

50-903. Deceptive practices prohibited; bait selling; price representation; product representation; tie-in sales. No person advertising, offering for sale or selling all or part of a carcass or food plan shall engage in any misleading or deceptive practices, including, but not limited to, any one or more of the following:

(a) *Bait Selling.* (1) Disparaging or degrading any product advertised or offered for sale by the seller, displaying any product or depiction of a product to any buyer in order to induce the purchase of another product or representing that a product is for sale when the representation is used primarily to sell another product. Nothing in this subsection (a)(1) shall be construed to prohibit the enhancement of sales of any product by the use of a gift.

(2) Substituting any product for that ordered by the buyer without the buyer's written consent.

(3) Failing to have available a sufficient quantity of the product represented as being for sale to meet reasonable anticipated demands, unless the available amount is disclosed fully and conspicuously.

(b) *Price Representation.* (1) Using any price list or advertisement subject to changes without notice unless so stated, and which contains prices other than the seller's current billing prices, unless changes are subject to consumer's advance acceptance or rejection at or before the time of order or delivery.

(2) Misrepresenting the amount of money that the buyer will save on purchases of any products which are not of the same grade or quality.

(3) Failing to disclose fully and conspicuously in advertisement and invoice in at least ten-point type any charge for cutting, wrapping, freezing, delivery or other services.

(4) Representing the price of any product to be offered for sale in units larger than one pound in terms other than price per single pound. Nothing in paragraph (4) of this subsection (b) shall be construed to prevent the price of such units from also being represented by individual serving, by fluid measure or by other meaningful description.

(c) *Product Representation.* (1) Misrepresenting the cut, grade, brand or trade name, or weight or measure of any product.

(2) Using the abbreviation "U.S." in describing a product not graded by the United States department of agriculture, except that a product may be described as "U.S. Inspected" when true.

(3) Referring to a quality grade other than the United States department of agriculture quality grade, unless the grade name is preceded by the seller's name in type at least as large and conspicuous as the grade name.

(4) Misrepresenting a product through the use of any term similar to a government grade.

(5) Failing to disclose in uniform ten-point type, when a yield grade is advertised, a definition of the yield grade in the following terms:

Yield Grade 1 - Extra lean

Yield Grade 2 - Lean

Yield Grade 3 - Average waste

Yield Grade 4 - Wasty

Yield Grade 5 - Exceptionally wasty

(6) Comparing quality to a United States department of agriculture yield grade, unless it is fully and conspicuously disclosed that the quality is not a U.S.D.A. yield grade but only an opinion.

(7) Advertising or offering for sale carcasses, sides or primal cuts as such, while including disproportionate numbers or amounts of less expensive components of those cuts, or offering them in tandem with less expensive components from other carcasses, sides or primal cut parts.

(8) Failing to disclose fully and conspicuously the correct government grade for any product if the product is represented as having been graded.

(9) Failing to disclose fully and conspicuously that the yield of consumable meat from any carcass or part of a carcass will be less than the weight of the carcass or part of the carcass. The seller shall, for each carcass or part of carcass advertised, use separately and distinctly, in at least ten-point type, the following disclosure: "Sold gross weight subject to trim loss."

(10) Misrepresenting the amount or proportion of retail cuts that a carcass or part of carcass will yield.

(11) Failing to disclose fully and conspicuously whether a quarter of a carcass is the front or hind quarter, and quarters, sides or halves must consist of only anatomically natural proportions of cuts from front or hind quarters.

(12) Representing any part of a carcass as a "half" or "side" unless it consists exclusively of a front and hind quarter. Both quarters must be from the same side of the same animal unless the seller discloses fully and conspicuously that they are or may be from different sides or different animals, as the case may be. Any section advertised and offered for sale either as an individual unit or as an inclusion with the purchase of a quarter, side or half must be described and called by its commonly known name. Each quarter shall be of the same grade or quality as the other quarter comprising the half or side and the seller shall advise the buyer of the weight of each quarter prior to sale. In selling quarters individually or as part of a half or side, if actual weights are not known or cannot be determined prior to sale, approximate weights may be used if: (A) The buyer is informed that the weights are approximate; (B) the advertised weight ranges do not cover a spread of more than 10%; (C) the difference between advertised and sale weights does not exceed 5%; and (D) the seller agrees with the buyer, in writing, to make a cash refund or grant a credit on delivery for the difference between actual weight and the approximate weight on which the sale was made.

(13) Using the words "bundle," "sample order" or words of similar import to describe a quantity of meat or poultry unless the seller itemizes each type of cut and the weight of each type of cut which the buyer will receive.

(14) Advertising or offering a free, bonus or extra product or service combined with or conditioned on the purchase of any other product or service unless the additional product or service is accurately described, including, whenever applicable, grade, net weight or measure, type and brand or trade name. The words "free," "bonus" or other words of similar import shall not be used in any advertisement unless the advertisement clearly and conspicuously sets forth the total price or amount which must be purchased to entitle the buyer to the additional product or service.

(15) Misrepresenting the breed, origin or diet of slaughtered animals or parts of slaughtered animals offered for sale. Sellers making claims as to breed, origin or diet shall have written records available to substantiate the claims.

(d) Requiring the purchase of a food freezer or other food storage refrigeration unit from the seller or any specified supplier as a prerequisite to, or a necessary part of, any food plan.

History: L. 1984, ch. 218, § 3; July 1.