

## Be aware that penalties for violating the Wisconsin false representation law are in stats. 100.26(4) - (6)

(4) Any person who violates s. 100.18 (1) to (8) or (10) or 100.182 is subject to a civil forfeiture of not less than \$50 nor more than \$200 for each violation. (4m) Any person who violates s. 100.18 (10r) is subject to a civil forfeiture of not less than \$100 nor more than \$10,000 for each violation.

(5) Any person violating s. 100.18 (9) may be fined not more than \$10,000 or imprisoned for not more than 9 months or both. Each day of violation constitutes a separate offense.

(6) The department, the department of justice, after consulting with the department, or any district attorney may commence an action in the name of the state to recover a civil forfeiture to the state of not less than \$100 nor more than \$10,000 for each violation of an injunction issued under s. 100.18, 100.182 or 100.20 (6). The department of agriculture, trade and consumer protection or any district attorney may commence an action in the name of the state to recover a civil forfeiture to the state of not less than \$100 nor more than \$10,000 for each violation of an order issued under s. 100.20.

100.18 Fraudulent representations. (1) No person, firm, corporation or association, or agent or employee thereof, with intent to sell, distribute, increase the consumption of or in any wise dispose of any real estate, merchandise, securities, employment, service, or anything offered by such person, firm, corporation or association, or agent or employee thereof, directly or indirectly, to the public for sale, hire, use or other distribution, or with intent to induce the public in any manner to enter into any contract or obligation relating to the purchase, sale, hire, use or lease of any real estate, merchandise, securities, employment or service, shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper, magazine or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, letter, sign, placard, card, label, or over any radio or television station, or in any other way similar or dissimilar to the foregoing, an advertisement, announcement, statement or representation of any kind to the public relating to such purchase, sale, hire, use or lease of such real estate, merchandise, securities, service or employment or to the terms or conditions thereof, which advertisement, announcement, statement or representation contains any assertion, representation or statement of fact which is untrue, deceptive or misleading.

(2) (a) In advertising or otherwise representing the sale or furnishing of any property or services combined with or conditioned on the purchase of any other property or services described in such advertisement or other representation, it is deceptive for a retailer to:

1. Fail to state the price or amount which must be paid for the property or services included in such sale, along with any other condition to the receipt of such property or services, if the advertisement or representation does not refer to the price of the property or services as the "regular price". The price or amount which must be paid shall be set forth clearly, conspicuously and in such manner that the total price or amount to be paid may be readily ascertained.
2. Sell the property or services at more than the regular price or fail to state any other condition to the receipt of the property or services included in the sale, if the advertisement or representation refers to the price of the property or services as the "regular price".
3. Mark up the regular price of the property or services which must be purchased.
4. Substitute property or services of inferior value or quality for the property or services which must be purchased.

(b) This subsection does not apply to advertisements or representations concerning custom-made property.

(c) In this subsection, "regular price" means the lowest price for the same quantity and quality of product or the same services, at which the seller or advertiser of the product or services openly and actively sold the product or services in the geographic trade area of the advertisement or representation during the seller's or advertiser's most recent and regular 30-day course of business.

Advertising has a great influence on our lives. We are exposed to countless commercial messages every day persuading us to buy brand name products, creating images for us to adopt, and convincing us that we need and want more. Because of this, it's important for us to carefully examine ads to determine exactly what they are saying. While most advertisements honestly inform and educate us, some are false or deceptive - and illegal.

#### The Law

Advertising aimed at Wisconsin consumers is subject to the state's deceptive advertising law. The law forbids statements that are "untrue, deceptive or misleading," and applies to written ads in newspapers, magazines, and promotional brochures, as well as radio and TV commercials. The law also covers oral misrepresentations, including verbal misstatements about a product or service.

The following are questionable advertising practices which consumers should be aware of.

#### Oral or Written Misrepresentations

There is no guarantee that performance will always match ad promises.

A promotional ad for one-coat house paint may state that one gallon will cover 600 square feet. When you get home, the paint covers only 450 square feet and you need two coats.

This ad is but one of countless examples of advertising misrepresentations. Because of the limitless possibilities for misrepresentations, Wisconsin law is intentionally broad to cover any untrue, misleading, or deceptive statement used to sell merchandise.

#### Pictorial Misrepresentations

Read ads carefully to find out what is really being offered.

A newspaper ad shows a living room set on sale for \$599. Although six pieces of furniture are shown, in reality only a four-piece set is on sale, and the style shown is different. A tiny disclosure in the corner of the ad explains this.

Compare the ad copy to the picture and read everything. When shopping, take ads with you in case you have questions about the advertised price, brand, or quality.

Display items often show attachments or accessories that are not included in the sale price. Ask exactly what is included before you buy.

#### Unavailable Sale Items

A store should stock enough sale items to meet the reasonably anticipated demand. If a store has less items in stock, its advertising should indicate that only a limited number of advertised items are available. If you go to a store on the second morning of a four-day sale only to find that the product you want is already sold out (and the sale ad doesn't say there are limited quantities), ask for a rain check which will allow you to get the product at the sale price at a later date.

Retail food stores must abide by Federal Trade Commission (FTC) rules when they fail to have adequate supplies available in the store. Other merchants are not covered by FTC rules, but many do provide rain checks or other compensation to customers that will allow you to get the product at the sale price at a later date.

#### Deceptive Advertising

If you see an ad stating that merchandise is 50 percent off, don't assume that it's necessarily a bargain.

One store's prices may be consistently lower than its competitors for items of comparable quality. Other stores may raise their prices merely to make sale prices seem more appealing.

If you are in the market to buy an item, first check out the prices and reputations of several stores in your area. Don't take for granted that a sale price is the cheapest.

## Warranties

A warranty or guarantee is only as good as the firm that stands behind it. Blanket statements are meaningless; there are usually conditions or limitations to any guarantee. If a company goes out of business or a door-to-door seller is here today and gone tomorrow, their guarantees are worthless. Deal only with reputable firms. Don't rely on verbal guarantees; try to get all promises in writing.

## Free Gift Offers

Consumers should be wary of free gift offers such as "free headphones with the purchase of our A-1 stereo system!" Some businesses raise their regular prices to cover the cost of free gift offers. An ad must inform you if something else must be purchased in order to get the free gift, as well as how much it will cost you.

## Bait and Switch

In this illegal advertising practice, a store makes an attractive offer for a product it has no intention of selling. For example: You see an ad stating "19-inch color TV for only \$250!" Once you get to the store, after swallowing the bait, the seller informs you that the TV's are sold out or are of very poor quality and then tries to switch you to a higher-priced product.

## Irregulars or Seconds

If a merchant offers an item that is an irregular or second, it should be disclosed in the advertisement and on the product itself. Inspect low and sale-priced merchandise carefully before you buy.

## Protect Yourself

Wisconsin law gives you the right, through private legal action, to recover financial losses, as well as costs and attorney fees, for violations of the deceptive advertising law.

Even with the law behind you, the ultimate responsibility to fight dishonest advertising is yours. Don't be swayed by eye-catching statements such as "fantastic savings," "prices slashed," or "lowest prices in town."

There are many gray areas where advertising may not actually violate the law, but still may exaggerate a product's quality. In these cases, the only protection is to be a careful consumer.

## Complain

Your complaints are important in establishing patterns of deceptive advertising. The state can bring court action to stop substantial or systematic violations and obtain restitution for injured consumers.

If you think you have been the victim of deceptive advertising, or wish to report what you feel may be dishonest advertising, or for more information contact the Division of Consumer Protection at 800-422-7128 or [file a complaint](#).