

109:4-3-01 **Construction and purpose of rules; severability; definitions.**

(A) Purposes, rules of construction

- (1) These substantive rules (rule 109:4-3-01 of the Administrative Code, etc.) are adopted by the office of the attorney general pursuant to division (B) of section 1345.05 and Chapter 119. of the Revised Code. Without limiting the scope of any section of the Revised Code or any other rule, these rules shall be liberally construed and applied to promote their purposes and policies.
- (2) The purposes and policies of these rules are to:
 - (a) Define with reasonable specificity acts and practices which violate section 1345.02 or 1345.03, or 1345.031 of the Revised Code;
 - (b) Protect consumers from suppliers who engage in referral selling, commit deceptive acts or practices, or commit unconscionable acts or practices;
 - (c) Encourage the development of fair consumer sales practices.
- (3) Any substantive rules adopted by the office of the attorney general pursuant to division (B) of section 1345.05 and Chapter 119. of the Revised Code are subject to all remaining provisions of Chapter 1345. of the Revised Code, including, without limitation, the bona fide error provisions of division (A) of section 1345.11 of the Revised Code.

(B) Severability

Each substantive rule and every part of each substantive rule is an independent rule and section of a rule, and the holding of any rule or paragraph of a rule to be unconstitutional, void, or ineffective for any cause does not affect the validity or constitutionality of any other rule or paragraph of a rule.

(C) Definitions

- (1) "Goods" means all things (including specially manufactured goods) which are movable at time of identification to the contract for sale other than the money in which the price is to be paid, securities (as they are defined in Chapter 1707. of the Revised Code), and things in action.
- (2) "Services" means performance of labor for the benefit of another. Services include, but are in no way limited to, the construction of a single-family dwelling unit by a supplier on the real property of a consumer.

- (3) "Offer" means any attempt to effect, or solicitation of an offer to enter into a consumer transaction by agent, advertisement, or otherwise.
- (4) "Sale" includes sale, lease, assignment, award by chance or other transfer of an item of goods, a service, franchise, or an intangible.
- (5) "Advertisement" means any electronic, written, visual, or oral communication made to a consumer by means of personal representation, newspaper, magazine, circular, billboard, direct mailing, sign, radio, television, telephone or otherwise, which identifies or represents the terms of any item of goods, service, franchise, or intangible which may be transferred in a consumer transaction.
- (6) "Knowledge," "knowingly," "knowing," or "known" means that there is actual awareness, but such actual awareness may be inferred where objective manifestations indicate that the individual acted with such awareness.
- (7) "Instruct" or "instructing" means to in any way direct, order, or inform.
- (8) "Inducing" or "induce" means to persuade or influence in any way.
- (9) "Coercing" or "coerce" means to force or pressure to act.
- (10) "Compensate" means to promise or provide anything of value, and includes, without limitation, money, goods, services or the promise of continuing or future employment.

Five Year Review (FYR) Dates: 04/28/2017 and 04/28/2022

CERTIFIED ELECTRONICALLY

Certification

04/28/2017

Date

Promulgated Under: 119.03
Statutory Authority: 1345.05
Rule Amplifies: 1345.01
Prior Effective Dates: 6/5/73, 1/26/80, 3/14/05, 1/7/07