

Trade and Commerce

Making intentionally untrue statement in advertising

39-1-20

A publication of false representation involving merchandise, securities, service or anything directly or indirectly used to further consumption will cause a person to be fined and punished as a misdemeanor.

Section When	Notice	Where	
39-1-20	False advertisement of merchandise, securities, service and anything directly or indirectly used to further consumption. If published a person may be fined and punished as a misdemeanor.	A newspaper and any other form of publication	Anytime

Exact wording:

“Any person who knowingly with intent to sell or in any wise dispose of merchandise, securities, service or anything offered by such person, directly or indirectly, to the public for sale or distribution or with intent to increase the consumption thereof, to induce the public in any manner to enter into any obligation relating thereto or to acquire title thereto or an interest therein makes, publishes, disseminates, circulates or places before the public or causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, letter or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public which contains any assertion, representation or statement of fact which is intentionally untrue shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment at hard labor for not less than thirty days nor more than six months, in the discretion of the court.”

Inapplicable to certain practices and transaction

39-5-40

When an issue of unfair trade practices arises, a publisher is not held responsible for any misleading or untrue advertisement. This holds true if the owner, agent or employee was not aware of the false information or did not have any financial gain in the matter.

Section When	Notice	Where	
39-5-40	Advertisement of misleading and untrue information in regards to unfair trade practices. A publisher	A newspaper and any other form of publication	Anytime

	is not held responsible in this case.		
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Exact wording:

“Nothing in this article shall apply to: (a) Actions or transactions permitted under laws administered by any regulatory body or officer acting under statutory authority of this State or the United States or actions or transactions permitted by any other South Carolina State law. (b) Acts done by the publisher, owner, agent or employee of a newspaper, periodical or radio or television station in the publication or dissemination of an advertisement, when the owner, agent or employee did not have knowledge of the false, misleading or deceptive character of the advertisement and did not have a direct financial interest in the sale or distribution of the advertised product or service. (c) This article does not supersede or apply to unfair trade practices covered and regulated under Title 38, Chapter 55, Sections 38-55-10 through 38-55-410. (d) Any challenged practices that are subject to, and comply with, statutes administered by the Federal Trade Commission and the rules, regulations and decisions interpreting such statutes. For the purpose of this section, the burden of proving exemption from the provisions of this article shall be upon the person claiming the exemption.”

Resale of commodity bearing trademark (Fair Trade Act)

39-7-30

Commodities bearing trademarks or brand names of the producer may be resold after being damaged or if deteriorated as long as long as a notice is made public. This must be done by publication in a newspaper in the county where business of the one selling the goods is located.

Section When	Notice	Where	
39-7-30	A notice of the reselling of damaged or deteriorated goods that bear trademarks or the brand name of the producer	A newspaper in the county where the seller of the good’s main place of business is	One week

Exact wording:

“No contract relating to the sale or resale of a commodity which bears, or the label or container of which bears, the trademark, brand or name of the producer, distributor or owner of such commodity and which is in fair and open competition with commodities of the same general class produced by others shall be deemed in violation of any law of the State by reason of any of the following provisions which may be contained in such contract: (1) That the buyer will not resell such commodity at less than the minimum price stipulated by the vendor; or (2) That the producer or vendee of a commodity require upon the sale of such commodity to another that such purchaser agree that he will not, in turn, resell at less than the minimum price stipulated by such producer or vendee. Such provisions in any contract shall be deemed to contain or imply conditions that such commodity may be resold without reference to such agreement in the following cases: (a) In closing out the owner's stock for the purpose of discontinuing dealing in such commodity if such stock is first offered to the producer or distributor of such stock at the original invoice price at least ten days before such stock shall be offered for sale to the public; (b) When the goods are damaged or deteriorated in quality and one week's notice is given to the public thereof by publication in a newspaper published in the county in which the seller's place of business is located; or (c) By any officer acting under the orders of any court”

Enforcement of lien without judicial intervention

39-20-45

If an occupant of a self service storage unit has failed to pay their dues in a fifty day default period than the owner has the right to sell the property in the unit. This can only be done after the owner of the self-service storage facility has made every attempt to contact the occupant, a detailed notice has been delivered in some form to the occupant and there is no response to the notice. An advertisement for the public sale must be published in a newspaper of general circulation where this facility is located once a week for two consecutive weeks. The notice must include information and a description regarding the property, the address of the facility and where it is located, the name of the occupant and the time, place and manner of the sale. If there is not a newspaper where the facility is located than the notice must be posted in six places fifteen days prior to the sale.

Section When	Notice	Where	
39-20-45	An advertisement for the public sale of property in a self storage unit where the owner has been in default. The notice must include information and a description regarding the property, the address of the facility and where it is located, the name of the occupant and the time, place and manner of the sale.	A newspaper of general circulation where the self storage facility is located	Once a week for two consecutive weeks

Exact wording:

“If occupant has been in default continuously for fifty days, owner may enforce its lien, provided owner shall comply with, during the fifty-day default period, the following procedure. The occupant must be notified in writing by delivery by certified mail, return receipt requested, to the last known address of occupant. The owner also shall notify other parties with superior liens or security interests as defined in this rental agreement. The notice is presumed delivered when notice of delivery, failure to accept delivery, or the impossibility of delivery is received by owner. Owner's notice shall demand payment within a specified time, not less than fourteen days after delivery of the notice. It shall state that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for public sale to the highest bidder, and will be sold at public sale to the highest bidder at a specified time and place. After the expiration of the fifty-day default period, the owner shall publish an advertisement of the public sale to the highest bidder once a week for two consecutive weeks in a newspaper of general circulation where the self-service storage facility is located. The advertisement shall include: a brief and general description of the personal property, reasonably adequate to permit its identification; the address of the self-service storage facility and the number, if any, of the space where the personal property is located, and the name of the occupant; and the time, place, and manner of the public sale. The public sale to the highest bidder shall take place not sooner than fifteen days after the first publication. If there is no newspaper of general circulation where the self-service storage facility is located, the advertisement must be posted at least fifteen days before the date of the public sale and in not less than six conspicuous places in the neighborhood where the self-service storage facility is located.”

**Notice of the adoption of Federal regulations
39-25-180**

Any proposed regulations in this section under the Federal Food, Drug, and Cosmetic Act must be published in the official state newspaper assigned by the Commissioner of Agriculture. Objections may be filed with the Commissioner within thirty days of the publication if no objection arises than the regulation will take effect sixty days after the filing of the date stated for objections. If objections are made to any of the regulations than the Commissioner must hold a public hearing on this matter.

Section When	Notice	Where	
39-25-180	A notice of proposed regulations under the Federal Food, Drug and Cosmetic Act stating a date for objections to be heard	A state newspaper assigned by the Commissioner of Agriculture	After the proposal of regulations

Exact wording:

“(h) A Federal regulation automatically adopted pursuant to this chapter takes effect in this State on the date it becomes effective as a Federal regulation. The Commissioner shall publish all other proposed regulations in the official State newspaper or publication prescribed by the Commissioner. A person who may be adversely affected by a regulation may, within thirty days after a Federal regulation is automatically adopted, or within thirty days after publication of any other regulation, file objections with the Commissioner, in writing, and a request for a hearing. The timely filing of substantial objections to a Federal regulation automatically adopted stays the effect of the regulation in the State of South Carolina.

If no substantial objections are received and no hearing is requested within thirty days after publication of a proposed regulation, it shall take effect on a date set by the Commissioner. The effective date shall be at least sixty days after the time for filing objections has expired. If timely substantial objections are made to a Federal regulation within thirty days after it is automatically adopted or to a proposed regulation within thirty days after it is published, the Commissioner, after notice, shall conduct a public hearing to receive evidence on the issues raised by the objections. Any interested person or his representative may be heard. The Commissioner shall act upon objections by order and shall mail the order to objectors by certified mail as soon after the hearing as practicable. The order shall be based on substantial evidence in the record of the hearing. If the order concerns a Federal regulation, it may reinstate, rescind or modify it. If the order concerns a proposed regulation, it may withdraw it or set an effective date for the regulation as published or as modified by the order. The effective date shall be at least sixty days after publication of the order.”

**Publication of notice; sale in excess of mold lien and retention
39-69-50**

When an amount is due on die, mold, form or pattern that a molder has for a customer a notice must be mailed with a receipt request. If the notice comes back as undeliverable or a receipt was not returned after thirty days than the molder has the right to sell. A notice of the intention to sell must be published in a newspaper of general circulation where the customer’s last known business was located. The notice needs to provide a description of the die, mold, form or pattern.

Section When	Notice	Where	Where
39-69-50	A notice of the intention by a molder to sell die, mold, form or pattern when amount is past due from a customer. The notice needs to provide a description of the die, mold, form or pattern.	A newspaper of general circulation in the customer's last known place of business	After thirty days of the receipt request or returned mail

Exact Wording:

“(A) Before a molder may sell a die, mold, form, or pattern, the molder shall notify the customer by registered mail, return receipt requested. The notice must include the following information: (1) the molder's intention to sell the die, mold, form, or pattern thirty days after the customer's receipt of the notice; (2) a description of the die, mold, form, or pattern to be sold; (3) the time and place of the sale; (4) an itemized statement for the amount due. (B) If there is not a return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the molder shall publish notice of the molder's intention to sell the die, mold, form, or pattern in a newspaper of general circulation in the customer's last known place of business. The notice must include a description of the die, mold, form, or pattern.”