

CONNECTICUT REGULATION ON ADVERTISING AND SALES

Sec. 42-110b-18. Misleading advertising

It shall be an unfair or deceptive act or practice to:

- (a) Misrepresent the owner, manufacturer, distributor, source or geographical origin of merchandise or services; provided, however, that nothing contained herein shall prohibit a supplier from labeling merchandise received from others and sold by him with his own brand, tradename, trademark, or other designation customarily used by him;
- (b) Misrepresent the age, model, grade, style or standard of merchandise or services;
- (c) Misrepresent the sponsorship, endorsement, approval, or certification of merchandise or services;
- (d) Misrepresent the affiliation, connection or association of any merchandise, services, or business establishment;
- (e) Misrepresent the nature, characteristics, standard ingredients, uses, benefits, quantities or qualities of merchandise or services;
- (f) Misrepresent that merchandise is new or original when it is used altered, deteriorated or repossessed; provided, however, that nothing contained herein shall prohibit a retailer from reselling merchandise which is returned by a customer within a reasonable time and is in original, undamaged condition;
- (g) Disparage the merchandise, services, or business of another by false or misleading representation of fact;
- (h) Offer merchandise for sale at a stated price, by means of any advertisement disseminated in an area served by any stores which are covered by the advertisement which do not have such products in stock, and readily available to customers during the effective period of the advertisement.
 - (1) If not readily available, clear and adequate notice shall be provided in the store that the items are not in stock and that a raincheck may be obtained upon request: provided, however, that if the advertised merchandise is that which is not customarily available for immediate delivery, e.g., furniture, major appliances or automobiles, it shall be considered that the taking of orders for the advertised merchandise to be delivered within a reasonable time at the advertised price shall be in compliance with these regulations. Provided, further, that it shall constitute a defense to a charge under this subsection if the retailer can demonstrate, that, the advertised products were ordered in adequate time for delivery and delivered to the stores in quantities sufficient to meet reasonably anticipated demands.
 - (2) If such advertised merchandise is unavailable during the effective, period of the advertisement, the retailer shall offer a "raincheck" to customers who are unable to

purchase such merchandise because of its unavailability. For purposes of this regulation, "raincheck" means a written statement issued by a retailer allowing the purchase of designated merchandise at a previously advertised price.

(A) The holder of a raincheck shall be notified by the retailer when the advertised merchandise is in stock; and he shall have a minimum of ten days after such notification is received from the retailer to purchase the merchandise at the sale price, except that retail food stores will not be required to notify the holder when such advertised merchandise is in stock.

(B) If a raincheck cannot be honored or satisfied by the retailer within sixty days of the issuance, then the retailer shall offer the holder similar or comparable merchandise at the advertised price of the merchandise, or at a lower price. Should the holder wish to purchase such similar or comparable merchandise, he must do so within ten days of the retailer's offer to substitute such comparable merchandise.

(C) The provisions of this section shall not apply to: (i) sales where the advertised discount is offered storewide or department wide; (ii) clothing and footwear merchandise which is seasonal in nature and the stock of which cannot be replenished; (iii) clothing and footwear merchandise which is sized to fit; (iv) "clearance," "close-out," or "permanent markdown" sales; (v) motor vehicles; (vi) alcoholic beverages; or (vii) situations in which the customer accepts a comparable discount on a comparable item. Also, retailers shall not be required to offer rainchecks when a disclaimer as to the actual quantity of the advertised merchandise available, together with the statement, "no rainchecks," is stated in the advertisement, e.g., "only ten items, no rainchecks."

(i) Fail to make the advertised items conspicuously and readily available for sale at or below the advertised prices. For compliance with this subsection and subsection (h) above, there must be clear and conspicuous disclosure in all such advertisements as to all exceptions and/or limitations or restrictions with respect to stores, products, or prices otherwise included within the advertisements.

(1) General disclaimers in advertising relating to product availability will not be in compliance with these regulations. Examples of such general disclaimers are: (a) "Not all items available at all stores." (b) "Available at most stores."

(2) Specific, clear and conspicuous disclaimers in advertising relating to product availability in particular stores will be considered to be in compliance with these regulations. An example of such a disclaimer would be "Available only in the West Hartford and Manchester stores."

(3) Disclaimers as to quantities of merchandise available must be specific as to the actual number available at each store if there is not a sufficient quantity available to meet reasonably anticipated demands. "Quantities limited" is not specific enough to satisfy the requirements of this section. "Only ten items available at each store" would be in compliance with these regulations.

(Effective June 25, 1989)

Sec. 42-110b-19. Advertising "free," "reduced," "discount," "below cost," or a rebate

It shall be an unfair or deceptive act or practice to:

(a) Advertise any merchandise or service as free by the use of the word "free" or any other terms of similar import when the merchandise or service is not, in fact, free (see subsection (d) of this section). Failure to disclose any and all terms, conditions and obligations required of the consumer shall be a violation of sections 42-110b-1 to 42-110b-31, inclusive, of the Regulations of Connecticut State Agencies;

(b) Advertise the price of merchandise or service as a reduced or sale price, or compare the price to a previous price unless the advertised price is lower than the actual, bona fide price for which the merchandise or service was offered to the public on a regular basis by the advertiser for a reasonably substantial period of time prior to the advertisement or as a discount price, unless the advertised price is lower than the price being charged for the same merchandise or service by other sellers in the area; provided, however, in the case of a new product, if the advertised price is less than the price which the advertiser, in good faith, expects to charge after termination of the introductory sale, there is no violation of this subsection. The actual price after the sale shall be evidence of the advertiser's good faith expectations;

(c) Advertise the price of any merchandise as below cost, unless the price is, in fact, below the cost for which the merchandise was purchased and prepared for sale by the advertiser;

(d) Advertise merchandise or service as free or the price of merchandise or a service as a discount, reduced, or sale price if receipt of such merchandise or service is contingent upon the purchase of other merchandise or service at a price which is higher than the actual, bona fide price at which the merchandise or service was offered to the public on a regular basis by the advertiser for a reasonably substantial period of time prior to the advertisement, or at a price which is substantially higher than the price being charge for the same merchandise or service by other sellers in the area; provided, however, in the case of a new product, if the advertised price is less than the price which the advertiser, in good faith, expects to charge after termination of the introductory sale, there is no violation of this subsection. The actual price after the sale shall be evidence of the advertiser's good faith expectations; or

(e) Advertise the availability of any type of rebate by displaying the net price of the advertised item in the advertisement, unless the amount of the rebate is provided by the consumer by the retailer at the time of purchase of the advertised item. A retailer will not be required to provide the purchaser of an advertised item with the amount of the rebate if the retailer advertises that a rebate is available without taking the net price of the item. For the purpose of this subsection, "net price" means the ultimate price paid by a consumer after the consumer redeems the rebate offered for the advertised item.

(Effective December 7, 1988; February 4, 2004.)

Sec. 42-110b-20. Bait and switch

It shall be an unfair and deceptive act or practice to:

(a) Advertise merchandise or a service for sale when the advertisement is not a bona fide offer to sell the advertised merchandise or service. Among acts or practices which will be considered in determining if an advertisement is a bona fide offer are:

(1) the refusal to show, demonstrate, or sell the merchandise or service offered in accordance with the terms of the offer,

(2) the disparagement by acts or words of the advertised merchandise or service or the disparagement of the guarantee, credit terms, availability of service, repairs or parts, or in any other respect, in connection with it,

(3) the failure to have available at all outlets listed in the advertisement a sufficient quantity of the advertised merchandise to meet reasonable anticipated demands, unless the advertisement clearly, adequately, and specifically (see § 18 above) discloses that supply is limited and/or the merchandise is available only at designated outlets.

(4) the refusal to take orders for the advertised merchandise to be delivered within a reasonable period of time at the advertised price,

(5) the showing or demonstrating of merchandise which is defective, unusable or impractical for the purpose represented or implied in the advertisement,

(6) use of a sales plan or method of compensation for salesmen or penalizing salesmen which has, or tends to have, the effect of preventing or discouraging them from selling the advertised merchandise or service,

(7) the delivery of the advertised merchandise which is defective, unusable, or impractical for the purpose represented or implied in the advertisement.

(Effective October 31, 1975)

Sec. 42-110b-21. Language other than English

It shall be an unfair or deceptive act or practice to disseminate any advertisement in a language other than English without including therein all required disclosures or limitations on the offer advertised in the language principally used in the advertisement.

(Effective October 31, 1975)

Sec. 42-110b-22. Offer conditions

When an offer is made in an advertisement and there is a material contingency, condition or limitation on the offer, it shall be an unfair or deceptive act or practice to fail to conspicuously state such contingency, condition or limitation reasonably adjacent to the offer.

(Effective October 31, 1975)

Sec. 42-110b-23. Game promotion

(a) It shall be an unfair or deceptive act or practice for any person to engage in any kind of contest, sweepstakes, giveaway or other game promotion which:

(1) is deceptive or misleading as to chances of winning, the number of winners, the of the prizes, or the availability of the prize;

(2) requires any kind of entry fee, service charge, purchase or similar consideration in order to enter;

(3) uses publications, literature, written or verbal promotion that is false, deceptive, or misleading.

(b) It shall be an unfair or deceptive act or practice for any person to conduct a game of skill, conditioned on payment of consideration, without clearly and conspicuously disclosing the rules, terms, or conditions of participation, the date when the game will terminate and prizes that will be awarded, and the nature, value, and number of prizes that will be awarded.

(c) It shall be an unfair or deceptive act or practice to represent that a person is a "winner," or has been "selected," or is otherwise being involved in a select group for receipt of a prize or an opportunity, or that a person is entering a "contest," "sweepstakes," "drawing," or other competitive enterprise from which a winner or select group of winners will receive a prize or opportunity, when, in fact, the enterprise is simply a promotional scheme designed to make contact with prospective customers, or all or a substantial number of those "entering" receive the same "prize" or "opportunity."

(Added effective October 31, 1975)

Sec. 42-110b-24. Availability of service

It shall be an unfair or deceptive act or practice for any person in trade or commerce to sell merchandise for which service is not readily available without disclosing such fact to the purchaser prior to the sale of the merchandise.

(Effective October 31, 1975)

Sec. 42-110b-25. Federal Trade Commission

In the event there are any inconsistencies between these regulations and the rules, regulations, and decisions of the Federal Trade Commission and the federal courts interpreting the provisions of the Federal Trade Commission Act, the latter shall prevail.

(Effective October 31, 1975)

Sec. 42-110b-26. Failure to post prescription drug prices

It shall be an unfair or deceptive trade practice for any pharmacy or and drug retailer to violate Sec. 20-175a of the General Statutes, or any provision of Sec. 20-175a-1 through Sec. 20-175a-2, inclusive of the Regulations of Connecticut State Agencies.

(Effective October 28, 1977)

Sec. 42-110b-27. [Reserved.]

Sec. 42-110b-28. Standards for the advertising and selling of motor vehicles within Connecticut

(a) Definitions: For the purposes of this regulation the following terms have the meanings indicated:

(1) "Motor vehicle" means "Motor vehicle," as defined in section 14-1 of the Connecticut General Statutes;

(2) "New car dealer" and "used car dealer" means "New car dealer" and "Used car dealer" as defined in section 14-51 of the Connecticut General Statutes, and shall also mean any person, firm or corporation which engages in the business of leasing or renting of motor vehicles and is required to be licensed under the provisions of section 14-15 of the Connecticut General Statutes;

(3) "Advertisement" (including the terms advertise and advertising) means any oral, written or graphic statement made by a new car dealer or used car dealer in any manner in connection with the solicitation of business and includes, but is not limited to, statements and representations made in a newspaper or other publication or on radio or television or contained in any notice, handbill, sign, billboard, poster, bill, circular, brochure, pamphlet, catalogue or letter;

(4) A motor vehicle is not considered new within the meaning of these regulations if it is a used motor vehicle as defined in section 14-1 of the Connecticut General Statutes, or if it has been driven substantially in excess of the limited use necessary for moving or road testing purposes, or if it is altered, deteriorated, repossessed or damaged;

(5) "Clearly and Conspicuously" means that the statement, representation or term being disclosed is of such size, placement, sound, color or contrast as to be readily noticeable to the person to whom it is being disclosed. A printed statement, representation or term is not clear and conspicuous unless it is printed in at least ten point type; and

(6) "Flood damaged vehicle" means a motor vehicle that satisfies either of the following:
(A) the vehicle has been acquired by an insurance company as part of a damage settlement due to water damage; or
(B) the vehicle has been submerged in water to the point that rising water has reached over the door sill and has entered the passenger or trunk compartment, or has exposed any electrical, computerized or mechanical component to water.

(b) Advertising of motor vehicles

Scope: The following advertising regulations shall apply to any advertisement published, delivered, broadcast or circulated within the State of Connecticut:

(1) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to fail to sell or lease, or refuse to sell or lease, a motor vehicle in accordance with any terms or conditions which the dealer has advertised, including, but not limited to, the advertised price.

(2) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise any motor vehicle for sale or lease which is not new unless the advertisement clearly and conspicuously discloses, in an area immediately adjacent to the reference to the advertised motor vehicle:

- (A) that the vehicle is used;
- (B) the stock number of the vehicle; and
- (C) a designation of the vehicle as a demonstrator, taxicab, police car, rental vehicle or leased fleet vehicle, if such leased fleet vehicle is from a business or governmental fleet of six vehicles or more, if the dealer knows or, in the exercise of reasonable care, should know that the vehicle was previously so used.

(3) Notwithstanding section 42-110b-28(b)(2)(C) of the Regulations of Connecticut State Agencies, it is an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise any motor vehicle as a "demonstrator" unless the vehicle:

- (A) is of current or previous model year;
- (B) was used exclusively by the dealership; and
- (C) was used for demonstrator purposes only.

(4) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to use in its advertisements the word "executive," "company official," or any other similar terms to identify any motor vehicle unless the identified vehicle has been used exclusively by executives or other personnel of the vehicle's manufacturer or by an executive of any authorized dealership selling the same make of vehicle.

(5) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to use in its advertisements, except as specifically permitted in this subdivision, any of the following terms in connection with the price of motor vehicles:

(A) the terms "factory authorized sale," "factory discount outlet" and similar terms, or terms indicating that the dealer has been granted special pricing or distribution privileges by a motor vehicle manufacturer, unless authorized to do so by the motor vehicle manufacturer;

(B) the terms "at cost," "below invoice," "at invoice," "wholesale" and similar terms or any other representation that a motor vehicle will be sold at, below or above a cost or price standard unless:

(i) the cost or price standard represents the actual consideration paid by the dealer; and

(ii) no hold back, rebate, promotional fee or any other consideration will be paid by the manufacturer to the dealer subsequent to the purchase of the motor vehicle which in any way will reduce or offset the cost to the dealer of purchasing the motor vehicle;

(C) the terms "liquidation sale," "liquidation," "public sale," "public notice," "public disposal," "final notice," and similar terms when in fact the sale is not required by court order, operation of law or the impending closure of the dealer's business.

(6) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise the price for the sale of any motor vehicle unless the stated price in such advertisement includes the federal tax, the cost of delivery, dealer preparation and any other charges of any nature, except any state or local tax or registration fees, or any dealer conveyance fee or processing fee as defined by section 14-62 of the Connecticut General Statutes.

(7) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise in any manner the price which will be paid by such dealer for trade-in vehicles unless the price of the vehicle sold by such dealer to the owner of the trade-in vehicle is within the range of prices at which the dealer usually sells such vehicles and is not increased because of the amount paid for the trade-in vehicle.

(8) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise in any manner that a specific price will be paid by such dealer for trade-in vehicles unless either the advertised price will be paid for all trade-in vehicles, regardless of their condition or age, or the advertisement clearly and conspicuously discloses any conditions which trade-in vehicles must meet before such price will be paid.

(9) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise in any manner that a range of prices (such as "up to \$500" or "as much as \$500") will be paid by such dealer for trade-in vehicles unless the advertisement clearly and conspicuously discloses the criteria (such as age, condition or mileage) which the dealer will use to determine the amount to be paid for a particular trade-in vehicle.

(10) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise a sale or promotion in connection with the sale or lease of motor vehicles without clearly and conspicuously disclosing in such advertisement the expiration date and any other conditions of such sale or promotion, including whether the supply of vehicles is limited.

(11) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise motor vehicles using such statements as "As low as," "From," or like terms in connection with a price unless motor vehicles are readily available for sale or lease in sufficient quantity to meet reasonably anticipated demands for each of the years, models and makes so advertised. It shall be considered that the taking of orders for the advertised vehicles to be delivered within a reasonable time at the advertised price shall be in compliance with this regulation.

(12) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise that motor vehicles are in stock or otherwise available for immediate delivery unless such is the case.

(13) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to use in its advertisements of motor vehicles any format, layout, headline, chart, illustration or type size which fails to clearly designate which of the prices, finance terms, or other sale terms featured apply to each of the advertised motor vehicles.

(14) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to misrepresent in any advertisement the model year of any motor vehicle.

(15) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to misrepresent in any advertisement the make of any motor vehicle.

(16) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to misrepresent in any advertisement the mileage of any motor vehicle.

(17) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to make any representation or statement of fact in an advertisement if the dealer knows or should know that the representation or statement is false or misleading or if the dealer does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based.

(18) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise in a manner or format which fails to clearly distinguish between the offer of a vehicle for sale and the offer of a vehicle for lease.

(19) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise a payment amount for the lease of a vehicle without clearly and conspicuously using the word "lease" in an area immediately adjacent to the stated payment amount.

(20) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise the terms "one price," "non-negotiable price," "set price" or similar terms unless the dealer:

- (A) maintains the same price for all consumers for equivalent vehicles; and
- (B) maintains such price unless a general price adjustment is made which is applicable to all consumers.

(21) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise the price of a motor vehicle which is reduced by an amount representing a manufacturer's rebate unless the rebate is available to the general public.

(22) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise a manufacturer's rebate unless such advertisement clearly and conspicuously discloses:

- (A) the amount of any applicable rebate; and
- (B) any conditions, restrictions or limitations placed on the rebate.

(23) it shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to violate any provision of a federal or state statute or regulation concerning the sale or lease of motor vehicles.

(24) it shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to fail to print in at least ten point type any disclosure required by a federal or state statute or regulation concerning the sale or lease of motor vehicles.

(25) it shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to make any disclosure required by a federal or state statute or regulation concerning the sale or lease of motor vehicles in a television or radio advertisement unless the disclosure is made clearly and conspicuously, without any distracting background pattern or noise sufficient to prevent a reasonable person from understanding the nature of the disclosure.

(26) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to fail to withdraw an advertisement for the sale or lease of a specific motor vehicle or vehicles within a reasonable time after the motor vehicle or vehicles are no longer available for sale or lease to the general public.

(27) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise the price for the sale of a motor vehicle when such price is reduced by an amount representing the down payment, deposit or other payment to be made by the purchaser.

(28) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to advertise an offer of cash or other consideration to a consumer who presents to such dealer a purchase order from another dealer signed by both the buyer and seller.

(29) It shall be an unfair or deceptive act or practice for a new car dealer or used car dealer to misrepresent the source from which the dealer purchased a new or used motor vehicle.

(30) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise the terms "repossessions", "bank repossessions", "prior bank assets" or similar terms unless the dealer has purchased the advertised motor vehicles directly from the bank or lender, or its agent, that repossessed the vehicles.

(31) It shall be an unfair or deceptive act or practice for a new car dealer or a used car dealer to advertise, or offer for sale or lease, a flood damaged motor vehicle without clearly and conspicuously disclosing that the vehicle is a flood damaged vehicle. In any written advertisement, such disclosure shall be placed immediately adjacent to the description of the vehicle.

(32) These regulations are in addition to section 42-110b-18 to section 42-110b-24, inclusive, of the Regulations of Connecticut State Agencies and will not be construed in any way as rendering inapplicable to new car dealers or used car dealers any of the provisions of section 42-110b-18 to 42-110b-24, inclusive, of the Regulations of Connecticut State Agencies.

(Effective December 23, 1983; Amended effective April 19, 1996; November 30, 2006.)

Sec. 42-110b-29. Petroleum products pricing practices

(a) As used in this section:

(1) "petroleum product" shall include, but not be limited to, middle distillate, residual fuel oil, motor gasoline, propane, aviation gasoline and aviation turbine fuel, as defined in Sec. 16a-22c-1 (b) of the Regulations of Connecticut State Agencies;

(2) "seller" shall include, but not be limited to, a supplier, wholesaler, distributor or retailer involved in the sale or distribution in this State of petroleum products;

(3) "abnormal market disruption" refers to any stress to the petroleum products market resulting from weather conditions, acts of nature, failure or shortage of a source of energy, strike, civil disorder, war, national or local emergency, oil spill or other extraordinary adverse circumstance.

(b) It shall be an unfair act or practice in violation of Connecticut General Statutes, Section 42-110b (a) for a seller during any period of abnormal market disruption to sell or offer to sell a petroleum product for an amount which represents an unconscionably excessive price.

(c) Evidence that (1) (i) the amount charged represents a gross disparity between the price of the petroleum product which was the subject of the transaction and the price at which such petroleum product was sold or offered for sale by the seller in the usual course of business immediately prior to the onset of the abnormal market disruption or (ii) the amount charged grossly exceeded the price at which the same or similar petroleum product was readily obtainable by other consumers in the trade area; and (2) the amount charged by the seller was not

attributable to additional costs incurred by the seller in connection with the sale of such product, shall constitute prima facie evidence that a price is unconscionably excessive.

(d) This section shall not be construed to limit the ability of the Commissioner of Consumer Protection or the courts to establish certain acts or practices as unfair or unconscionable in the absence of abnormal market disruptions.

(Added effective January 28, 1991)

Sec. 42-110b-30. [Reserved.]

Sec. 42-110b-31. Refusal to serve customer

(a) As used in this section:

- (1) "Energy goods" means any fuel used for the purpose of providing heat or hot water to residential dwelling units, including, but not limited to home heating oil, propane, kerosene, coal and wood;
- (2) "Vendor" means a retail seller of energy goods;
- (3) "Established delivery area" means the geographic area in Connecticut, the perimeter of which is determined by the vendor's most distant customer in each direction;
- (4) "Cash" means legal tender, certified or cashier's check, commercial money order, or their equivalent, or guaranteed payment on behalf of the person by a government or community action agency.

(b) Except as provided in the Regulations of Connecticut State Agencies promulgated pursuant to Sections 29-329 and 29-331 of the Connecticut General Statutes it shall be an unfair act or practice in violation of Connecticut General Statutes, Section 42-110b(a) for a vendor to:

- (1) Refuse to sell energy goods within its established delivery area to any person who is able and willing to pay cash, irrespective of: (A) the status of the person's credit history; or (B) whether the person is an established or new customer of the vendor or has previously purchased energy goods from the vendor;
- (2) Refuse to sell, on the same terms and conditions as other cash customers, energy goods within its established delivery area to any person who is able and willing to pay cash;
- (3) Enter into an agreement or understanding with a property owner or managing agent that binds or influences current or prospective tenants to purchase energy goods from that vendor or creates an incentive for the property owner or managing agent to bind or influence current or prospective tenants to purchase energy goods from that vendor.

(c) Nothing in this section shall be construed to require a vendor to sell or deliver energy goods to a customer who currently owes an outstanding balance to that vendor for a past sale of energy goods.

(d) Nothing in this section shall be construed to require a vendor to sell a proportionately larger share or allocation to a new cash customer than the share or allocation such vendor is providing to other customers if such vendor has inadequate supply to meet all customer needs, so long as any person entitled to purchase energy goods pursuant to this regulation is not discriminated against in any way by any such allocation plan or practice.

(Effective June 23, 1992).