

TICKET RESELLER AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Ticket Website Sales Act and the Utah Consumer Sales Practice Act.

Highlighted Provisions:

This bill:

- ▶ amends prohibited practices under the Ticket Website Sales Act; and
- ▶ establishes application of the Utah Consumer Sales Practices Act to certain violations of the Ticket Website Sales Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-11-4, as last amended by Laws of Utah 2013, Chapter 124

13-54-202, as enacted by Laws of Utah 2019, Chapter 115

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

Section 1. Section **13-11-4** is amended to read:

13-11-4. Deceptive act or practice by supplier.



28 (1) A deceptive act or practice by a supplier in connection with a consumer transaction
29 violates this chapter whether it occurs before, during, or after the transaction.

30 (2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or
31 practice if the supplier knowingly or intentionally:

32 (a) indicates that the subject of a consumer transaction has sponsorship, approval,
33 performance characteristics, accessories, uses, or benefits, if it has not;

34 (b) indicates that the subject of a consumer transaction is of a particular standard,
35 quality, grade, style, or model, if it is not;

36 (c) indicates that the subject of a consumer transaction is new, or unused, if it is not, or
37 has been used to an extent that is materially different from the fact;

38 (d) indicates that the subject of a consumer transaction is available to the consumer for
39 a reason that does not exist, including any of the following reasons falsely used in an
40 advertisement:

41 (i) "going out of business";

42 (ii) "bankruptcy sale";

43 (iii) "lost our lease";

44 (iv) "building coming down";

45 (v) "forced out of business";

46 (vi) "final days";

47 (vii) "liquidation sale";

48 (viii) "fire sale";

49 (ix) "quitting business"; or

50 (x) an expression similar to any of the expressions in Subsections (2)(d)(i) through
51 (ix);

52 (e) indicates that the subject of a consumer transaction has been supplied in accordance
53 with a previous representation, if it has not;

54 (f) indicates that the subject of a consumer transaction will be supplied in greater
55 quantity than the supplier intends;

56 (g) indicates that replacement or repair is needed, if it is not;

57 (h) indicates that a specific price advantage exists, if it does not;

58 (i) indicates that the supplier has a sponsorship, approval, or affiliation the supplier

59 does not have;

60 (j) (i) indicates that a consumer transaction involves or does not involve a warranty, a
61 disclaimer of warranties, particular warranty terms, or other rights, remedies, or obligations, if
62 the representation is false; or

63 (ii) fails to honor a warranty or a particular warranty term;

64 (k) indicates that the consumer will receive a rebate, discount, or other benefit as an
65 inducement for entering into a consumer transaction in return for giving the supplier the names
66 of prospective consumers or otherwise helping the supplier to enter into other consumer
67 transactions, if receipt of the benefit is contingent on an event occurring after the consumer
68 enters into the transaction;

69 (l) after receipt of payment for goods or services, fails to ship the goods or furnish the
70 services within the time advertised or otherwise represented or, if no specific time is advertised
71 or represented, fails to ship the goods or furnish the services within 30 days, unless within the
72 applicable time period the supplier provides the buyer with the option to:

73 (i) cancel the sales agreement and receive a refund of all previous payments to the
74 supplier if the refund is mailed or delivered to the buyer within 10 business days after the day
75 on which the seller receives written notification from the buyer of the buyer's intent to cancel
76 the sales agreement and receive the refund; or

77 (ii) extend the shipping date to a specific date proposed by the supplier;

78 (m) except as provided in Subsection (3)(b), fails to furnish a notice meeting the
79 requirements of Subsection (3)(a) of the purchaser's right to cancel a direct solicitation sale
80 within three business days of the time of purchase if:

81 (i) the sale is made other than at the supplier's established place of business pursuant to
82 the supplier's personal contact, whether through mail, electronic mail, facsimile transmission,
83 telephone, or any other form of direct solicitation; and

84 (ii) the sale price exceeds \$25;

85 (n) promotes, offers, or grants participation in a pyramid scheme as defined under Title
86 76, Chapter 6a, Pyramid Scheme Act;

87 (o) represents that the funds or property conveyed in response to a charitable
88 solicitation will be donated or used for a particular purpose or will be donated to or used by a
89 particular organization, if the representation is false;

90 (p) if a consumer indicates the consumer's intention of making a claim for a motor
91 vehicle repair against the consumer's motor vehicle insurance policy:

92 (i) commences the repair without first giving the consumer oral and written notice of:

93 (A) the total estimated cost of the repair; and

94 (B) the total dollar amount the consumer is responsible to pay for the repair, which
95 dollar amount may not exceed the applicable deductible or other copay arrangement in the
96 consumer's insurance policy; or

97 (ii) requests or collects from a consumer an amount that exceeds the dollar amount a
98 consumer was initially told the consumer was responsible to pay as an insurance deductible or
99 other copay arrangement for a motor vehicle repair under Subsection (2)(p)(i), even if that
100 amount is less than the full amount the motor vehicle insurance policy requires the insured to
101 pay as a deductible or other copay arrangement, unless:

102 (A) the consumer's insurance company denies that coverage exists for the repair, in
103 which case, the full amount of the repair may be charged and collected from the consumer; or

104 (B) the consumer misstates, before the repair is commenced, the amount of money the
105 insurance policy requires the consumer to pay as a deductible or other copay arrangement, in
106 which case, the supplier may charge and collect from the consumer an amount that does not
107 exceed the amount the insurance policy requires the consumer to pay as a deductible or other
108 copay arrangement;

109 (q) includes in any contract, receipt, or other written documentation of a consumer
110 transaction, or any addendum to any contract, receipt, or other written documentation of a
111 consumer transaction, any confession of judgment or any waiver of any of the rights to which a
112 consumer is entitled under this chapter;

113 (r) charges a consumer for a consumer transaction or a portion of a consumer
114 transaction that has not previously been agreed to by the consumer;

115 (s) solicits or enters into a consumer transaction with a person who lacks the mental
116 ability to comprehend the nature and consequences of:

117 (i) the consumer transaction; or

118 (ii) the person's ability to benefit from the consumer transaction;

119 (t) solicits for the sale of a product or service by providing a consumer with an
120 unsolicited check or negotiable instrument the presentment or negotiation of which obligates

121 the consumer to purchase a product or service, unless the supplier is:

122 (i) a depository institution under Section 7-1-103;

123 (ii) an affiliate of a depository institution; or

124 (iii) an entity regulated under Title 7, Financial Institutions Act;

125 (u) sends an unsolicited mailing to a person that appears to be a billing, statement, or
126 request for payment for a product or service the person has not ordered or used, or that implies
127 that the mailing requests payment for an ongoing product or service the person has not received
128 or requested;

129 (v) issues a gift certificate, instrument, or other record in exchange for payment to
130 provide the bearer, upon presentation, goods or services in a specified amount without printing
131 in a readable manner on the gift certificate, instrument, packaging, or record any expiration
132 date or information concerning a fee to be charged and deducted from the balance of the gift
133 certificate, instrument, or other record;

134 (w) misrepresents the geographical origin or location of the supplier's business; ~~or~~

135 (x) fails to comply with the restrictions of Section 15-10-201 on automatic renewal
136 provisions[-]; or

137 (y) fails to comply with the restrictions of Subsection 13-54-202(2).

138 (3) (a) The notice required by Subsection (2)(m) shall:

139 (i) be a conspicuous statement written in dark bold with at least 12-point type on the
140 first page of the purchase documentation; and

141 (ii) read as follows: "YOU, THE BUYER, MAY CANCEL THIS CONTRACT AT
142 ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY (or time period
143 reflecting the supplier's cancellation policy but not less than three business days) AFTER THE
144 DATE OF THE TRANSACTION OR RECEIPT OF THE PRODUCT, WHICHEVER IS
145 LATER."

146 (b) A supplier is exempt from the requirements of Subsection (2)(m) if the supplier's
147 cancellation policy:

148 (i) is communicated to the buyer; and

149 (ii) offers greater rights to the buyer than Subsection (2)(m).

150 (4) (a) A gift certificate, instrument, or other record that does not print an expiration
151 date in accordance with Subsection (2)(v) does not expire.

152 (b) A gift certificate, instrument, or other record that does not include printed
153 information concerning a fee to be charged and deducted from the balance of the gift
154 certificate, instrument, or other record is not subject to the charging and deduction of the fee.

155 (c) Subsections (2)(v) and (4)(b) do not apply to a gift certificate, instrument, or other
156 record useable at multiple, unaffiliated sellers of goods or services if an expiration date is
157 printed on the gift certificate, instrument, or other record.

158 Section 2. Section **13-54-202** is amended to read:

159 **13-54-202. Prohibited practices.**

160 (1) (a) It is unlawful for any person who is not a primary ticket seller to represent,
161 directly or indirectly, that the person is a primary ticket seller.

162 (b) If a presiding officer or court determines appropriate after considering other
163 relevant factors, the following actions by a person who is not a primary ticket seller establish a
164 presumption that the person is representing that the person is a primary ticket seller in violation
165 of Subsection (1)(a):

166 (i) using the name of an event in the domain of the person's ticket website, unless the
167 person has written authorization from an agent of the event;

168 (ii) using the name of an event participant in the domain of the person's ticket website,
169 unless the person has written authorization from the event participant or an agent of the event
170 participant; or

171 (iii) using, in paid search results, the name of an event or event participant in a manner
172 described in Subsection (1)(b)(i) or (ii).

173 (2) It is unlawful for a person to accept payment for a ticket and not deliver to the
174 consumer who purchases the ticket a ticket that reflects the transaction to which both parties
175 agreed.

176 [~~2~~] (3) It is unlawful for a person to fail to comply with a provision of Section
177 **13-54-201**.

178 [~~3~~] (4) Nothing in this section prohibits a person from including the name of an event
179 or an event participant in a URL after the top-level domain.