and

(c) costs of investigation.

Section 14. Section **13-30-113** is enacted to read:

13-30-113. Private actions.

(1) Whether a person seeks or is entitled to damages or otherwise has an adequate remedy at law, a person may bring a civil action to:

(a) obtain a declaratory judgment that an act or practice violates this chapter; and

(b) enjoin, in accordance with the principles of equity, a personal introduction service that has violated, is violating, or is likely to violate this chapter.

(2) A person who suffers loss as a result of a violation of this chapter may recover, but not in a class action, the sum of:

(a) the greater of:

(i) actual damages; or

(ii) \$2,000; and

(b) court costs.

(3) A person may bring a class action if certified by the court, for damages caused by an act or practice that violates this chapter or a rule adopted by the division pursuant to this chapter.

(4) Any action brought under this section may not be commenced by a person before the sooner of:

(a) the day the division has completed its investigation and evaluation of a complaint; or

(b) one year after the day the complaint was filed with the division.

(5) This chapter does not limit the rights or remedies that are otherwise available to a person under any other law.

(6) In an action initiated under this section by a person, the court may award attorneys' fees to the prevailing party.

Section 15. Section **13-30-114** is enacted to read:

13-30-114. Criminal penalties.

Any person who fails to comply with this chapter is guilty of a class B misdemeanor.