
By: Delegate Fulton

Requested: June 26, 1996

Introduced and read first time: January 8, 1997

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection - Weight Loss Programs**

3 FOR the purpose of prohibiting weight loss programs from making certain guarantees;
4 requiring weight loss programs to provide certain notices and information to certain
5 clients at certain times; requiring weight loss programs to obtain a certain statement
6 from prospective clients at a certain time; providing for the cancellation of weight
7 loss contracts by certain clients under certain circumstances; making it an unfair and
8 deceptive trade practice for a weight loss program to make certain guarantees
9 concerning weight loss, to fail to provide certain notices and information to certain
10 clients, and to fail to obtain certain statements from certain clients; defining certain
11 terms; providing for the application of this Act; and generally relating to weight loss
12 programs.

13 BY repealing and reenacting, with amendments,
14 Article - Commercial Law
15 Section 13-301(14)
16 Annotated Code of Maryland
17 (1990 Replacement Volume and 1996 Supplement)

18 BY adding to
19 Article - Commercial Law
20 Section 14-2801 through 14-2806 to be under the new subtitle "Subtitle 28. Weight
21 Loss Programs"
22 Annotated Code of Maryland
23 (1990 Replacement Volume and 1996 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article - Commercial Law**

27 13-301.

28 Unfair or deceptive trade practices include any:

29 (14) Violation of a provision of:

2

- 1 (i) This title;
- 2 (ii) An order of the Attorney General or agreement of a party relating
3 to unit pricing under Title 14, Subtitle 1 of this article;
- 4 (iii) Title 14, Subtitle 2 of this article, the Maryland Consumer Debt
5 Collection Act;
- 6 (iv) Title 14, Subtitle 3 of this article, the Maryland Door-to-Door
7 Sales Act;
- 8 (v) Title 14, Subtitle 9 of this article, Kosher Products;
- 9 (vi) Title 14, Subtitle 10 of this article, Automotive Repair Facilities;
- 10 (vii) Section 14-1302 of this article;
- 11 (viii) Title 14, Subtitle 11 of this article, Maryland Layaway Sales Act;
- 12 (ix) Section 22-415 of the Transportation Article;
- 13 (x) Title 14, Subtitle 20 of this article;
- 14 (xi) Title 14, Subtitle 15 of this article, the Automotive Warranty
15 Enforcement Act;
- 16 (xii) Title 14, Subtitle 21 of this article;
- 17 (xiii) Section 18-107 of the Transportation Article;
- 18 (xiv) Title 14, Subtitle 22 of this article, the Maryland Telephone
19 Solicitations Act;
- 20 (xv) Title 14, Subtitle 23 of this article, the Automotive Crash Parts
21 Act;
- 22 (xvi) Title 10, Subtitle 6 of the Real Property Article;
- 23 (xvii) Title 10, Subtitle 8 of the Real Property Article;
- 24 (xviii) Title 14, Subtitle 25 of this article, the Hearing Aid Sales Act;
25 [or]
- 26 (xix) Title 14, Subtitle 26 of this article, the Maryland Door-To-Door
27 Solicitations Act; or
- 28 (XX) TITLE 14, SUBTITLE 28 OF THIS ARTICLE; OR
- 29 SUBTITLE 28. WEIGHT LOSS PROGRAMS.

30 14-2801.

31 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
32 INDICATED.

33 (B) "BUSINESS DAY" MEANS MONDAY THROUGH FRIDAY.

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1 (C) "WEIGHT LOSS PROGRAM" MEANS ANY PROGRAM THAT SELLS OR
2 OFFERS TO SELL:

3 (1) INSTRUCTION, COUNSELING, SUPERVISION, OR ASSISTANCE, BY
4 PERSONS WHO ARE NOT LICENSED HEALTH CARE PROFESSIONALS, IN WEIGHT LOSS,
5 DIET, AND EATING HABITS;

6 (2) MEMBERSHIP IN ANY ORGANIZATION FORMED FOR ANY OF THE
7 PURPOSES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION; OR

8 (3) PREPACKAGED OR PREMEASURED FOODS SOLD AS PART OF A
9 WEIGHT LOSS PLAN.

10 (D) "WEIGHT LOSS CONTRACT" MEANS AN AGREEMENT BETWEEN AN
11 INDIVIDUAL AND A WEIGHT LOSS PROGRAM FOR THE PURPOSE OF PROVIDING
12 GOODS OR SERVICES TO ASSIST THE INDIVIDUAL IN LOSING WEIGHT.

13 14-2802.

14 A WEIGHT LOSS PROGRAM MAY NOT MAKE A GUARANTEE CONCERNING THE
15 NUMBER OF POUNDS THAT AN INDIVIDUAL IS EXPECTED TO LOSE WHILE
16 PARTICIPATING IN THE WEIGHT LOSS PROGRAM.

17 14-2803.

18 (A) BEFORE ENTERING INTO A WEIGHT LOSS CONTRACT WITH A
19 PROSPECTIVE CLIENT, A WEIGHT LOSS PROGRAM SHALL NOTIFY THE PROSPECTIVE
20 CLIENT, IN WRITING:

21 (1) THAT THE WEIGHT LOSS PROGRAM MAKES NO GUARANTEES
22 CONCERNING THE NUMBER OF POUNDS THAT AN INDIVIDUAL IS EXPECTED TO
23 LOSE WHILE PARTICIPATING IN THE WEIGHT LOSS PROGRAM;

24 (2) OF THE CONTRACT CANCELLATION RIGHTS AND DUTIES
25 DESCRIBED UNDER § 14-2805 OF THIS SUBTITLE; AND

26 (3) OF ANY REQUIRED OR OPTIONAL COSTS ASSOCIATED WITH THE
27 WEIGHT LOSS PROGRAM'S PLAN TO LOSE WEIGHT, INCLUDING MEMBERSHIP FEES,
28 COUNSELING FEES, FACILITIES FEES, AND THE COST OF PREPACKAGED OR
29 PREMEASURED FOODS.

30 (B) BEFORE ENTERING INTO A WEIGHT LOSS CONTRACT WITH A
31 PROSPECTIVE CLIENT, A WEIGHT LOSS PROGRAM THAT SELLS PREPACKAGED OR
32 PREMEASURED FOODS AS PART OF ITS WEIGHT LOSS PLAN SHALL PROVIDE THE
33 FOLLOWING STATEMENT TO THE PROSPECTIVE CLIENT:

34 "IT IS NOT NECESSARY TO PURCHASE PREPACKAGED OR PREMEASURED FOODS
35 FROM(THE NAME OF THE WEIGHT LOSS PROGRAM) TO LOSE
36 WEIGHT. FOLLOWING A DIET OF FOODS THAT ARE NUTRITIONALLY AND
37 CALORICALLY EQUIVALENT TO THE PREPACKAGED OR PREMEASURED FOODS
38 SOLD BY (THE NAME OF THE WEIGHT LOSS PROGRAM) MAY
39 YIELD SUBSTANTIALLY SIMILAR WEIGHT LOSS RESULTS."

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1 (C) (1) THE WEIGHT LOSS PROGRAM SHALL PROVIDE THE WRITTEN
2 NOTICES DESCRIBED IN SUBSECTIONS (A) AND (B) OF THIS SECTION IN A DOCUMENT
3 THAT IS SEPARATE FROM ANY WRITTEN WEIGHT LOSS CONTRACT.

4 (2) THE NOTICE DOCUMENT SHALL CONTAIN:

5 (I) A STATEMENT THAT THE PROSPECTIVE CLIENT HAS READ THE
6 NOTICES; AND

7 (II) A SIGNATURE LINE FOR THE PROSPECTIVE CLIENT.

8 (3) BEFORE ENTERING INTO A WEIGHT LOSS CONTRACT WITH A
9 PROSPECTIVE CLIENT, A WEIGHT LOSS CENTER SHALL:

10 (I) OBTAIN THE SIGNATURE OF THE PROSPECTIVE CLIENT ON THE
11 SIGNATURE LINE DESCRIBED IN PARAGRAPH (2)(II) OF THIS SUBSECTION; AND

12 (II) PROVIDE THE PROSPECTIVE CLIENT WITH A COPY OF THE
13 NOTICE DOCUMENT.

14 14-2804.

15 AT THE EXPIRATION OF A WEIGHT LOSS CONTRACT, A WEIGHT LOSS PROGRAM
16 SHALL PROVIDE THE CLIENT WITH VERBAL AND WRITTEN INFORMATION
17 CONCERNING THE MAINTENANCE OF WEIGHT LOSS.

18 14-2805.

19 (A) AN INDIVIDUAL MAY CANCEL A WEIGHT LOSS CONTRACT FOR ANY
20 REASON WITHIN 3 BUSINESS DAYS AFTER THE DAY ON WHICH THE INDIVIDUAL
21 ENTERED INTO THE WEIGHT LOSS CONTRACT.

22 (B) IN ADDITION TO ANY OTHER AVAILABLE REMEDY AT LAW, AN
23 INDIVIDUAL MAY CANCEL A WEIGHT LOSS CONTRACT IF THE WEIGHT LOSS
24 PROGRAM VIOLATES § 14-2802 OF THIS SUBTITLE OR FAILS TO PROVIDE THE
25 NOTICES REQUIRED UNDER § 14-2803 OF THIS SUBTITLE.

26 (C) CANCELLATION OCCURS WHEN THE BUYER SENDS OR DELIVERS
27 WRITTEN NOTICE OF CANCELLATION TO THE WEIGHT LOSS PROGRAM.

28 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
29 WITHIN 10 BUSINESS DAYS AFTER THE DAY ON WHICH THE WEIGHT LOSS PROGRAM
30 RECEIVES WRITTEN NOTICE OF CANCELLATION, THE WEIGHT LOSS PROGRAM
31 SHALL REFUND ALL MONEYS PAID BY A CLIENT UNDER A WEIGHT LOSS CONTRACT.

32 (2) A WEIGHT LOSS PROGRAM IS NOT REQUIRED TO REFUND THE COST
33 OF ANY PREPACKAGED OR PREMEASURED FOODS DELIVERED TO A CLIENT UNDER
34 A WEIGHT LOSS CONTRACT.

35 14-2806.

36 IT IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE, AS DEFINED IN TITLE 13 OF
37 THIS ARTICLE, TO VIOLATE §§ 14-2802 THROUGH 14-2804 AND 14-2805(D)(1) OF THIS
38 SUBTITLE.

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1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
2 only prospectively and may not be applied or interpreted to have any effect on or
3 application to any weight loss contract entered into before the effective date of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1997.