



**Dutchess County Department of  
Behavioral & Community Health**

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**Sandra L. Winder, Director  
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**BE IT ENACTED by the County Legislature of the County of Dutchess as follows:**

**LOCAL LAW NO. 10 OF 1991 AS AMENDED BY LOCAL LAW NO. 2 OF 2011 AS AMENDED BY LOCAL LAW NO. 1 OF 2013**

**A LOCAL LAW ESTABLISHING PRACTICES IN DUTCHESS COUNTY AND PENALTIES FOR VIOLATIONS**

**BE IT ENACTED by the County Legislature of the County of Dutchess as follows:**

**SECTION 1. UNFAIR PRACTICES PROHIBITED**

No person shall engage in any deceptive or unconscionable trade practices in the sale, lease, rental, or loan, or in the offering for sale, lease, rental or loan of any consumer goods or services.

**SECTION 2. DEFINITIONS**

- A. "Person shall mean any individual, corporation, unincorporated association, firm, partnership, organization of other entry."
- B. "*Deceptive Trade Practices*" shall mean any false, falsely disparaging, or misleading oral or written statement, visual description or other representation of any kind, which has the capacity, tendency or effect of deceiving or misleading consumers and is made in connection with the sale, lease, rental or loan of consumer goods or services; the offering for sale, lease, rental or consumer goods or services; or the extension of consumer credit. **Deceptive trade practices include but are not limited to:**
- (1) **Representation that:**
    - (a) goods or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have;
    - (b) the seller has a sponsorship, approval, status, affiliation or connection that he does not have;
    - (c) goods are original or new if they are deteriorated, altered, reconditioned, reclaimed or second hand;
    - (d) goods or services are of a particular standard, design, quality, grade, style, value, or model if they are of another.
  - (2) A false representation as to a material fact.
  - (3) Failure to state a material fact if such use of failure deceived or tends to deceive.
  - (4) Offering goods or services without intent to sell them.
  - (5) Advertising goods or services without intent to supply reasonably expectable public demand, unless the offer disclosed the limitation; vendor must show dated proof he has ordered, in time to arrive by the beginning of sale, more than normal everyday supply.
  - (6) Making false or misleading representations of fact concerning: the reason for, existence of, or amounts of price reductions; or the price in comparison to prices of competitors or one's own price at a past or future time.
  - (7) Falsely stating that a consumer transaction involves consumer rights, remedies or obligations.
  - (8) Falsely stating that services, replacements or repairs are needed.
  - (9) Falsely stating the reasons for offering or supplying goods or services at sale or discount prices.
  - (10) Abandonment or willful failure to perform any home improvement contract or project engaged in, or willful deviation from or disregard of plans or specifications in any material respect without the consent of the owner.
  - (11) Failure to complete contract, service or project in a workmanlike manner or failure to return and perform repairs under warranty.
  - (12) Failure to have retail selling prices clearly indicated at the point of display.
    - (a) by placing signs or shelf tags marked in Arabic numerals as close as practical to the location at which the consumer goods are displayed; and/or
    - (b) by stamping, tagging, labeling or otherwise marking each item of consumer goods.
  - (13) Selling or offering for sale any consumer goods or services at a greater price than any price displayed or advertised therefore.
  - (14) Selling or offering for sale any consumer goods which do not have a selling price displayed in conformity with this local law.
  - (15) Use of a computer-assisted checkout system or price look-up function that determines a retail selling price which exceeds the lower of any item, self, displayed, sale or advertised price for any item of consumer goods offered for sale.
  - (16) Displaying gasoline prices in a manner which fails to include and make plainly visible to the consumer of the difference, if any, between the price per gallon for payment by cash, debit or credit. For example, a sign which only reveals the price per gallon for a cash payment, but fails to include and make equally and plainly visible the price per gallon by debit or credit payment when a difference in price exists, shall constitute a deceptive trade practice. However, a sign which does not distinguish between the price per gallon for payment by cash and payment by debit or credit shall not be considered a deceptive trade practice only if the price per gallon is the same regardless of the form of payment. The price of gasoline available to retail customers must be displayed on one or more signs that are so positioned and lit that the price that the signs display will be readily seen by motorists approaching the gasoline station at any time that the gasoline station is open for business to supply gasoline. Such signs must display, in all instances, the price of gasoline at the standard retail price available to all retail customers without any discounts or special offers. If discounted pricing is displayed on the sign it must be of the same size as the regular price of gasoline. *All such signage must be in conformity with local zoning ordinances and approvals and is not intended to authorize the installation or usage of any additional signs.*

- C. **“Unconscionable Trade Practice”** shall mean any act or practice which unfairly takes advantage of the lack of knowledge, ability, experience or capacity of the consumer which results in a gross disparity between the value received by a consumer and the price paid by the consumer.
- D. **“Consumer goods, services, credit and debts”** shall mean those which are primarily for personal, household, property improvements or family purposes.
- E. **“Consumer”** shall mean an individual who buys or leases or agrees to buy or lease consumer goods or services or credit including a co-guarantor or surety.
- F. **“Seller”** shall mean a manufacturer, supplier, merchant, contractor, lesser or creditor or other person who makes consumer goods or services available to consumers, either directly or indirectly.
- G. **“Commissioner”** shall mean the Commissioner of the Department of Health.

### **SECTION 3. REGULATIONS**

The Commissioner may, after a public hearing, adopt such rules and regulations as may be necessary to effectuate the purposes of this act, including regulations defining specific deceptive or unconscionable trade practices. At least seven business days prior notice of such public hearing shall be published in the official newspapers of the County. A copy of all rules and regulations, promulgated hereunder and any amendments thereto shall be filed in the office of the Clerk of the County Legislature.

No such regulation shall become effective unless approved by resolution of the Dutchess County Legislature.

### **SECTION 4. ENFORCEMENT**

**The Dutchess County Commissioner of Health shall have the responsibility of enforcing this Local Law.**

### **SECTION 5. SETTLEMENTS**

- A. A violation of any provision of this Local Law or any rule or regulation promulgated hereunder shall be punishable upon proof thereof by the payment of Civil Penalty in the sum of not less than fifty (\$50.00) dollars nor more than two thousand (\$2,000.00) dollars per day for each such violation, to be recovered in a Civil Action.
- B. Upon finding a Violation of this Local Law or any rules and regulations promulgated pursuant thereto, the Commissioner shall expeditiously cause the same to be corrected, or where there is evidence of intent to defraud, refer evidence of such violation to the District Attorney of the County for prosecution, or in the absence of intent to defraud refer to the County Attorney for commencement of a Civil Action in the name of the County to recover a Civil Penalty in the amounts prescribed. A cause of action for recovery of such penalty may be released, settled or compromised by the Commissioner before the matter is referred to the County Attorney or thereafter by such Attorney.
- C. Whenever any person has engaged in any acts or practices which constitute repeated or persistent Violations of any provision of this act or any rule or regulation promulgated hereunder, the County Attorney, upon the request of the Commissioner, may commence an action the name of the County for a restraining order, temporary or permanent injunction or other equitable relief.
- D. In lieu of instituting or continuing action pursuant to this act, the Commissioner may accept written assurance of discontinuance of any act or practice in violation of this act. Such assurance may include a stipulation for the voluntary payment by the alleged violator for the costs of investigation and the restitution, by the alleged violator, to consumers of money, property, or other things received from such consumers in connection with a violation of this act.
- E. An assurance entered into pursuant to this section shall not be deemed to admit the violation unless it does so by its terms.
- F. A violation of an assurance entered into pursuant to this section shall be treated as a violation of this act and shall be subject to all the penalties provided thereof.

### **SECTION 6. EXCLUSION**

Nothing in this act shall apply to any television or radio broadcasting station or to any publisher or printer of a newspaper, magazine, or other form of printed advertising, who broadcasts, publishes or prints the advertisements.

### **SECTION 7. SEVERABILITY**

If any provision of this act or the application thereof to any person or circumstances is held unconstitutional the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby.

### **SECTION 8. REPORTS**

The Commissioner shall render to the Dutchess County Legislature and the County Executive an annual report to his activities under this law no later than June 1<sup>st</sup> of each year.

### **SECTION 9. EFFECTIVE DATE**

The Local Law shall take effect in the manner provided for in the Municipal Home Rule Law.

**ADMINISTERED AND ENFORCED BY  
THE DUTCHESS COUNTY DEPARTMENT OF BEHAVIORAL & COMMUNITY HEALTH  
DIVISION OF WEIGHTS & MEASURES  
98 PEACH ROAD  
POUGHKEEPSIE, NEW YORK 12601**