

Cherokee Nation Code Annotated

Title 12: Civil Procedure

Chapter 2: Unfair and Deceptive Practices

§ 26. False advertising

Cite as: 12 CNCA § 26

A. It is unlawful for any individual, entity, association, or any employee or agent thereof with intent directly or indirectly to sell products, to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before in the Cherokee Nation, or to make or disseminate or cause to be made or disseminated from the Cherokee Nation, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatsoever, including over the internet, any statement, concerning that product, real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, which fails to adequately warn, or which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised;

B. It is unlawful for any person to solicit a sale or order for sale of goods or services at the residence of a prospective buyer, in person or by means of telephone, without clearly, affirmatively and expressly revealing at the time the person initially contacts the prospective buyer, and before making any other statement, except a greeting, or asking the prospective buyer any other questions, that the purpose of the contact is to effect a sale, by doing all of the following:

1. Stating the identity of the person making the solicitation;
2. Stating the trade name of the person represented by the person making the solicitation;
3. Stating the kind of goods or services being offered for sale;
4. And, in the case of an "in person" contact, the person making the solicitation shall, in addition to meeting the requirements of paragraphs (1), (2) and (3), show or display identification which states the information required by paragraphs (1) and (2) as well as the address of the place of business of one of such persons so identified.

C. It is unlawful for any person, in soliciting a sale or order for the sale of goods or services at the residence of a prospective buyer, in person or by telephone, to use any plan, scheme, or ruse which misrepresents his true status or mission for the purpose of making such sale or order for the sale of goods or services;

D. In addition to any other penalties or remedies applicable to violations of this section, the intentional violation of this section shall entitle persons bound to a contract, when there was a sales approach or presentation or both in which such intentional violation of this act took place, to damages of three times the amount of the sale;

E. Each violation of any of the provisions of this section is punishable by a fine not exceeding ten thousand dollars (\$10,000) in addition to any other remedy provided by law; except in the instances in which a Senior Citizen or a Disabled Person is the victim of such violation in which case the fine shall be twenty-five thousand dollars (\$25,000);

F. In any action under this section in which judgment is entered against the defendant the plaintiff shall be awarded a reasonable attorney's fee together with the costs of suit;

G. The remedies or penalties provided by this Act are cumulative to each other and to the remedies or penalties available under all other laws of Cherokee Nation.

Historical Data

LA 16-16, eff. April 21, 2016. Amended LA 07-18, eff. May 18, 2018.