

By: Representative Moak

To: Judiciary A

HOUSE BILL NO. 1113

1 AN ACT TO AMEND SECTION 75-24-5, MISSISSIPPI CODE OF 1972, TO
2 REVISE PROHIBITED ACTS UNDER THE CONSUMER PROTECTION LAW; TO AMEND
3 SECTION 75-24-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
4 ATTORNEY GENERAL MAY AUTHORIZE OTHERS TO BRING ACTIONS ON HIS
5 BEHALF; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 75-24-5, Mississippi Code of 1972, is
8 amended as follows:

9 75-24-5. (1) Unfair methods of competition affecting
10 commerce and unfair or deceptive trade practices in or affecting
11 commerce are prohibited. Action may be brought under Section
12 75-24-5(1) only under the provisions of Section 75-24-9.

13 (2) Without limiting the scope of subsection (1) of this
14 section, the following unfair methods of competition and unfair or
15 deceptive trade practices or acts in the conduct of any trade or
16 commerce are hereby prohibited:

17 (a) Passing off goods or services as those of another;

18 (b) Misrepresentation of the source, sponsorship,
19 approval, or certification of goods or services;

20 (c) Misrepresentation of affiliation, connection, or
21 association with, or certification by another;

22 (d) Misrepresentation of designations of geographic
23 origin in connection with goods or services;

24 (e) Representing that goods or services have
25 sponsorship, approval, characteristics, ingredients, uses,
26 benefits, or quantities that they do not have or that a person has
27 a sponsorship, approval, status, affiliation, or connection that
28 he does not have;

29 (f) Representing that goods are original or new if they
30 are reconditioned, reclaimed, used, or secondhand;

31 (g) Representing that goods or services are of a
32 particular standard, quality, or grade, or that goods are of a
33 particular style or model, if they are of another;

34 (h) Disparaging the goods, services, or business of
35 another by false or misleading representation of fact;

36 (i) Advertising goods or services with intent not to
37 sell them as advertised;

38 (j) Advertising goods or services with intent not to
39 supply reasonably expectable public demand, unless the
40 advertisement discloses a limitation of quantity;

41 (k) Misrepresentations of fact concerning the reasons
42 for, existence of, or amounts of price reductions;

43 (l) Advertising by or on behalf of any licensed or
44 regulated health care professional which does not specifically
45 describe the license or qualifications of the licensed or
46 regulated health care professional;

47 (m) Charging an unreasonable amount for goods or
48 services.

49 **SECTION 2.** Section 75-24-15, Mississippi Code of 1972, is
50 amended as follows:

51 75-24-15. (1) In addition to all other statutory and common
52 law rights, remedies and defenses, any person who purchases or
53 leases goods or services primarily for personal, family or
54 household purposes and thereby suffers any ascertainable loss of
55 money or property, real or personal, as a result of the use of
56 employment by the seller, lessor, manufacturer or producer of a
57 method, act or practice prohibited by Section 75-24-5 may bring an
58 action at law in the court having jurisdiction in the county in
59 which the seller, lessor, manufacturer or producer resides, or has
60 his principal place of business or, where the act or practice
61 prohibited by Section 75-24-5 allegedly occurred, to recover such

62 loss of money or damages for the loss of such property, or may
63 assert, by way of setoff or counterclaim, the fact of such loss in
64 a proceeding against him for the recovery of the purchase price or
65 rental, or any portion thereof, of the goods or services.

66 (2) In any private action brought under this chapter, the
67 plaintiff must have first made a reasonable attempt to resolve any
68 claim through an informal dispute settlement program approved by
69 the Attorney General.

70 (3) In any action or counterclaim under this section of this
71 chapter, a prevailing defendant may recover in addition to any
72 other relief that may be provided in this section costs and a
73 reasonable attorney's fee, if in the opinion of the court, said
74 action or counterclaim was frivolous or filed for the purpose of
75 harassment or delay.

76 (4) Nothing in this chapter shall be construed to permit any
77 class action or suit, but every private action must be maintained
78 in the name of and for the sole use and benefit of the individual
79 person. The Attorney General may authorize a person to bring an
80 action on his behalf and on behalf of others with substantially
81 identical claims.

82 **SECTION 3.** This act shall take effect and be in force from
83 and after July 1, 2005.