



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 40 of 1971

An Act to control unfair advertising and for other purposes.

[Assented to 29th April, 1971]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title. **1.** This Act may be cited as the “Unfair Advertising Act, 1970-1971”.

Interpretation. **2.** In this Act, unless the contrary intention appears—

“advertisement” includes every form of advertising (whether or not accompanied by or in association with spoken or written words or other writing or sounds and whether or not contained or issued in a publication) by the display of notices or by means of catalogues, price lists, labels, cards or other documents or material or by the exhibition of cinematograph films or of pictures or photographs, or by means of radio or television, or in any other way:

“advertiser” in relation to an advertisement means the person on whose behalf the advertisement was published:

“goods” includes vehicles, vessels, aircraft, animals and articles and things of any description and rights in respect of goods:

“publish” in relation to an advertisement, means to place the advertisement before the public or any member of the public by any means whatsoever and “publication” shall be construed accordingly:

“unfair statement” in relation to an advertisement means a statement or representation contained in the advertisement that is—

(a) inaccurate or untrue in a material particular;

or

(b) likely to deceive or mislead in a material way a person to whom or a person of a class to which it is directed.

3. (1) Subject to subsection (3) of this section, a person shall not publish, or cause directly or indirectly to be published, or be concerned in the publication of, an advertisement of any kind relating to goods or services or to the extension of credit for any transaction relating to goods or services, if the advertisement contains an unfair statement.

Prohibition of misleading advertising.

Penalty: One thousand dollars.

(2) It shall be a defence to proceedings for an offence that is a contravention of subsection (1) of this section for the defendant to prove that at the time of the publication he believed on reasonable grounds that the statement or representation complained of was not an unfair statement.

(3) Subsection (1) of this section does not apply to any person, including but without limiting the generality of the expression—

(a) an owner, publisher or printer of any newspaper, publication, periodical or circular;

(b) an owner of any radio or television station;

(c) an advertising agent acting on behalf of the advertiser;

(d) a newsagent or bookseller,

or

(e) a servant, employee or agent of any of the persons referred to in paragraphs (a) to (d), inclusive, of this subsection,

who was concerned in the publication of the advertisement referred to in that subsection not as the advertiser and had no knowledge of the fact that the advertisement contained an unfair statement.

(4) It shall be a defence to a prosecution for an offence that is a contravention of subsection (1) of this section for the defendant to prove that the unfair statement was of such a nature that no reasonable person would rely on it.

(5) A prosecution for an offence that is a contravention of subsection (1) of this section shall not be commenced except with the consent of the Attorney-General.

(6) In any proceedings in connection with a prosecution referred to in subsection (5) of this section a document purporting to be a consent referred to in that subsection shall in the absence of proof to the contrary be deemed to be such a consent.

Offences
punishable
summarily.

4. Proceedings in respect of offences against this Act shall be disposed of summarily.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. W. HARRISON, Governor.

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