Agency
Department of Consumer Protection

Subject
Representations of Guarantees

Inclusive Sections
§§ 42-110b-1—42-110b-31

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Representations of Guarantees

Sec. 42-110b-1. Guarantees

In determining whether terminology and direct or implied representations concerning guarantees, however made, i.e. in advertising or otherwise in connection with the sale or offering for sale of a product or a service may be in violation of Section 2 (a) of P.A. 615 effective July 1, 1973, the following general principle will be used:

(Effective November 26, 1973)

Sec. 42-110b-2. Required disclosures

In general any guarantee, however made, shall clearly and conspicuously disclose—

(a) The nature and extent of the guarantee. This includes

(1) What product or part of the product is guaranteed. What service or part of the service is guaranteed,

(2) What characteristics of properties of the designated product or part thereof are covered by, or excluded from, the guarantee,

(3) What is the duration of the guarantee,

(4) What, if anything, any one claiming under the guarantee must do before the guarantor will fulfill his obligation under the guarantee, such as return of the product and payment of service or labor charges; and

(b) The manner in which the guarantor will perform. This consists primarily of a statement of exactly what the guarantor undertakes to do under the guarantee. Examples of this would be repair, replacement, refund. If the guarantor or the person receiving the guarantee has an option as to what may satisfy the guarantee this should be set out; and

(c) The identity of the guarantor. The identity of the guarantor should be clearly revealed in all advertising, as well as in any documents evidencing the guarantee. Confusion of purchasers often occurs when it is not clear whether the manufacturer or the retailer is the guarantor.

(Effective November 26, 1973)

Sec. 42-110b-3. Adjustments

(a) Many guarantees are adjusted by the guarantor on a prorata basis. The advertising of these guarantees should clearly disclose this fact, the basis on which they will be prorated, e.g., the time for which the guaranteed product or service has been used, and the manner in which the guarantor will perform.

(b) If these guarantees are to be adjusted on the basis of a price other than that paid by the purchaser, this price should be clearly and conspicuously disclosed.

Example: “A” sells a tire with list price of $48 to “B” for $24, with a 12 months guarantee. After 6 months use the tire proves defective. If “A” adjusts on the basis of the price “B” paid, $24, “B” will only have to pay one-half of $24, or $12, for a new tire. If “A” instead adjusts on the basis of list price, “B” will owe one-half of $48, or $24, for a new tire. The

guarantor would be required to disclose here, the following: That this was a 12 months guarantee, that a list price of $48 would be used in the adjustment, that there would be an adjustment on the basis of the time that the tire was used, and that he would not pay the adjusted amount in cash, but would make an adjustment on a new tire.

Note: Guarantees which provide for an adjustment based on a fictitious list price should not be used even where adequate disclosure of the price used is made.

(Effective November 26, 1973)

Sec. 42-110b-4. Refunds

(a) "Satisfaction or Your Money Back," "10 Day Free Trial," or similar representations will be construed as a guarantee that the full purchase price will be refunded at the option of the purchaser.

(b) If this guarantee is subject to any conditions or limitations whatsoever, they shall be set forth as provided for in Sec. 42-110b-1.

Example: A rose bush is advertised under the representation "Satisfaction or Your Money Back." The guarantor requires return of the product within one year of purchase date before he will make refund. These limitations, i.e., "return" and "time" shall be clearly and conspicuously disclosed in the ad.

(Effective November 26, 1973)

Sec. 42-110b-5. Lifetime of product

If the words "Life," "Lifetime," or the like, are used in advertising to show the duration of a guarantee, and they relate to any life other than that of the purchaser or the original user, the life referred to shall be clearly and conspicuously disclosed.

Example: "A" advertised that his carburetor was guaranteed for life, whereas his guarantee ran for the life of the car in which the carburetor was originally installed. The advertisement is ambiguous and deceptive and should be modified to disclose the "life" referred to.

(Effective November 26, 1973)

Sec. 42-110b-6. Specific representations

(a) Advertisements frequently contain representations of guarantees that assure prospective purchasers that savings may be realized in the purchase of the advertiser's products or services.

(b) Some typical advertisements of this type are "Guaranteed to save you 50%," "Guaranteed never to be undersold," "Guaranteed lowest price in town."

(c) These advertisements should include a clear and conspicuous disclosure of what the guarantor will do if the savings are not realized, together with any time or other limitations that he may impose.

Example: "Guaranteed lowest price in town" might be accompanied by the following disclosure: "If within 30 days from the date that you buy a sewing machine from me, you

purchase the identical machine in town for less and present a receipt therefor to me, I will refund your money."

Note: The above guarantees may constitute affirmative representations of fact.

(Effective November 26, 1973)

Sec. 42-110b-7. Prohibited advertising

(a) A seller or manufacturer should not advertise or represent that a product is guaranteed when he cannot or does not promptly and scrupulously fulfill his obligations under the guarantee.

(b) A specific example of refusal to perform obligations under the guarantee is use of "Satisfaction or your money back" when the guarantor cannot or does not intend promptly to make full refund upon request.

(Effective November 26, 1973)

Sec. 42-110b-8. Responsibility for representations

Guarantees are often employed in such a manner as to constitute representations of material facts. If such is the case, the guarantor not only undertakes to perform under the terms of the guarantee, but also assumes responsibility under the law for the truth of the representations made.

Example 1: "Guaranteed for 36 months" applied to a battery is a representation that the battery can normally be expected to last for 36 months and should not be used in connection with a battery which can normally be expected to last for only 18 months.

Example 2: "Guaranteed to grow hair or money back" is a representation that the product will grow hair and should not be used when in fact such product is incapable of growing hair.

Example 3: "Guaranteed lowest prices in town" is a representation that the advertiser's prices are lower than the prices charged by all others for the same products in the same town and should not be used when such is not the fact.

Example 4: "We guarantee you will earn $500 a month" is a representation that prospective employees will earn a minimum of $500 each month and should not be used unless such is the fact.

(Effective November 26, 1973)

Deceptive Pricing

Sec. 42-110b-9—42-110b-14. Repealed

Repealed February 26, 1986.

Comparison Price Advertising

Sec. 42-110b-9a. Definitions

For purposes of Sections 42-110b-9a through 42-110b-14a, the following terms shall have the meanings indicated:

(a) "advertisement" means any oral, written, or graphic statement or representation made in connection with the solicitation of business in any manner by a seller and includes, but is not limited to, statements and representations made in any newspaper or other publication, or on radio or television or printed in any catalog, circular, or any other sales literature or brochure;

(b) "consumer property or services" means any personal property or services sold primarily for personal, family, or household use and not for resale or for use or consumption in a trade or business. For purposes of these regulations, "consumer property or services" shall include "merchandise."

(c) "price comparison" means: (1) the comparison, whether or not expressed wholly or in part in dollars, cents, fractions or percentages, in any advertisement, of a seller's current price for consumer property or services with any other price or statement of value for such property or services, whether or not such prices are actually stated in the advertisement; or, (2) the making of price reduction claims or savings claims with respect to the seller's current price. The term includes, but is not limited to, such comparisons as "50% off," "Up to 70% off," "Save ⅓," "Half-price sale," "30% to 70% off," "Was $20, now half price," "Guaranteed Lowest Prices," "$10 value, now $8," "Was $7, now $6," "List Price $50, Our Price $29," "Clearance Price," or "Liquidation Price";

(d) "sale" means a meaningful reduction from the seller's price at which consumer property or services is offered to the public for a fixed period of time; and

(e) "seller" means any person engaged in the sale or lease of consumer property or services. The term does not include banks, savings and loan associations, insurance companies, and public utilities.

(Effective February 26, 1986)

Sec. 42-110b-10a. Price comparison; general

It shall be an unfair or deceptive act or practice for a seller to make any price comparison:

(1) based upon a price other than one at which consumer property or services was either sold or offered for sale by the seller or a competitor, or will be sold or offered for sale by the seller in the future, in the regular course of business in the trade area in which the price comparison is made;

(2) in which the consumer property or services materially differ in composition, grade or quality, style or design, model, name or brand, kind or variety, or service and performance characteristics, unless the general nature of the material differences is conspicuously disclosed in the advertisement with the price comparison; or

(3) unless all the relevant price terms and conditions of any offer which is based upon the purchase of other merchandise are conspicuously disclosed. Such types of offers shall

include, but are not limited to, "Free," "2-for-1," "Two-Fer," "Half-Price Sale," "1¢ sale," "50% off" or other similar type of offer.

(Effective February 26, 1986)

Sec. 42-110b-11a. Catalogs

A seller who does business on a large regional or national basis may refer to reference prices in comparison to the seller's current selling prices in a seasonal or annual catalog if the reference prices are based upon a reasonably substantiated survey of the usual prices in the trade area.

(1) The reference price stated in such catalog is permissible if the catalog using such reference price contains a disclosure statement printed in a conspicuous manner, fully explaining:

(A) the source of the reference price; and

(B) that the reference prices may not continue to be in effect during the entire life of the catalogue, if such is in fact the case.

(Effective February 26, 1986)

Sec. 42-110b-12a. Price comparison advertisements

(a) It shall be an unfair or deceptive act or practice for a seller to make any price comparison based upon a price at which consumer property or services were sold by the seller unless:

(1) the price is a price at which such property or services were actually sold by the seller in the last ninety days immediately preceding the date on which the price comparison is stated in the advertisement; or

(2) the price is a price at which such property or services were actually sold by the seller during any other period, and the advertisement discloses with the price comparison the date, time or seasonal period when such sales were made.

(b) It shall be an unfair or deceptive act or practice for a seller to make any price comparison based upon a price at which the seller has offered for sale but has not sold consumer property or services unless:

(1) the price is a price at which such property or services were actually offered for sale by the seller for at least four weeks during the last ninety days immediately preceding the date on which the price comparison is stated in the advertisement; or

(2) the price is a price at which such property or services were actually offered for sale by the seller for at least four weeks during any other ninety day period, and the advertisement clearly discloses the date, time, or seasonal period of such offer.

(c) It shall be an unfair or deceptive act or practice for a seller to make any price comparison in which the seller represents that it is conducting a "sale" unless:

(1) the termination date of the "sale" is clearly set forth in the advertisement; and

(2) the day after the "sale" ends, the consumer property or services reverts in price to the price charged by the seller for said item before the "sale" began or to a price which is

higher than the "sale" price, except for "clearance," "closeout" or "permanent markdown" sales where the item will be reduced in price until it is removed from the seller's inventory.

(d) It shall be an unfair or deceptive act or practice for a seller to make any price comparison referencing a higher price at which consumer property or services will be offered or sold in the future unless:

(1) the advertisement clearly discloses that the price comparison is based upon a future price increase;

(2) the effective date of the future higher price, if more than ninety days after the price comparison is first stated in an advertisement, is clearly disclosed in the advertisement; and

(3) the future higher price increase takes effect on the date disclosed in the advertisement or, if not disclosed in the advertisement, within ninety days after the price comparison is stated in the advertisement, except where compliance becomes impossible because of circumstances beyond the seller's control.

(e) It shall be an unfair or deceptive act or practice for a seller to make any price comparison based upon advertised savings of a particular percentage or a range of percentages (*e.g.* "save 30%" or "20% to 60% off") unless:

(1) the minimum percent reduction is clearly stated in the advertisement in a manner as conspicuously as the maximum percentage reduction, when applicable;

(2) the basis for the advertised percent reduction is clearly and conspicuously disclosed in the advertisement (*e.g.* "20% off our regular price"); and

(3) the number of items available at the maximum savings comprise at least 10% of all the items in the offering.

(f) It shall be an unfair or deceptive act or practice for a seller to use the terms "wholesale prices," "factory outlet," "at cost," and other similar terms in a price comparison, unless the stated savings can be substantiated and the terms meet the following requirements:

(1) the terms "factory to you," "direct from maker," "factory outlet" and words of similar meaning shall not be used unless all advertised merchandise is actually manufactured by the advertiser or in factories, owned or controlled by the advertiser;

(2) the terms "wholesale," "wholesale outlet," "distributor" and words of similar meaning shall not be used unless the advertiser actually owns and operates or directly and absolutely controls a wholesale or distribution facility which sells the majority of its products to retailers or other wholesalers for resale, rather than to the ultimate consumer for use; and

(3) the terms "wholesale price," "at cost" and the like shall not be used unless they are the current prices which retailers usually and customarily pay when they buy such merchandise for resale.

(g) It shall be an unfair or deceptive act or practice for a seller, using the term "original" or "originally" in a price comparison, to fail to disclose that intermediate markdowns have been taken, if such is the case. A seller may use the term "original" or "originally" when offering a reduction from an original price that was the price at which such consumer property or services was actually offered for sale in the recent, regular course of business. If the comparative price, identified as "original" or "originally," is not also the last previous

selling price, that fact shall be disclosed, by stating the last previous selling price, (*e.g.,* "originally $599.95, formerly $499.95, now $399.95,") or indicating "intermediate markdowns taken."

(h) It shall be an unfair or deceptive act or practice for a seller to advertise consumer property or services for sale under special circumstances using terms such as "closeout," "clearance sale," "must be sacrificed" or similar terms unless the advertised item is permanently reduced in price in order to remove it from the seller's inventory.

(Effective February 26, 1986)

Sec. 42-110b-13a. Competitor's prices

(a) It shall be an unfair or deceptive act or practice for a seller to make any price comparison based upon a competitor's price unless:

(1) the competitor's price is either a price at which the competitor sold or advertised consumer property or services for sale at any time within the ninety day period immediately preceding the date on which the price comparison is stated in the advertisement, or the date on which the completed advertising copy was submitted to the printer for final printing and publication, provided such submission date does not exceed eight weeks from the date of actual publication or distribution;

(2) the competitor's price is a price that is representative of prices at which the consumer property or services are sold or advertised for sale in the trade area in which the price comparison is made and is not an isolated price; and

(3) disclosure is made with the price comparison that the price used as a basis for the comparison was not the seller's own price.

(b) It shall be an unfair or deceptive act or practice for a seller to make any price comparison based upon a "manufacturer's suggested price," "distributor's suggested price," "list price," "suggested retail," or any similar term implying a suggested or list price established by anyone other than the seller, unless either:

(1) the seller has actually offered such consumer property or services for sale at the suggested price as its regular price; or

(2) the seller can substantiate that it is the actual price at which such consumer property or services were being offered for sale by representative retailers in the trade area in which the claim is made at any time within the ninety day period immediately preceding either the date on which the price comparison is stated in the advertisement, or the date on which the completed advertising copy was submitted to the printer for final printing and publication, provided such submission date does not exceed eight weeks from the date of actual publication or distribution.

(Effective February 26, 1986)

Sec. 42-110b-14a. Retail price labels

(a) A price label or tag permanently imprinted on or affixed to consumer property or its container, by the manufacturer or supplier ("pre-ticketed price"), and not under control of

the retail seller or instigated by him, or which is required to be attached to such property under federal law, need not be covered, obliterated or removed for purposes of compliance with these regulations:

(1) when the retail seller's current offering price is attached to, printed on or placed on a label, tag or sign accompanying such property, provided no price comparison is made by the retail seller based solely on the manufacturer's price thereon unless such comparison would be valid based on past sales records; or

(2) when the retail seller's original offering price attached to, printed on or placed on a label, tag or sign accompanying such property, is identical to the pre-ticketed price.

(Effective February 26, 1986)

Sec. 42-110b-15. Records of fact

Any seller advertising products or services in this State in which such advertisements are contained representations or statements as to any type of saving claims, including reduced price claims and comparative value claims, shall maintain adequate records which disclose the factual basis for such representations or statements and from which the validity of any such claim can be established.

(Effective February 26, 1986)

Disclosure of Refund and Exchange Policies

Sec. 42-110b-16. Prohibited acts

It shall constitute an unfair and deceptive act and practice in the conduct of any trade and commerce under Public Act 73-615, Section 2, for a person to refuse to make a cash refund on a cash sale or to credit the customer's account on a credit sale of goods purchased at a person's place of business and returned within seven days from the date of purchase unless the person selling the goods discloses at the time of sale what his refund policy is, i.e., that no cash refund will be made on the goods, that cash refunds are made at the sole discretion of the seller, that goods are accepted for exchange only, that no refunds or exchanges are made, or that any other policy is in effect. Disclosure of such policy must be conspicuously placed on a sign located at the point of display, the cash register, or the store entrance.

(Effective July 19, 1974)

Sec. 42-110b-17. Exemptions

This regulation shall not apply to the sale of: Food items; perishable items, including live plants; items in substantial part custom made, custom ordered, or custom finished; items which have been used; items which by statute or state regulation cannot be resold, even if unused; items which are marked at the time of sale "as is" or "final sale"; and items for which no proof of purchase is submitted. Removal of price and/or identification tags by the buyer shall constitute proof of use of an item for the purpose of these regulations.

(Effective July 19, 1974)

Advertising and Sales

Sec. 42-110b-18. Misleading advertising

It shall be an unfair or deceptive act or practice to:

(a) Misrepresent the owner, manufacturer, distributor, source or geographical origin of merchandise or services; provided, however, that nothing contained herein shall prohibit a supplier from labeling merchandise received from others and sold by him with his own brand, tradename, trademark, or other designation customarily used by him;

(b) Misrepresent the age, model, grade, style or standard of merchandise or services;

(c) Misrepresent the sponsorship, endorsement, approval, or certification of merchandise or services;

(d) Misrepresent the affiliation, connection or association of any merchandise, services, or business establishment;

(e) Misrepresent the nature, characteristics, standard ingredients, uses, benefits, quantities or qualities of merchandise or services;

(f) Misrepresent that merchandise is new or original when it is used, altered, deteriorated or repossessed; provided, however, that nothing contained herein shall prohibit a retailer from reselling merchandise which is returned by a customer within a reasonable time and is in original, undamaged condition;

(g) Disparage the merchandise, services, or business of another by false or misleading representation of fact;

(h) Offer merchandise for sale at a stated price, by means of any advertisement disseminated in an area served by any stores which are covered by the advertisement which do not have such products in stock, and readily available to customers during the effective period of the advertisement.

(1) If not readily available, clear and adequate notice shall be provided in the store that the items are not in stock and that a raincheck may be obtained upon request: provided, however, that if the advertised merchandise is that which is not customarily available for immediate delivery, e.g., furniture, major appliances or automobiles, it shall be considered that the taking of orders for the advertised merchandise to be delivered within a reasonable time at the advertised price shall be in compliance with these regulations. Provided, further, that it shall constitute a defense to a charge under this subsection if the retailer can demonstrate that the advertised products were ordered in adequate time for delivery and delivered to the stores in quantities sufficient to meet reasonably anticipated demands.

(2) If such advertised merchandise is unavailable during the effective period of the advertisement, the retailer shall offer a "raincheck" to customers who are unable to purchase such merchandise because of its unavailability. For purposes of this regulation, "raincheck" means a written statement issued by a retailer allowing the purchase of designated merchandise at a previously advertised price.

(A) The holder of a raincheck shall be notified by the retailer when the advertised merchandise is in stock; and he shall have a minimum of ten days after such notification is received from the retailer to purchase the merchandise at the sale price, except that retail

food stores will not be required to notify the holder when such advertised merchandise is in stock.

(B) If a raincheck cannot be honored or satisfied by the retailer within sixty days of the issuance, then the retailer shall offer the holder similar or comparable merchandise at the advertised price of the merchandise, or at a lower price. Should the holder wish to purchase such similar or comparable merchandise, he must do so within ten days of the retailer's offer to substitute such comparable merchandise.

(C) The provisions of this section shall not apply to: (i) sales where the advertised discount is offered storewide or department wide; (ii) clothing and footwear merchandise which is seasonal in nature and the stock of which cannot be replenished; (iii) clothing and footwear merchandise which is sized to fit; (iv) "clearance," "closeout," or "permanent markdown" sales; (v) motor vehicles; (vi) alcoholic beverages; or (vii) situations in which the customer accepts a comparable discount on a comparable item. Also, retailers shall not be required to offer rainchecks when a disclaimer as to the actual quantity of the advertised merchandise available, together with the statement, "no rainchecks," is stated in the advertisement, e.g., "only ten items, no rainchecks."

(i) Fail to make the advertised items conspicuously and readily available for sale at or below the advertised prices. For compliance with this subsection and subsection (h) above, there must be clear and conspicuous disclosure in all such advertisements as to all exceptions and/or limitations or restrictions with respect to stores, products, or prices otherwise included within the advertisements.

(1) General disclaimers in advertising relating to product availability will not be in compliance with these regulations. Examples of such general disclaimers are: (a) "Not all items available at all stores." (b) "Available at most stores."

(2) Specific, clear and conspicuous disclaimers in advertising relating to product availability in particular stores will be considered to be in compliance with these regulations. An example of such a disclaimer would be "Available only in the West Hartford and Manchester stores."

(3) Disclaimers as to quantities of merchandise available must be specific as to the actual number available at each store if there is not a sufficient quantity available to meet reasonably anticipated demands. "Quantities limited" is not specific enough to satisfy the requirements of this section. "Only ten items available at each store" would be in compliance with these regulations.

(Effective June 25, 1989)

Sec. 42-110b-19. Advertising "free," "reduced," "discount," "below cost," or a rebate

It shall be an unfair or deceptive act or practice to:

(a) Advertise any merchandise or service as free by the use of the word "free" or any other terms of similar import when the merchandise or service is not, in fact, free (see subsection (d) of this section). Failure to disclose any and all terms, conditions and

obligations required of the consumer shall be a violation of sections 42-110b-1 to 42-110b-31, inclusive, of the Regulations of Connecticut State Agencies;

(b) Advertise the price of merchandise or service as a reduced or sale price, or compare the price to a previous price unless the advertised price is lower than the actual, bona fide price for which the merchandise or service was offered to the public on a regular basis by the advertiser for a reasonably substantial period of time prior to the advertisement or as a discount price, unless the advertised price is lower than the price being charged for the same merchandise or service by other sellers in the area; provided, however, in the case of a new product, if the advertised price is less than the price which the advertiser, in good faith, expects to charge after termination of the introductory sale, there is no violation of this subsection. The actual price after the sale shall be evidence of the advertiser's good faith expectations;

(c) Advertise the price of any merchandise as below cost, unless the price is, in fact, below the cost for which the merchandise was purchased and prepared for sale by the advertiser;

(d) Advertise merchandise or service as free or the price of merchandise or a service as a discount, reduced, or sale price if receipt of such merchandise or service is contingent upon the purchase of other merchandise or service at a price which is higher than the actual, bona fide price at which the merchandise or service was offered to the public on a regular basis by the advertiser for a reasonably substantial period of time prior to the advertisement, or at a price which is substantially higher than the price being charge for the same merchandise or service by other sellers in the area; provided, however, in the case of a new product, if the advertised price is less than the price which the advertiser, in good faith, expects to charge after termination of the introductory sale, there is no violation of this subsection. The actual price after the sale shall be evidence of the advertiser's good faith expectations; or

(e) Advertise the availability of any type of rebate by displaying the net price of the advertised item in the advertisement, unless the amount of the rebate is provided to the consumer by the retailer at the time of purchase of the advertised item. A retailer will not be required to provide the purchaser of an advertised item with the amount of the rebate if the retailer advertises that a rebate is available without stating the net price of the item. For the purpose of this subsection, "net price" means the ultimate price paid by a consumer after the consumer redeems the rebate offered for the advertised item.

(Effective December 7, 1988; Amended February 4, 2004)

Sec. 42-110b-20. Bait and switch

It shall be an unfair and deceptive act or practice to:

(a) Advertise merchandise or a service for sale when the advertisement is not a bona fide offer to sell the advertised merchandise or service. Among acts or practices which will be considered in determining if an advertisement is a bona fide offer are:

(1) the refusal to show, demonstrate, or sell the merchandise or service offered in

accordance with the terms of the offer,

(2) the disparagement by acts or words of the advertised merchandise or service or the disparagement of the guarantee, credit terms, availability of service, repairs or parts, or in any other respect, innection with it,

(3) the failure to have available at all outlets listed in the advertisement a sufficient quantity of the advertised merchandise to meet reasonable anticipated demands, unless the advertisement clearly, adequately, and specifically (see § 18 above) discloses that supply is limited and/or the merchandise is available only at designated outlets.

(4) the refusal to take orders for the advertised merchandise to be delivered within a reasonable period of time at the advertised price,

(5) the showing or demonstrating of merchandise which is defective, unusable or impractical for the purpose represented or implied in the advertisement,

(6) use of a sales plan or method of compensation for salesmen or penalizing salesmen which has, or tends to have, the effect of preventing or discouraging them from selling the advertised merchandise or service,

(7) the delivery of the advertised merchandise which is defective, unusable, or impractical for the purpose represented or implied in the advertisement.

(Effective October 31, 1975)

Sec. 42-110b-21. Language other than English

It shall be an unfair or deceptive act or practice to disseminate any advertisement in a language other than English without including therein all required disclosures or limitations on the offer advertised in the language principally used in the advertisement.

(Effective October 31, 1975)

Sec. 42-110b-22. Offer conditions

When an offer is made in an advertisement and there is a material contingency, condition or limitation on the offer, it shall be an unfair or deceptive act or practice to fail to conspicuously state such contingency, condition or limitation reasonably adjacent to the offer.

(Effective October 31, 1975)

Sec. 42-110b-23. Game promotion

(a) It shall be an unfair or deceptive act or practice for any person to engage in any kind of contest, sweepstakes, giveaway or other game promotion which:

(1) is deceptive or misleading as to chances of winning, the number of winners, the value of the prizes, or the availability of the prize;

(2) requires any kind of entry fee, service charge, purchase or similar consideration in order to enter;

(3) uses publications, literature, written or verbal promotion that is false, deceptive, or misleading.

(b) It shall be an unfair or deceptive act or practice for any person to conduct a game of skill, conditioned on payment of consideration, without clearly and conspicuously disclosing the rules, terms, or conditions of participation, the date when the game will terminate and prizes that will be awarded, and the nature, value, and number of prizes that will be awarded.

(c) It shall be an unfair or deceptive act or practice to represent that a person is a "winner," or has been "selected," or is otherwise being involved in a select group for receipt of a prize or an opportunity, or that a person is entering a "contest," "sweepstakes," "drawing," or other competitive enterprise from which a winner or select group of winners will receive a prize or opportunity, when, in fact, the enterprise is simply a promotional scheme designed to make contact with prospective customers, or all or a substantial number of those "entering" receive the same "prize" or "opportunity."

(Effective October 31, 1975)

Sec. 42-110b-24. Availability of service

It shall be an unfair or deceptive act or practice for any person in trade or commerce to sell merchandise for which service is not readily available without disclosing such fact to the purchaser prior to the sale of the merchandise.

(Effective October 31, 1975)

Sec. 42-110b-25. Federal Trade Commission

In the event there are any inconsistencies between these regulations and the rules, regulations, and decisions of the Federal Trade Commission and the federal courts interpreting the provisions of the Federal Trade Commission Act, the latter shall prevail.

(Effective October 31, 1975)

Sec. 42-110b-26. Failure to post prescription drug prices

It shall be an unfair or deceptive trade practice for any pharmacy or any drug retailer to violate Sec. 20-175a of the General Statutes, or any provision of Sec. 20-175a-1 through Sec. 20-175a-2, inclusive of the Regulations of Connecticut State Agencies.

(Effective October 28, 1977)

Sec. 42-110b-27. Reserved

Sec. 42-110b-28. Standards for the advertising and selling of motor vehicles within Connecticut

(a) **Definitions**

For the purposes of this regulation the following terms have the meanings indicated:

(1) "Motor vehicle" means "Motor vehicle," as defined in section 14-1 of the Connecticut General Statutes;

(2) "New car dealer" and "used car dealer" means "New car dealer" and "Used car dealer" as defined in section 14-51 of the Connecticut General Statutes, and shall also mean

any person, firm or corporation which engages in the business of leasing or renting of motor vehicles and is required to be licensed under the provisions of section 14-15 of the Connecticut General Statutes;

(3) "Advertisement" (including the terms advertise and advertising) means any oral, written or graphic statement made by a new car dealer or used car dealer in any manner in connection with the solicitation of business and includes, but is not limited to, statements and representations made in a newspaper or other publication or on radio or television or contained in any notice, handbill, sign, billboard, poster, bill, circular, brochure, pamphlet, catalogue or letter;

(4) A motor vehicle is not considered new within the meaning of these regulations if it is a used motor vehicle as defined in section 14-1 of the Connecticut General Statutes, or if it has been driven substantially in excess of the limited use necessary for moving or road testing purposes, or if it is altered, deteriorated, repossessed or damaged;

(5) "Clearly and Conspicuously" means that the statement, representation or term being disclosed is of such size, placement, sound, color or contrast as to be readily noticeable to the person to whom it is being disclosed. A printed statement, representation or term is not clear and conspicuous unless it is printed in at least ten point type; and

(6) "Flood damaged vehicle" means a motor vehicle that satisfies either of the following:

(A) the vehicle has been acquired by an insurance company as part of a damage settlement due to water damage; or

(B) the vehicle has been submerged in water to the point that rising water has reached over the door sill and has entered the passenger or trunk compartment, or has exposed any electrical, computerized or mechanical component to water.

(b) **Advertising of motor vehicles**

Scope: The following advertising regulations shall apply to any advertisement published, delivered, broadcast or circulated within the State of Connecticut:

(1) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to fail to sell or lease, or refuse to sell or lease, a motor vehicle in accordance with any terms or conditions which the dealer has advertised, including, but not limited to, the advertised price.

(2) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise any motor vehicle for sale or lease which is not new unless the advertisement clearly and conspicuously discloses, in an area immediately adjacent to the reference to the advertised motor vehicle:

(A) that the vehicle is used;

(B) the stock number of the vehicle; and

(C) a designation of the vehicle as a demonstrator, taxicab, police car, rental vehicle or leased fleet vehicle, if such leased fleet vehicle is from a business or governmental fleet of six vehicles or more, if the dealer knows or, in the exercise of reasonable care, should know that the vehicle was previously so used.

(3) Notwithstanding section 42-110b-28(b)(2)(C) of the Regulations of Connecticut State

Agencies, it is an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise any motor vehicle as a "demonstrator" unless the vehicle:

(A) is of current or previous model year;

(B) was used exclusively by the dealership; and

(C) was used for demonstrator purposes only.

(4) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to use in its advertisements the word "executive," "company official," or any other similar terms to identify any motor vehicle unless the identified vehicle has been used exclusively by executives or other personnel of the vehicle's manufacturer or by an executive of any authorized dealership selling the same make of vehicle.

(5) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to use in its advertisements, except as specifically permitted in this subdivision, any of the following terms in connection with the price of motor vehicles:

(A) the terms "factory authorized sale," "factory discount outlet" and similar terms, or terms indicating that the dealer has been granted special pricing or distribution privileges by a motor vehicle manufacturer, unless authorized to do so by the motor vehicle manufacturer;

(B) the terms "at cost," "below invoice," "at invoice," "wholesale" and similar terms or any other representation that a motor vehicle will be sold at, below or above a cost or price standard unless:

(i) the cost or price standard represents the actual consideration paid by the dealer; and

(ii) no hold back, rebate, promotional fee or any other consideration will be paid by the manufacturer to the dealer subsequent to the purchase of the motor vehicle which in any way will reduce or offset the cost to the dealer of purchasing the motor vehicle;

(C) the terms "liquidation sale," "liquidation," "public sale," "public notice," "public disposal," "final notice," and similar terms when in fact the sale is not required by court order, operation of law or the impending closure of the dealer's business.

(6) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise the price for the sale of any motor vehicle unless the stated price in such advertisement includes the federal tax, the cost of delivery, dealer preparation and any other charges of any nature, except any state or local tax or registration fees, or any dealer conveyance fee or processing fee as defined by section 14-62 of the Connecticut General Statutes.

(7) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise in any manner the price which will be paid by such dealer for trade-in vehicles unless the price of the vehicle sold by such dealer to the owner of the trade-in vehicle is within the range of prices at which the dealer usually sells such vehicles and is not increased because of the amount paid for the trade-in vehicle.

(8) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise in any manner that a specific price will be paid by such dealer for trade-in vehicles unless either the advertised price will be paid for all trade-in vehicles, regardless

of their condition or age, or the advertisement clearly and conspicuously discloses any conditions which trade-in vehicles must meet before such price will be paid.

(9) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise in any manner that a range of prices (such as "up to $500" or "as much as $500") will be paid by such dealer for trade-in vehicles unless the advertisement clearly and conspicuously discloses the criteria (such as age, condition or mileage) which the dealer will use to determine the amount to be paid for a particular trade-in vehicle.

(10) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise a sale or promotion in connection with the sale or lease of motor vehicles without clearly and conspicuously disclosing in such advertisement the expiration date and any other conditions of such sale or promotion, including whether the supply of vehicles is limited.

(11) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise motor vehicles using such statements as "As low as," "From," or like terms in connection with a price unless motor vehicles are readily available for sale or lease in sufficient quantity to meet reasonably anticipated demands for each of the years, models and makes so advertised. It shall be considered that the taking of orders for the advertised vehicles to be delivered within a reasonable time at the advertised price shall be in compliance with this regulation.

(12) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise that motor vehicles are in stock or otherwise available for immediate delivery unless such is the case.

(13) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to use in its advertisements of motor vehicles any format, layout, headline, chart, illustration or type size which fails to clearly designate which of the prices, finance terms, or other sale terms featured apply to each of the advertised motor vehicles.

(14) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to misrepresent in any advertisement the model year of any motor vehicle.

(15) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to misrepresent in any advertisement the make of any motor vehicle.

(16) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to misrepresent in any advertisement the mileage of any motor vehicle.

(17) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to make any representation or statement of fact in an advertisement if the dealer knows or should know that the representation or statement is false or misleading or if the dealer does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based.

(18) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise in a manner or format which fails to clearly distinguish between the offer of a vehicle for sale and the offer of a vehicle for lease.

(19) It shall be an unfair or deceptive act or practice for a new car dealer or a used car

dealer to advertise a payment amount for the lease of a vehicle without clearly and conspicuously using the word "lease" in an area immediately adjacent to the stated payment amount.

(20) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise the terms "one price," "non-negotiable price," "set price" or similar terms unless the dealer:

(A) maintains the same price for all consumers for equivalent vehicles; and

(B) maintains such price unless a general price adjustment is made which is applicable to all consumers.

(21) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise the price of a motor vehicle which is reduced by an amount representing a manufacturer's rebate unless the rebate is available to the general public.

(22) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise a manufacturer's rebate unless such advertisement clearly and conspicuously discloses:

(A) the amount of any applicable rebate; and

(B) any conditions, restrictions or limitations placed on the rebate.

(23) it shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to violate any provision of a federal or state statute or regulation concerning the sale or lease of motor vehicles.

(24) it shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to fail to print in at least ten point type any disclosure required by a federal or state statute or regulation concerning the sale or lease of motor vehicles.

(25) it shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to make any disclosure required by a federal or state statute or regulation concerning the sale or lease of motor vehicles in a television or radio advertisement unless the disclosure is made clearly and conspicuously, without any distracting background pattern or noise sufficient to prevent a reasonable person from understanding the nature of the disclosure.

(26) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to fail to withdraw an advertisement for the sale or lease of a specific motor vehicle or vehicles within a reasonable time after the motor vehicle or vehicles are no longer available for sale or lease to the general public.

(27) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise the price for the sale of a motor vehicle when such price is reduced by an amount representing the down payment, deposit or other payment to be made by the purchaser.

(28) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise an offer of cash or other consideration to a consumer who presents to such dealer a purchase order from another dealer signed by both the buyer and seller.

(29) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to misrepresent the source from which the dealer purchased a new or used motor

vehicle.

(30) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise the terms "repossessions", "bank repossessions", "prior bank assets" or similar terms unless the dealer has purchased the advertised motor vehicles directly from the bank or lender, or its agent, that repossessed the vehicles.

(31) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise, or offer for sale or lease, a flood damaged motor vehicle without clearly and conspicuously disclosing that the vehicle is a flood damaged vehicle. In any written advertisement, such disclosure shall be placed immediately adjacent to the description of the vehicle.

(32) These regulations are in addition to section 42-ll0b-18 to section 42-ll0b-24, inclusive, of the Regulations of Connecticut State Agencies and will not be construed in any way as rendering inapplicable to new car dealers or used car dealers any of the provisions of section 42-ll0b-18 to 42-ll0b-24, inclusive, of the Regulations of Connecticut State Agencies.

(Effective December 23, 1983; Amended April 19, 1996; Amended November 30, 2006)

Sec. 42-110b-29. Petroleum products pricing practices

(a) **As used in this section:**

(1) "petroleum product" shall include, but not be limited to, middle distillate, residual fuel oil, motor gasoline, propane, aviation gasoline and aviation turbine fuel, as defined in Sec. 16a-22c-1 (b) of the Regulations of Connecticut State Agencies;

(2) "seller" shall include, but not be limited to, a supplier, wholesaler, distributor or retailer involved in the sale or distribution in this State of petroleum products;

(3) "abnormal market disruption" refers to any stress to the petroleum products market resulting from weather conditions, acts of nature, failure or shortage of a source of energy, strike, civil disorder, war, national or local emergency, oil spill or other extraordinary adverse circumstance.

(b) It shall be an unfair act or practice in violation of Connecticut General Statutes, Section 42-110b (a) for a seller during any period of abnormal market disruption to sell or offer to sell petroleum product for an amount which represents an unconscionably excessive price.

(c) Evidence that (1) (i) the amount charged represents a gross disparity between the price of the petroleum product which was the subject of the transaction and the price at which such petroleum product was sold or offered for sale by the seller in the usual course of business immediately prior to the onset of the abnormal market disruption or (ii) the amount charged grossly exceeded the price at which the same or similar petroleum product was readily obtainable by other consumers in the trade area; and (2) the amount charged by the seller was not attributable to additional costs incurred by the seller in connection with the sale of such product, shall constitute prima facie evidence that a price is unconscionably excessive.

(d) This section shall not be construed to limit the ability of the Commissioner of Consumer Protection or the courts to establish certain acts or practices as unfair or unconscionable in the absence of abnormal market disruptions.

(Effective January 28, 1991)

Sec. 42-110b-30. Reserved

Sec. 42-110b-31. Refusal to serve customer

(a) As used in this section:

(1) "Energy goods" means any fuel used for the purpose of providing heat or hot water to residential dwelling units, including, but not limited to home heating oil, propane, kerosene, coal and wood;

(2) "Vendor" means a retail seller of energy goods;

(3) "Established delivery area" means the geographic area in Connecticut, the perimeter of which is determined by the vendor's most distant customer in each direction;

(4) "Cash" means legal tender, certified or cashier's check, commercial money order, or their equivalent, or guaranteed payment on behalf of the person by a government or community action agency.

(b) Except as provided in the Regulations of Connecticut State Agencies promulgated pursuant to Sections 29-329 and 29-331 of the Connecticut General Statutes it shall be an unfair act or practice in violation of Connecticut General Statutes, Section 42-110b (a) for a vendor to:

(1) Refuse to sell energy goods within its established delivery area to any person who is able and willing to pay cash, irrespective of: (A) the status of the person's credit history; or (B) whether the person is an established or new customer of the vendor or has previously purchased energy goods from the vendor;

(2) Refuse to sell, on the same terms and conditions as other cash customers, energy goods within its established delivery area to any person who is able and willing to pay cash;

(3) Enter into an agreement or understanding with a property owner or managing agent that binds or influences current or prospective tenants to purchase energy goods from that vendor or creates an incentive for the property owner or managing agent to bind or influence current or prospective tenants to purchase energy goods from that vendor.

(c) Nothing in this section shall be construed to require a vendor to sell or deliver energy goods to a customer who currently owes an outstanding balance to that vendor for a past sale of energy goods.

(d) Nothing in this section shall be construed to require a vendor to sell a proportionately larger share or allocation to a new cash customer than the share or allocation such vendor is providing to other customers if such vendor has inadequate supply to meet all customer needs, so long as any person entitled to purchase energy goods pursuant to this regulation is not discriminated against in any way by any such allocation plan or practice.

(Effective June 23, 1992)