
Consumer Fraud Act

(N.J.S.A. 56:8-1 et seq.)

Division of Consumer Affairs

NJ Department of Law & Public Safety

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Guide to Statutes

56:8-1.	Definitions	7
56:8-1.1.	Temporary help service; inclusion within definition of merchandise; rules or regulations; fees	7
56:8-2.	Fraud, etc., in connection with sale or advertisement of merchandise or real estate as unlawful practice	8
56:8-2.1.	Operation simulating governmental agency as unlawful practice	9
56:8-2.2.	Scheme to not sell item or service advertised	9
56:8-2.3.	Notification to person that he has won prize and requiring him to perform act	9
56:8-2.4.	Advertisement of unassembled merchandise as assembled in picture or illustration; prohibition	9
56:8-2.5.	Sale, attempt to sell or offer for sale of merchandise without tag or label with selling price	9
56:8-2.6.	Daily failure to tag as separate violation	10
56:8-2.7.	Solicitation of funds or contributions, or sale or offer for sale of goods or services under false representation of solicitation for charitable or nonprofit organization or of benefit for handicapped persons	10
56:8-2.8.	“Going out of business sale”; time limits	10
56:8-2.9.	Misrepresentation of identity of food in menus or advertisements of eating establishments	10
56:8-2.10.	Acts constituting misrepresentation of identity of food	11
56:8-2.11.	Violations; liability	11
56:8-2.12.	Recovery of refund in private action	11
56:8-2.13.	Cumulation of rights and remedies; construction of art	11
56:8-2.14.	Short title	11
56:8-2.15.	Definitions	11
56:8-2.16.	Posting of signs; locations	12
56:8-2.17.	Signs; contents	12
56:8-2.18.	Penalties; refunds or credits to buyers	12
56:8-2.19.	Posting of signs; exceptions	13
56:8-2.20.	Motor vehicle; perishables; custom merchandise; non-returnable merchandise; application of act	13
56:8-2.21.	Jurisdiction; penalties; cash refund; credit; damages	13
56:8-2.22.	Copy of transaction or contract; provision to consumer	13
56:8-2.23.	Solicitation of used goods or wares by profit-making enterprise; disclosures	14

56:8-3.	Investigation by attorney general; powers and duties	14
56:8-3.1.	Violations; penalty	15
56:8-4.	Additional powers	15
56:8-5.	Service of notice by attorney general	15
56:8-6.	Failure or refusal to file statement or report or obey subpoena issued by attorney general; punishment	16
56:8-7.	Self-incrimination; exemption from prosecution or punishment	16
56:8-8. Injunction against unlawful practices; appointment of receiver; additional penalties	16
56:8-9.	Powers and duties of receiver	17
56:8-10.	Claims against persons acquiring money or property by unlawful practices	18
56:8-11.	Costs in actions or proceedings brought by attorney general	18
56:8-12.	Partial invalidity	18
56:8-13.	Penalty for violations	18
56:8-14.	Collection and enforcement of penalty; process; restoration of moneys or property unlawfully acquired; warrant of arrest to satisfy civil penalty	18
56:8-14.1.	Actions by director of county or municipal office of consumer affairs; award of penalties, fines, fees and costs	19
56:8-15.	Restoration of moneys or property unlawfully acquired; order	19
56:8-16.	Remission of penalties	20
56:8-17.	Failure to pay penalty or restore money or property; certificate of indebtedness; recording as docketed judgment	20
56:8-18.	Cease and desist order; violations; penalty	20
56:8-19.	Action or counterclaim by injured person; recovery of treble damages and costs	21
56:8-20.	Notice to attorney general of action or defense by injured person; intervention	21
56:8-21.	Short title	21
56:8-22.	Definitions	21
56:8-23.	Exposure or offer for sale at retail of consumer commodity; mark of price per measure	22
56:8-24.	Unit pricing regulations; hearings; exemptions; retail establishments and commodities list	22
56:8-25.	Other regulations	23
56:8-26.	Definitions	23
56:8-27.	Resale of tickets for admission to places of entertainment; place of business; licensing requirement	23
56:8-28.	Application for license	24

56:8-29.	Issuance of license; renewal; transfer or assignment; change in location; term of license	24
56:8-30.	Bond	24
56:8-31.	Revocation or suspension of license	25
56:8-32.	Display of license; copies	25
56:8-33.	Price charged printed on tickets and included in advertisements; maximum premium	25
56:8-34.	Ticket sales in vicinity of place of entertainment	25
56:8-35.	Special treatment in obtaining tickets; prohibition	26
56:8-36.	Rules and regulations	26
56:8-37.	Violations; penalty	26
56:8-38.	Nonprofit or political organizations; application of act	26
56:8-39.	Definitions	26
56:8-40.	Seller of health club services; registration; duration; reregistration; information required; fees	27
56:8-41.	Maintenance of bond, letter of credit or other security; exemption for three month contracts	27
56:8-42.	Written contract; requirements; cancellation by buyer; closure of facility	29
56:8-43.	Prohibition against notes cutting off right of action or defense; assignment of contract	31
56:8-44.	Limit on down payment prior to opening of club	32
56:8-45.	Buyer's reliance on fraudulent or misleading information; contract voidability; buyer's waiver of act provisions void	32
56:8-46.	Unlawful practice; violation of act	32
56:8-47.	Non-applicability of act; nonprofit schools; state; other organizations 26	
56:8-48.	Rules and regulations	32
56:8-49.	Definitions	32
56:8-50.	Notification to director of defective or hazardous toys	33
56:8-51.	Dealer to display on premises notification of defective and hazardous toys	33
56:8-52.	Inspection program; publication of summary of defective and hazardous toys; regulations	33
56:8-53.	Allocation of monies collected as penalties	34
56:8-54.	Information service as "merchandise"	34
56:8-55.	Definitions	34
56:8-56.	Advertisement or sale of information service; disclosure required; conditions on sale above \$5; construction and conflict with federal requirements	35

56:8-57.	Certain advertisements or sales prohibited	36
56:8-58.	Rules and regulations; request to block access to information service	30
56:8-59.	Necessary regulations; registration by providers; fees	36
56:8-60.	Injunction and monetary restraints authorized	37
56:8-61.	Kosher food consumer protection act; short title	37
56:8-62.	Definitions	37
56:8-63.	Posting of kosher information	38
56:8-64.	Defense to commission of unlawful practice; good faith reliance on representation	38
56:8-65.	Possession of nonconforming kosher food; presumptive evidence of intent to sell	38
56:8-66.	Compliance with all requirements of director; dealers	38
56:8-67	Definitions	38
56:8-68	Unlawful Practices	40
56:8-69	Written warranty; minimum durations	41
56:8-70	Dealer required to correct failure or malfunction of covered items; excluded repairs	41
56:8-71	Failure to correct material defect; refund of purchase price; affirma- tive defenses	42
56:8-72	Term of written warranty extended by time spent waiting for dealer to begin or complete repairs	43
56:8-73	Election to waive warranty on used vehicle with over 60,000 miles; form and content of waiver	43
56:8-74	Dealer deemed to have given warranty in absence of written waiver	43
56:8-75	Consumer rights and remedies not affected	43
56:8-76	Vehicles not covered by warranty	43
56:8-77	Bond requirements	44
56:8-78	Rules and regulations	44
56:8-79	Consumer awareness program	44
56:8-80	Administrative fee	44

New Jersey Statutes Annotated
Title 56. Trade Names, Trade-marks and
Unfair Trade Practices
Chapter 8. Frauds, etc., in sales or
advertisements of merchandise

56:8-1. Definitions

- (a) The term “advertisement” shall include the attempt directly or indirectly by publication, dissemination, solicitation, indorsement or circulation or in any other way to induce directly or indirectly any person to enter or not enter into any obligation or acquire any title or interest in any merchandise or to increase the consumption thereof or to make any loan;
- (b) The term “Attorney General” shall mean the Attorney General of the State of New Jersey or any person acting on his behalf;
- (c) The term “merchandise” shall include any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale;
- (d) The term “person” as used in this act shall include any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trustent thereof;
- (e) The term “sale” shall include any sale, rental or distribution, offer for sale, rental or distribution or attempt directly or indirectly to sell, rent or distribute.

56:8-1.1. Temporary help service; inclusion within definition of merchandise; rules or regulations; fees

Services provided by a temporary help service firm shall constitute services within the term “merchandise” pursuant to P.L.1960, c. 39, s. 1 (C. 56:8-1(c)), and the provisions of P.L.1960, c. 39 (C. 56:8-1 et seq.), shall apply to the operation of a temporary help service firm.

The Attorney General shall promulgate rules and regulations pursuant to P.L.1960, c. 39, s.4 (C. 56:8-4). The Attorney General shall, by rule or regulation, establish, prescribe or change an annual fee or charge on temporary help service firms to such extent as shall be necessary to defray all proper expenses incurred by his office in the performance of its duties un-

der this section of this act but such fees or charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required. In addition to any other appropriate requirements, the Attorney General shall, by rule or regulation require the following:

- a. Each temporary help service firm operating within the State of New Jersey shall, prior to the effective date of this act or commencement of operation and annually thereafter, notify the Attorney General as to its appropriate name, if applicable; the trade name of its operation; its complete address, including street and street number of the building and place where its business is to be conducted; and the names and resident addresses of its officers. Each principal or owner shall provide an affidavit to the Attorney General setting forth whether such principal or owner has ever been convicted of a crime.
- b. When a temporary help service firm utilizes any location other than its primary location for the recruiting of applicants, including mobile locations, it shall notify the Office of the Attorney General of such fact in writing or by telephone, and subsequently confirm in writing prior to the utilization of such facility.
- c. Each temporary help service firm shall at the time of its initial notification to the Attorney General, and annually thereafter, post a bond of \$1,000.00 with the Attorney General to secure compliance with P.L.1960, c. 39 (C. 56:8-1 et seq.) as amended and supplemented, provided however that the Attorney General may waive such bond for any corporation or entity having a net worth of \$100,000 or more.

56:8-2. Fraud, etc., in connection with sale or advertisement of merchandise or real estate as unlawful practice

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice; provided, however, that nothing herein contained shall apply to the owner or publisher of newspapers, magazines, publications or printed matter wherein such ad-

vertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher, or operator has no knowledge of the intent, design or purpose of the advertiser.

56:8-2.1. Operation simulating governmental agency as unlawful practice

It shall be an unlawful practice for any person to operate under a name or in a manner which wrongfully implies that such person is a branch of or associated with any department or agency of the Federal Government or of this State or any of its political subdivisions, or use any seal, insignia, envelope or other format which simulates that of any governmental department or agency.

56:8-2.2. Scheme to not sell item or service advertised

The advertisement of merchandise as part of a plan or scheme not to sell the item or service so advertised or not to sell the same at the advertised price is an unlawful practice and a violation of the act to which this act is a supplement.

56:8-2.3. Notification to person that he has won prize and requiring him to perform act

The notification to any person by any means, as a part of an advertising plan or scheme, that he has won a prize and requiring him to do any act, purchase any other item or submit to a sales promotion effort is an unlawful practice and a violation of the act to which this act is a supplement.

56:8-2.4. Advertisement of unassembled merchandise as assembled in picture or illustration; prohibition

It shall be an unlawful practice for a person to advertise merchandise for sale accompanied by a picture or illustration of the merchandise in an assembled condition when it is intended to be sold unassembled, unless the advertisement bears the notation that the merchandise is to be sold unassembled.

56:8-2.5. Sale, attempt to sell or offer for sale of merchandise without tag or label with selling price

It shall be an unlawful practice for any person to sell, attempt to sell or offer for sale any merchandise at retail unless the total selling price of such merchandise is plainly marked by a stamp, tag, label or sign either affixed

to the merchandise or located at the point where the merchandise is offered for sale.

56:8-2.6. Daily failure to tag as separate violation

For the purposes of this act, each day for which the total selling price is not marked in accordance with the provisions of this act for each group of identical merchandise shall constitute a separate violation of this act and the act of which this act is a supplement.

56:8-2.7. Solicitation of funds or contributions, or sale or offer for sale of goods or services under false representation of solicitation for charitable or nonprofit organization or of benefit for handicapped persons

It shall be an unlawful practice for any person to solicit funds or a contribution of any kind, or to sell or offer for sale any goods, wares, merchandise or services, by telephone or otherwise, where it has been falsely represented by such person or where the consumer has been falsely led to believe that such person is soliciting by or on behalf of any charitable or nonprofit organization, or that a contribution to or purchase from such person shall substantially benefit handicapped persons.

56:8-2.8. “Going out of business sale”; time limits

It shall be an unlawful practice for any person to advertise merchandise for sale as a “going out of business sale” or in terms substantially similar to “going out of business sale” for a period in excess of 90 days or to advertise more than one such sale in 360 days. The 360-day period shall commence on the first day of such sale. For any person in violation of this act, each day in violation shall constitute an additional, separate and distinct violation.

56:8-2.9. Misrepresentation of identity of food in menus or advertisements of eating establishments

It shall be an unlawful practice for any person to misrepresent on any menu or other posted information, including advertisements, the identity of any food or food products to any of the patrons or customers of eating establishments including but not limited to restaurants, hotels, cafes, lunch counters or other places where food is regularly prepared and sold for consumption on or off the premises. This section shall not apply to any section or sections of a retail food or grocery store which do not provide facilities for on the premises consumption of food or food products.

56:8-2.10. Acts constituting misrepresentation of identity of food

The identity of said food or food products shall be deemed misrepresented if:

- a. Its description is false or misleading in any particular;
- b. Its description omits information which by its omission renders the description false or misleading in any particular;
- c. It is served, sold, or distributed under the name of another food or food product;
- d. It purports to be or is represented as a food or food product for which a definition of identity and standard of quality has been established by custom and usage unless it conforms to such definition and standard.

56:8-2.11. Violations; liability

Any person violating the provisions of the within act shall be liable for a refund of all moneys acquired by means of any practice declared herein to be unlawful.

56:8-2.12. Recovery of refund in private action

The refund of moneys herein provided for may be recovered in a private action or by such persons authorized to initiate actions pursuant to P.L.1975, c. 376 (C. 40:23-6.47 et seq.).

56:8-2.13. Cumulation of rights and remedies; construction of act

The rights, remedies and prohibitions accorded by the provisions of this act are hereby declared to be in addition to and cumulative of any other right, remedy or prohibition accorded by the common law or statutes of this State, and nothing contained herein shall be construed to deny, abrogate or impair any such common law or statutory right, remedy or prohibition.

56:8-2.14. Short title

This act shall be known and may be cited as the "Refund Policy Disclosure Act."

56:8-2.15. Definitions

As used in this act:

- a. “Merchandise” means any objects, wares, goods, commodities, or any other tangible items offered, directly or indirectly, to the public for sale.
- b. “Proof of purchase” means a receipt, bill, credit card slip, or any other form of evidence which constitutes reasonable proof of purchase.
- c. “Retail mercantile establishment” means any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

56:8-2.16. Posting of signs; locations

Every retail mercantile establishment shall conspicuously post its refund policy as to all merchandise on a sign in at least one of the following locations:

- a. Attached to the item itself, or
- b. Affixed to each cash register or point of sale, or
- c. So situated as to be clearly visible to the buyer from the cash register, or
- d. Posted at each store entrance used by the public.

56:8-2.17. Signs; contents

Any sign required by section 3 of this act¹ to be posted in retail mercantile establishments shall state whether or not it is a policy of such establishment to give refunds and, if so, under what conditions, including, but not limited to, whether a refund will be given:

- a. On merchandise which has been advertised as “sale” merchandise or marked “as is”;
- b. On merchandise for which no proof of purchase exists;
- c. At any time or not beyond a point in time specified; or
- d. In cash, or as credit or store credit only.

¹ Section 56:8-2.16.

56:8-2.18. Penalties; refunds or credits to buyers

A retail mercantile establishment violating any provision of this act shall be liable to the buyer, for up to 20 days from the date of purchase, for

a cash refund or a credit, at the buyer's option, provided that the merchandise has not been used or damaged by the buyer.

56:8-2.19. Posting of signs; exceptions

The provisions of section 3¹ shall not apply to retail mercantile establishments or departments that have a policy of providing, for a period of not less than 20 days after the date of purchase, a cash refund for a cash purchase or providing a cash refund or issuing a credit for a credit purchase, which credit is applied to the account on which the purchase was debited, in connection with the return of its unused and undamaged merchandise.

¹ Section 56:8-2.16.

56:8-2.20. Motor vehicle; perishables; custom merchandise; non-returnable merchandise; application of act

This act shall not apply to sales of motor vehicles, or perishables and incidentals to such perishables, or to custom ordered, custom finished merchandise, or merchandise not returnable by law.

56:8-2.21. Jurisdiction; penalties; cash refund; credit; damages

- a. An individual action for a violation of this act may be brought in a municipal court in whose jurisdiction the sale was made.
- b. In addition to the penalties provided for in section 5,¹ a retail mercantile establishment that fails to comply with the requirements of this act and, in practice, does not have a policy as provided in section 6² and has refused to accept the return of the merchandise shall be liable to the consumer for:
 - (1) A cash refund or a credit, at the buyer's option, provided the merchandise has not been used or damaged, and
 - (2) Damages of not more than \$200.00.

¹ Section 56:8-2.18.

² Section 56:8-2.19.

56:8-2.22. Copy of transaction or contract; provision to consumer

It shall be an unlawful practice for a person in connection with a sale of merchandise to require or request the consumer to sign any document as evidence or acknowledgment of the sales transaction, of the existence of the sales contract, or of the discharge by the person of any obligation to the

consumer specified in or arising out of the transaction or contract, unless he shall at the same time provide the consumer with a full and accurate copy of the document so presented for signature but this section shall not be applicable to orders placed through the mail by the consumer for merchandise.

56:8-2.23. Solicitation of used goods or wares by profit-making enterprise; disclosures

It shall be an unlawful practice for any person, other than a charitable or nonprofit organization, engaged in the business of selling used goods, wares or merchandise for profit to solicit, by telephone, by the placement of collection boxes or otherwise, donations of used goods, wares or merchandise for resale for profit, without first disclosing to the person solicited the profit-making nature of the business, or if profits are to be shared with a charitable or nonprofit organization, the portion of profits which that organization will receive. For the purposes of this act, "engaged in the business of selling used goods, wares or merchandise" means anyone who conducts sales more than five times a year.

56:8-3. Investigation by attorney general; powers and duties

When it shall appear to the Attorney General that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this act, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in, any such practice, he may:

- (a) Require such person to file on such forms as are prescribed a statement or report in writing under oath or otherwise, as to all the facts and circumstances concerning the sale or advertisement of merchandise by such person, and such other data and information as he may deem necessary;
- (b) Examine under oath any person in connection with the sale or advertisement of any merchandise;
- (c) Examine any merchandise or sample thereof, record, book, document, account or paper as he may deem necessary; and
- (d) Pursuant to an order of the Superior Court impound any record, book, document, account, paper, or sample of merchandise that is produced in accordance with this act, and retain the same in his possession until the completion of all proceedings in connection with which the same are produced.

56:8-3.1. Violations; penalty

Upon receiving evidence of any violation of the provisions of chapter 39 of the laws of 1960,¹ the Attorney General, or his designee, is empowered to hold hearings upon said violation and upon finding the violation to have been committed, to assess a penalty against the person alleged to have committed such violation in such amount within the limits of chapter 39 of the laws of 1966 as the Attorney General deems proper under the circumstances. Any such amounts collected by the Attorney General shall be paid forthwith into the State Treasury for the general purposes of the State.

¹ Section 56:8-1 et seq.

56:8-4. Additional powers

To accomplish the objectives and to carry out the duties prescribed by this act, the Attorney General, in addition to other powers conferred upon him by this act, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, promulgate such rules and regulations, and prescribe such forms as may be necessary, which shall have the force of law.

56:8-5. Service of notice by attorney general

Service by the Attorney General of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made personally within this State, but if such cannot be obtained, substituted service therefor may be made in the following manner:

- (a) Personal service thereof without this State; or
- (b) The mailing thereof by registered mail to the last known place of business, residence or abode, within or without this State of such person for whom the same is intended; or
- (c) As to any person other than a natural person, in accordance with the Rules Governing the Courts of the State of New Jersey pertaining to service of process, provided, however, that service shall be made by the Attorney General; or
- (d) Such service as the Superior Court may direct in lieu of personal service within this State.

56:8-6. Failure or refusal to file statement or report or obey subpoena issued by attorney general; punishment

If any person shall fail or refuse to file any statement or report, or obey any subpoena issued by the Attorney General, the Attorney General may apply to the Superior Court and obtain an order:

- (a) Adjudging such person in contempt of court;
- (b) Granting injunctive relief without notice restraining the sale or advertisement of any merchandise by such persons;
- (c) Vacating, annulling, or suspending the corporate charter of a corporation created by or under the laws of this State or revoking or suspending the certificate of authority to do business in this State of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and
- (d) Granting such other relief as may be required; until the person files the statement or report, or obeys the subpoena.

56:8-7. Self-incrimination; exemption from prosecution or punishment

If any person shall refuse to testify or produce any book, paper or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper or document, he shall comply with such direction. A person who is entitled by law to, and does assert such privilege, and who complies with such direction shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony.

56:8-8. Injunction against unlawful practices; appointment of receiver; additional penalties

Whenever it shall appear to the Attorney General that a person has engaged in, is engaging in or is about to engage in any practice declared to be unlawful by this act he may seek and obtain in a summary action in the Superior Court an injunction prohibiting such person from continuing such

practices or engaging therein or doing any acts in furtherance thereof or an order appointing a receiver, or both. In addition to any other remedy authorized herein the court may enjoin an individual from managing or owning any business organization within this State, and from serving as an officer, director, trustee, member of any executive board or similar governing body, principal, manager, stockholder owning 10% or more of the aggregate outstanding capital stock of all classes of any corporation doing business in this State, vacate or annul the charter of a corporation created by or under the laws of this State, revoke the certificate of authority to do business in this State of a foreign corporation, and revoke any other licenses, permits or certificates issued pursuant to law to such person whenever such management, ownership, activity, charter authority license, permit or certificate have been or may be used to further such unlawful practice. The court may make such orders or judgments as may be necessary to prevent the use or employment by a person of any prohibited practices, or which may be necessary to restore to any person in interest any moneys or property, real or personal which may have been acquired by means of any practice herein declared to be unlawful.

56:8-9. Powers and duties of receiver

When a receiver is appointed by the court pursuant to this act, he shall have the power to sue for, collect, receive and take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description, derived by means of any practice declared to be illegal and prohibited by this act, including property with which such property has been mingled, if it cannot be identified in kind because of such commingling, and to sell, convey, and assign the same and hold and dispose of the proceeds thereof under the direction of the court. Any person who has suffered damages as a result of the use or employment of any unlawful practices and submits proof to the satisfaction of the court that he has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent he has sustained out-of-pocket losses. In the case of a corporation, partnership or business entity the receiver shall settle the estate and distribute the assets under the direction of the court, and he shall have all the powers and duties conferred upon receivers by the provisions of Title 14, Corporations, General,¹ so far as the provisions thereof are applicable. The court shall have jurisdiction of all questions arising in such proceedings and may make such orders and judgments therein as may be required.

¹ Repealed; see, now, Title 14A.

56:8-10. Claims against persons acquiring money or property by unlawful practices

Subject to an order of the court terminating the business affairs of any person after receivership proceedings held pursuant to this act, the provisions of this act shall not bar any claim against any person who has acquired any moneys or property, real or personal, by means of any practice herein declared to be unlawful.

56:8-11. Costs in actions or proceedings brought by attorney general

In any action or proceeding brought under the provisions of this act, the Attorney General shall be entitled to recover costs for the use of this State.

56:8-12. Partial invalidity

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

56:8-13. Penalty for violations

Any person who violates any of the provisions of the act to which this act is a supplement shall, in addition to any other penalty provided by law, be liable to a penalty of not more than \$7,500 for the first offense and not more than \$15,000 for the second and each subsequent offense.

56:8-14. Collection and enforcement of penalty; process; restoration of moneys or property unlawfully acquired; warrant of arrest to satisfy civil penalty

The Superior Court and every municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of the act to which this act is a supplement. Except as otherwise provided in this act the penalty shall be collected and enforced in a summary proceeding pursuant to “the penalty enforcement law” (N.J.S. 2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the Attorney General or any other person. In any action brought pursuant to this section to enforce any order of the Attorney General or his designee the

court may, without regard to jurisdictional limitations, restore to any person in interest any moneys or property, real or personal, which have been acquired by any means declared to be unlawful under this act. In the event that any person found to have violated any provision of this act fails to pay a civil penalty assessed by the court, the court may issue, upon application by the Attorney General, a warrant for the arrest of such person for the purpose of bringing him before the court to satisfy the civil penalty imposed.

56:8-14.1. Actions by director of county or municipal office of consumer affairs; award of penalties, fines, fees and costs

In any action in a court of appropriate jurisdiction initiated by the director of any certified county or municipal office of consumer affairs, the office of consumer affairs shall be entitled, if successful in the action, to such penalties, fines or fees as may be authorized pursuant to chapter 8 of Title 56 of the Revised Statutes and awarded by the court, and to the reasonable costs of any such action, including investigative and legal costs, as may be filed with and approved by the court. Such costs shall be in addition to the taxed costs authorized in successful proceedings under the Rules Governing the Courts of the State of New Jersey. As used in this section, “court of appropriate jurisdiction” includes a municipal court in the municipality where the offense was committed or where the defendant may be found. However, the term shall not include a municipal court in a city of the First Class if the Chief Justice of the Supreme Court approves a recommendation submitted by the assignment judge of the vicinage in which the court is located to exempt that court from such jurisdiction. All moneys collected pursuant to this section shall be paid to the officer lawfully charged with the custody of the general funds of the county or municipality.

56:8-15. Restoration of moneys or property unlawfully acquired; order

In addition to the assessment of civil penalties, the Attorney General or his designee may, after a hearing as provided in P.L.1967, c. 97¹ and upon a finding of an unlawful practice under this act and the act hereby amended and supplemented, order that any moneys or property, real or personal, which have been acquired by means of such unlawful practice be restored to any person in interest.

¹ Section 56:8-3.1.

56:8-16. Remission of penalties

In assessing any penalty under this act and the act hereby amended and supplemented, the Attorney General or his designee may provide for the remission of all or any part of such penalty conditioned upon prompt compliance with the requirements thereof and any order entered thereunder.

56:8-17. Failure to pay penalty or restore money or property; certificate of indebtedness; recording as docketed judgment

Upon the failure of any person to comply within 10 days after service of any order of the Attorney General or his designee directing payment of penalties or restoration of moneys or property, the Attorney General may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted, and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed and the amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the final order of the Attorney General or his designee.

56:8-18. Cease and desist order; violations; penalty

Where the Attorney General or his designee, after a hearing as provided in P.L.1967, c. 97,¹ finds that an unlawful practice has been or may be committed, he may order the person committing such unlawful practice to cease and desist or refrain from committing said practice in the future. When it shall appear to the Attorney General that a person against whom a cease and desist order has been entered has violated said order, the Attorney General may initiate a summary proceeding in the Superior Court for the violation thereof. Any person found to have violated a cease and desist order shall pay to the State of New Jersey civil penalties in the amount of not more than \$25,000.00 for each violation of said order. In the event that any person fails to pay a civil penalty assessed by the court for violation of a cease and desist order, the court assessing the unpaid penalty is authorized, upon application of the Attorney General, to grant any relief which

may be obtained under any statute or court rule governing the collection and enforcement of penalties.

¹ Section 56:8-3.1.

56:8-19. Action or counterclaim by injured person; recovery of treble damages and costs

Any person who suffers any ascertainable loss of moneys or property, real or personal, as a result of the use or employment by another person of any method, act, or practice declared unlawful under this act or the act hereby amended and supplemented may bring an action or assert a counterclaim therefor in any court of competent jurisdiction. In any action under this section the court shall, in addition to any other appropriate legal or equitable relief, award threefold the damages sustained by any person in interest. In all actions under this section the court shall also award reasonable attorneys' fees, filing fees and reasonable costs of suit.

56:8-20. Notice to attorney general of action or defense by injured person; intervention

Any party to an action asserting a claim, counterclaim or defense based upon violation of this act or the act hereby amended or supplemented shall mail a copy of the initial or responsive pleading containing the claim, counterclaim or defense to the Attorney General within 10 days after the filing of such pleading with the court. Upon application to the court wherein the matter is pending, the Attorney General shall be permitted to intervene or to appear in any status appropriate to the matter.

56:8-21. Short title

This act shall be known and may be cited as the "Unit Price Disclosure Act".

56:8-22. Definitions

As used in this act: "Consumer commodity" means any merchandise, wares, article, product, comestible or commodity of any kind or class produced, distributed or offered for retail sale for consumption by individuals other than at the retail establishment, or for use by individuals for purposes of personal care or in the performance of services rendered within the household, and which is consumed or expended in the course of such use. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. "Price per measure" means the retail price of a consumer commodity expressed per such unit of weight, stan-

dard measure or standard count as the director shall designate by regulation. "Person" means any natural person, partnership, corporation or other organization engaged in the sale, display or offering for sale of consumer commodities at retail from one or more retail establishments whose combined total floor area exceeds 4,000 square feet or whose combined total annual gross receipts from the sale of consumer commodities in the preceding year exceed \$2 million.

56:8-23. Exposure or offer for sale at retail of consumer commodity; mark of price per measure

It shall be an unlawful practice for any person to expose or offer for sale at retail any consumer commodities, except as specifically exempted by the director in accordance with section 4 of this act,¹ unless said consumer commodities shall be plainly marked by a stamp, tag, label or sign at the point of display with the price per measure of such consumer commodity.

¹ Section 56:8-24.

56:8-24. Unit pricing regulations; hearings; exemptions; retail establishments and commodities list

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may by regulation, and in each instance after public hearing, provide for the manner in which price per measure shall be calculated and displayed, establish and modify a list of commodities exempt from the provisions of this act, and define the classes of retail establishment exempted from the requirements of this act; provided that in no case shall persons with annual gross receipts from the sale of consumer commodities in the preceding tax year of more than \$2 million from all retail establishments with a total floor area of more than 4,000 square feet each be exempt from the provisions of this act, and provided further that the director, in promulgating unit-pricing regulations, shall not exempt consumer commodities or retail establishments from the provisions of this act except where compliance therewith would be impractical, unreasonably burdensome or unnecessary for adequate protection of consumers. The Director of the Division of Consumer Affairs shall maintain at all times and make public a clearly defined list of specific commodities exempt from the provisions of this act and of all classes of retail commodities and all classes of retail establishments required to be in compliance with this act and any regulations issued hereunder.

56:8-25. Other regulations

The director, pursuant to the provisions of the Administrative Procedures Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.), shall promulgate such other regulations as shall be necessary in his discretion to effectuate the purposes of this act.

56:8-26. Definitions

As used in this act:

- a. "Director" means the director of the Division of Consumer Affairs in the Department of Law and Public Safety.
- b. "Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.
- c. "Person" means corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals.
- d. "Place of entertainment" means any privately or publicly owned and operated entertainment facility within the State of New Jersey such as a theater, stadium, museum, arena, racetrack or other place where performances, concerts, exhibits, games or contests are held and for which an entry fee is charged.
- e. "Ticket" means any piece of paper which indicates that the bearer has paid for entry or other evidence which permits entry to a place of entertainment.
- f. "Ticket agent" means any person who is involved in the business of selling or reselling tickets of admission to places of entertainment who charges a premium in excess of the price, plus taxes, printed on the tickets.

56:8-27. Resale of tickets for admission to places of entertainment; place of business; licensing requirement

No person shall engage in or continue in the business of reselling tickets for admission to a place of entertainment without:

- a. Owning, operating or maintaining an office, branch office, bureau, agency, or other place of business, not including a post office box, for the purpose of reselling tickets in this State; and
- b. Obtaining a license to resell or engage in the business of reselling tickets from the director.

56:8-28. Application for license

- a. The division shall prepare and furnish to applicants for licenses application forms and requirements prescribed by the director pertaining to the applications for and the issuances of licenses.
- b. Every applicant for a license to engage in the business of reselling tickets shall file his written application with the division on the form furnished by, and consistent with, the regulations prescribed by the director.
- c. Each application shall be accompanied by a fee which shall be determined by the director, and a description of the location where the applicant proposes to conduct his business.

56:8-29. Issuance of license; renewal; transfer or assignment; change in location; term of license

- a. Upon receipt of the completed application, fee and bond, if any, and when the director is satisfied that the applicant has complied with all of the requirements of this act, the director shall grant and issue a license to the applicant.
- b. The license granted may be renewed for a period of two years upon the payment of a renewal fee which shall be determined by the director.
- c. No license shall be transferred or assigned. No change in the location of the premises operated by the licensee shall be made except by permission of the director, and upon payment of a fee established by the director. The license shall run to January 1 in the second year next ensuing the date thereof unless sooner revoked by the director.

56:8-30. Bond

The director shall require the applicant for a license to file with the application a bond in the amount of \$10,000.00 with two or more sufficient sureties or an authorized surety company, which bond shall be approved by the director.

Each bond shall be conditioned on the promise that the applicant, his agents or employees will not be guilty of fraud or extortion, will not violate any of the provisions of this act, will comply with the rules and regulations promulgated by the director, and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud or deceit or

any unlawful act or omission in connection with the provisions of this act and the business conducted under this act.

56:8-31. Revocation or suspension of license

The director, after notice to the licensee and reasonable opportunity for the licensee to be heard, may revoke his license or may suspend his license for any period which the director deems proper, upon satisfactory proof that the licensee has violated this act, any condition of his license or any rule or regulation of the division promulgated pursuant to this act.

56:8-32. Display of license; copies

Immediately upon the receipt of the license issued pursuant to this act, the licensee shall display and maintain his license in a conspicuous place in his principal office for reselling tickets. He shall request copies of the license from the director for the purpose of displaying a copy of the license in each branch office, bureau or agency and the director may charge a fee for the copies.

56:8-33. Price charged printed on tickets and included in advertisements; maximum premium

Each place of entertainment shall print on the face of each ticket and include in any advertising for any event the price charged therefor. Except for tickets printed prior to the enactment of this act, each ticket shall have endorsed thereon the maximum premium not to exceed 20% of the ticket price or \$3.00, whichever is greater, plus lawful taxes, at which the ticket may be resold. No person shall resell, offer to resell, or purchase with the intent to resell a ticket at any premium in excess of the maximum premium as set forth in this act.

Notwithstanding the provisions of section 8 of P.L.1983, c. 135 (C. 56:8-33), for a period of 18 months following the effective date of this act, the resale price of each ticket subject to the provisions of P.L.1983, c. 135 (C. 56:8-26 et seq.) shall not be limited to the price charged therefor and printed on the face of the ticket. As used in this section, "resale" means a sale by a person other than the owner or operator of a place of entertainment or of the entertainment event or an agent of any such person.

56:8-34. Ticket sales in vicinity of place of entertainment

No person shall sell, offer to sell, resell, offer to resell or purchase with the intent to resell any ticket, in or on any street, highway, driveway, side-

walk, parking area, or common area owned by a place of entertainment, or any other area adjacent to or in the vicinity of any place of entertainment as determined by the director; except that a person may resell, in an area which may be designated by the place of entertainment, any ticket or tickets originally purchased for his own personal or family use at no greater than the lawful price permitted under this act.

56:8-35. Special treatment in obtaining tickets; prohibition

Any person who gives or offers anything of value to an employee of a place of entertainment in exchange for, or as an inducement to, special treatment with respect to obtaining tickets, or any employee of a place of entertainment who receives or solicits anything of value in exchange for special treatment with respect to issuing tickets, shall be in violation of this act.

56:8-36. Rules and regulations

The director, pursuant to the provisions of the “Administrative Procedure Act,” P.L.1968, c. 410 (C. 52:14B-1 et seq.), shall promulgate rules and regulations necessary to implement this act.

56:8-37. Violations; penalty

Any person who violates any provision of this act shall be guilty of a crime of the fourth degree.

56:8-38. Nonprofit or political organizations; application of act

The provisions of this act shall not apply to any person who sells, raffles or otherwise disposes of the ticket for a bona fide nonprofit or political organization when the premium proceeds are devoted to the lawful purposes of the organization.

56:8-39. Definitions

As used in this act:

- a. “Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.
- b. “Health club” means an establishment which devotes or will devote 40% or more of its square footage to providing services or facilities for the preservation, maintenance, encouragement or development of physical fitness or physical well-being. The term includes an establishment designated as “reducing salon,” “health

spa,” “spa,” “exercise gym,” “health studio,” “health club,” or by other terms of similar import.

- c. “Health club services” means those services offered by a health club for the preservation, maintenance, encouragement or development of physical fitness or physical well-being.
- d. “Health club services contract” means an agreement under which the buyer of health club services purchases or becomes obligated to purchase health club services.
- e. “Operating day” means any calendar day on which patrons may inspect and use the health club’s facilities and services during a period of at least eight hours, except holidays and Sundays.

56:8-40. Seller of health club services; registration; duration; reregistration; information required; fees

Each person who sells or offers for sale health club services in this State shall register with the director on forms the director provides. The registration shall be renewed every two years. Upon the sale of the health club facility or a change in the majority ownership of the stock of the corporate owner, the health club facility shall reregister with the director and shall pay the registration fee. The person shall provide the full name and address of each business location where health club services are sold in the State as well as any other information regarding the ownership and operation of each health club that the director deems appropriate. The registration and renewal fees shall be established or changed by the director and shall be fixed at a level to allow for the proper administration and enforcement of this act, but shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

56:8-41. Maintenance of bond, letter of credit or other security; exemption for three month contracts

- a. A person who sells or offers for sale health club services shall, for each health club facility operated in the State, maintain a bond issued by a surety authorized to transact business in this State or maintain an irrevocable letter of credit by a bank or maintain with the director securities, moneys or other security acceptable to the director to fulfill the requirements of this subsection. The principal sum of the bond, letter of credit, or securities, moneys or other security shall be 10% of the health club’s gross income for health club services during the club’s last fiscal year, except that the prin-

principal sum of the bond, letter of credit, or securities, moneys or other security shall not be less than \$25,000.00, nor more than \$50,000.00. However, the principal sum of the bond, letter of credit, or securities, moneys or other security shall be \$50,000.00 for any period of time that a person sells or offers for sale health club services prior to the opening of the health club facility. After the health club facility opens, the bond, letter of credit, or securities, moneys or other security shall be adjusted to the appropriate sum. The bond, letter of credit, or securities, moneys or other security shall be filed or deposited with the director and shall be executed to the State of New Jersey for the use of any person who, after entering into a health club services contract, is damaged or suffers any loss by reason of breach of contract or bankruptcy by the seller. Any person claiming against the bond, letter of credit, or securities, moneys, or other security may maintain an action at law against the health club and the surety, bank or director, as the case may be. The aggregate liability of the surety, bank, or the director to all persons for all breaches of the conditions of the bond, letter of credit, or the securities, moneys or other security held by the director shall not exceed the amount of the bond, letter of credit, or the securities, moneys or other security held by the director.

In the case of a bond, the health club shall file a copy of the bond with the director and a certificate by the surety that the surety will notify the director at least 10 days in advance of the date of any cancellation or material change in the bond.

- b. The provisions of subsection a. of this section shall not be applicable to a person who sells or offers for sale health club services in which the buyer of the health club services purchases or becomes obligated to purchase health club services to be rendered over a period no longer than three months and in which the seller of the health club services requires or collects no more than three months' payment in advance. The person who sells or offers for sale health club services under contracts provided for in this subsection shall file with the director, within 30 days following the effective date of this act and no later than January 15 of every even-numbered year, a declaration, executed under penalty of perjury, stating he sells or offers for sale only health club services under contracts which comply with this subsection. Any person who has filed a declaration pursuant to this subsection and who intends to sell or offer for sale health club services under contracts with longer terms or greater

payments in advance than those provided in this subsection shall comply with subsection a. of this section.

56:8-42. Written contract; requirements; cancellation by buyer; closure of facility

- a. Every contract for health club services shall be in writing. A copy of the written contract shall be given to the buyer at the time the buyer signs the contract.
- b. A health club services contract shall specifically set forth in a conspicuous manner on the first page of the contract the buyer's total payment obligation for health club services to be received pursuant to the contract.
- c. A health club services contract of a health club facility which maintains a bond, irrevocable letter of credit or securities, moneys or other security pursuant to subsection a. of section 3 of this act¹ shall set forth that a bond, irrevocable letter of credit or securities, moneys or other security is filed or deposited with the Director of the Division of Consumer Affairs to protect buyers of these contracts who are damaged or suffer any loss by reason of breach of contract or bankruptcy by the seller.
- d. Services to be rendered to the buyer under the contract shall not obligate the buyer for more than three years from the date the contract is signed by the buyer.
- e. A contract for new or increased health club services may be cancelled by the buyer for any reason at any time before midnight of the third operating day after the buyer receives a copy of the contract. In order to cancel a contract the buyer shall notify the health club of cancellation in writing, by registered or certified mail, return receipt requested, or personal delivery, to the address specified in the contract. All moneys paid pursuant to the cancelled contract shall be fully refunded within 30 days of receipt of the notice of cancellation. If the customer has executed any credit or loan agreement through the health club to pay all or part of health club services, the negotiable instrument executed by the buyer shall also be returned within 30 days. The contract shall contain a conspicuous notice printed in at least 10-point bold-faced type as follows:

"NOTICE TO CUSTOMER

You are entitled to a copy of this contract at the time you sign it. You may cancel this contract at any time before midnight of the third operating day after receiving a copy of this contract. If you choose to cancel this contract, you must either:

1. Send a signed and dated written notice of cancellation by registered or certified mail, return receipt requested; or
2. Personally deliver a signed and dated written notice of cancellation to:

(Name of health club)

(Address of health club)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. If the third operating day falls on a Sunday or holiday, notice is timely given if it is mailed or delivered as specified in this notice on the next operating day. Refunds must be made within 30 days of receipt of the cancellation notice to the health club.

'Operating day' means any calendar day on which patrons may inspect and use the health club's facilities and services during a period of at least eight hours, except holidays and Sundays."

- f. A health club services contract shall provide that it is subject to cancellation by notice sent by registered or certified mail, return receipt requested, or personally delivered, to the address of the health club specified in the contract upon the buyer's death or permanent disability, if the permanent disability is fully described and confirmed to the health club by a physician. In a cancellation under this subsection, the health club may retain the portion of the total contract price representing the services used plus reimburse-

ment for expenses incurred in an amount not to exceed 10% of the total contract price.

- g. A health club services contract shall provide that it is subject to cancellation by notice sent by registered or certified mail, return receipt requested, or personally delivered, to the address of the health club specified in the contract upon the buyer's change of permanent residence to a location more than 25 miles from the health club or an affiliated health club offering the same or similar services and facilities at no additional expense to the buyer. In a cancellation under this subsection, the health club may require proof of the new permanent residence and may retain a prorated share of the total contract price based upon the date the notice was received plus reimbursement for expenses incurred in an amount not to exceed 10% of the total contract price.
- h. A health club services contract shall provide that if a health club facility is closed for a period longer than 30 days through no fault of the buyer of the health club services contract, the buyer is entitled to either extend the contract for a period equal to that during which the facility is closed or to receive a prorated refund of the amount paid by the buyer under the contract.
- i. A health club services contract shall not obligate the buyer to renew the contract.
- j. If a health club facility is not in existence on the date the contract is executed, the health club services contract shall provide that a buyer of a contract may cancel the contract if the facility is not open for business on a date which shall be set forth in the contract and receive a full refund of any deposit or payment on the contract.

¹ Section 56:8-41.

56:8-43. Prohibition against notes cutting off right of action or defense; assignment of contract

- a. A health club services contract shall not require the execution of any note or series of notes by the buyer which, if separately negotiated, will cut off as to third parties any right of action or defense which the buyer has against the health club.
- b. A right of action or defense arising out of a health club services contract which the buyer has against the health club shall not be

cut off by assignment of the contract whether or not the assignee acquires the contract in good faith and for value.

56:8-44. Limit on down payment prior to opening of club

A health club may not charge and accept a down payment exceeding 25% of the total contract price prior to opening the health club facility.

56:8-45. Buyer's reliance on fraudulent or misleading information; contract voidability; buyer's waiver of act provisions void

a. Any health club services contract entered into in reliance upon any fraudulent or substantially and willfully false or misleading information, representation, notice or advertisement of the health club is voidable at the option of the buyer of the contract. Any health club services contract which does not comply with the applicable provisions of this act is voidable at the option of the buyer of the contract.

b. Any waiver by the buyer of the provisions of this act is void.

56:8-46. Unlawful practice; violation of act

It is an unlawful practice and a violation of P.L.1960, c. 39 (C. 56:8-1 et seq.) to violate the provisions of this act.

56:8-47. Non-applicability of act; nonprofit schools; state; other organizations

The provisions of this act shall not apply to any nonprofit public or private school, college or university; the State or any of its political subdivisions; or any bona fide nonprofit, religious, ethnic, or community organization.

56:8-48. Rules and regulations

The director shall adopt pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary to effectuate the purposes of this act.

56:8-49. Definitions

As used in this act:

"Dealer" means a person who sells a toy or other article intended for use by children at retail. A dealer who sells at wholesale a toy or article subject to this act shall, with respect to that sale, be considered the distributor of that toy or article.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Distributor" means a person who sells a toy or other article intended for use by children at wholesale.

"Manufacturer" means a person who manufactures or imports a toy or other article intended for use by children for distribution in this State, except that when the toy or other article is distributed or sold under a name other than that of the actual manufacturer or the toy or other article, the term "manufacturer" includes any person under whose name the toy or other article is distributed or sold.

56:8-50. Notification to director of defective or hazardous toys

Any manufacturer, distributor or dealer who, pursuant to any law or any regulation of the U.S. Consumer Product Safety Commission, is required to give public notice with regard to a defect or hazard in any toy or other article intended for use by children of this State shall notify, at the same time and in like manner, the director. The requirements of this section also apply to any such notice that is given voluntarily.

56:8-51. Dealer to display on premises notification of defective and hazardous toys

A dealer who is notified by a manufacturer, a distributor or the U.S. Consumer Product Safety Commission of a defective or hazardous toy or other article intended for use by children shall prominently display that notification for at least 120 days after its receipt in each premises where the toy or article would normally be sold. The notification shall be displayed in an area readily accessible to the public and its content shall be easily readable by a person of normal vision.

56:8-52. Inspection program; publication of summary of defective and hazardous toys; regulations

- a. The director shall establish an inspection program to insure that dealers in toys and other articles intended for use by children comply with section 3 of this section.¹ The director also shall periodi-

cally publish and disseminate to the public a summary of defective and hazardous toys and other articles intended for use by children.

- b. The director shall adopt all regulations necessary to carry out the purposes of this act, in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.).

¹ Section 56:8-51.

56:8-53. Allocation of monies collected as penalties

The monies collected as penalties for violations of this act shall be allocated to the Division of Consumer Affairs in the Department of Law and Public Safety.

56:8-54. Information service as “merchandise”

An information service constitutes a service within the term “merchandise” as defined in P.L.1960, c. 39 (C. 56:8-1 et seq.), and the provisions of that law concerning the advertisement and sale of merchandise shall have the same application to the advertisement and sale of an information service.

56:8-55. Definitions

For the purposes of this act:

"Automatic dialing device" means equipment capable of being programmed to randomly or sequentially dial seven-digit or ten-digit telephone numbers and, upon connection, play back a pre-recorded message.

"Information service" means live or pre-recorded voice or computer-generated communication initiated by use of a telephone number for a fee or charge billed by or on behalf of the information service provider in addition to any charges for the local or long distance transmission or other services associated with the call which are subject to federal regulation or to regulation by the Board of Public Utilities pursuant to Title 48 of the Revised Statutes, but shall not include any regulated announcement services, directory or operator services offered by telephone companies, or services offered on a presubscription basis.

"Information service provider" means a person who advertises or sells an information service.

56:8-56. Advertisement or sale of information service; disclosure required; conditions on sale above \$5; construction and conflict with federal requirements

- a. It shall be an unlawful practice for a person to advertise or sell an information service unless the following information is clearly and conspicuously disclosed in all advertisements offering the information service:
 - (1) An accurate description of the service;
 - (2) The total price of the service, or, where a charge is based in whole or in part on the passage of time; the rate, by minute or other unit of time upon which that charge is based; any other charges being imposed for the service; and the total cost of any information service of predetermined length;
 - (3) Instruction to minors to obtain parental consent before engaging the information service; and
 - (4) The legal name and street address of the information service provider.
- b. In any case in which the total price of the information service may exceed \$5, it shall be an unlawful practice for a person to advertise or sell the information service unless:
 - (1) The disclosures required by paragraphs (1) and (2) of subsection a. of this section and, in the case of an information service aimed at or likely to be of interest to minors, an additional instruction directing minors to hang up unless the minor has parental permission are clearly and prominently stated at the inception of the telephone call connecting the caller with the information service; and
 - (2) The caller is clearly notified of and afforded a reasonable opportunity to disconnect the call following the disclosure and prior to incurring any charge for the information service.
- c. The preambles required for information services subject to the provisions of subsection b. of this section are intended to be consistent with the preambles required for interstate calls subject to the provisions of 56 Fed.Reg. 56165 (1991) (to be codified at 47 C.F.R. s 64.709). In the event that such regulations are amended or replaced by federal law or subsequent federal regulation, the Director of the Division of Consumer Affairs is authorized to promulgate regula-

tions modifying the provisions of this section to avoid conflict with federal requirements.

56:8-57. Certain advertisements or sales prohibited

It shall be an unlawful practice for a person to advertise or sell an information service that involves:

- a. Advertisement through use of an automatic dialing device;
- b. Access to the information service through use of signals or tones provided directly or indirectly by the information service provider;
- c. The dialing of more than one telephone number for a fee;
- d. The participation in a contest, raffle, lottery or game of chance which is illegal under New Jersey law;
- e. Job or employment opportunities in violation of licensing, registration or other requirements of New Jersey law;
- f. Charitable solicitation where the charity and the information service provider are not registered as required by New Jersey law or are not otherwise in compliance with New Jersey law; or
- g. Accessing an information service in order to claim or receive information or notice concerning entitlement to a prize, gift, award or other thing of value, other than in connection with a lottery, type of lottery, or lottery game offered by the New Jersey State Lottery Commission.

56:8-58. Rules and regulations; request to block access to information service

The Board of Public Utilities is directed to adopt rules and regulations providing a procedure whereby a subscriber, or the legal representative, guardian, or personal representative of a subscriber may request the telephone company to block access to an information service from the telephone of the subscriber. For purposes of this section, a personal representative is a person designated by the subscriber to serve as the subscriber's representative to the telephone company in the case of billing, emergencies and related matters.

56:8-59. Necessary regulations; registration by providers; fees

Pursuant to the provisions of the "Administrative Procedure Act", P.L.1968, c. 410 (C. 52:14B-1 et seq.), the Director of the Division of Con-

sumer Affairs may adopt regulations as authorized in section 3 of P.L.1991, c. 416 (C. 56:8-56) and as otherwise necessary to effectuate the purposes of this act, require information service providers to register with the Division of Consumer Affairs in the Department of Law and Public Safety and establish fees for this registration at a level which allows for the proper administration and enforcement of this act.

56:8-60. Injunction and monetary restraints authorized

In addition to powers exercised by the Attorney General pursuant to the provisions of section 8 of P.L.1960, c. 39 (C. 56:8-8) or any other law, when it shall appear to the Attorney General that an information service provider is about to engage in, is continuing to engage in, or has engaged in conduct which is in violation of this law, or when it is in the public interest, the Attorney General shall have the authority to seek and obtain in summary action in the Superior Court an injunction prohibiting the information service provider from advertising or selling information services, and may seek and obtain an order directing restraints against receipt and withdrawal of all money due or payable to the information service provider on account of the unlawful activity.

56:8-61. Kosher food consumer protection act; short title

This act shall be known and may be cited as the “Kosher Food Consumer Protection Act.”

56:8-62. Definitions

As used in this act:

"Dealer" means any establishment that advertises, represents or holds itself out as selling, preparing or maintaining food as kosher. This shall include, but not be limited to, manufacturers, slaughterhouses, wholesalers, stores, restaurants, hotels, catering facilities, butcher shops, summer camps, bakeries, delicatessens, supermarkets, grocery stores, nursing homes, freezer dealers and food plan companies. These establishments may also sell, prepare or maintain food not represented as kosher.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the director's designee.

"Food" means a food, food product, food ingredient, dietary supplement or beverage.

56:8-63. Posting of kosher information

- a. Any dealer who prepares, distributes, sells or exposes for sale any food represented to be kosher or kosher for Passover, shall disclose the basis upon which that representation is made by posting the information required by the director, pursuant to regulations adopted pursuant to the authority provided in section 4 of P.L.1960, c. 39 (C. 56:8-4), on a sign of a type and size specified by the director in a conspicuous place upon the premises at which the food is sold or exposed for sale as required by the director.
- b. It shall be an unlawful practice for any person to violate the requirements of subsection a. of this section.

56:8-64. Defense to commission of unlawful practice; good faith reliance on representation

Any person subject to the requirements of section 3 of this act¹ shall not be deemed to have committed an unlawful practice if it can be shown by a preponderance of the evidence that the person relied in good faith upon the representations of a slaughterhouse, manufacturer, processor, packer or distributor of any food represented to be kosher or kosher for Passover.

¹ Section 56:8-63.

56:8-65. Possession of nonconforming kosher food; presumptive evidence of intent to sell

Possession by a dealer of any food not in conformance with its disclosure is presumptive evidence that the person is in possession of that food with the intent to sell.

56:8-66. Compliance with all requirements of director; dealers

Any dealer who prepares, distributes, sells or exposes for sale any food represented to be kosher or kosher for Passover shall comply with all requirements of the director, including, but not limited to, recordkeeping, labeling and filing, pursuant to regulations adopted pursuant to the authority provided in section 4 of P.L.1960, c. 39 (C. 56:8-4).

56:8-67 Definitions

As used in this act:

"As is" means a used motor vehicle sold by a dealer to a consumer without any warranty, either express or implied, and with the consumer being solely responsible for the cost of any repairs to that motor vehicle.

"Consumer" means the purchaser or prospective purchaser, other than for the purpose of resale, of a used motor vehicle normally used for personal, family or household purposes.

"Covered item" means and includes the following components of a used motor vehicle: Engine--all internal lubricated parts, timing chains, gears and cover, timing belt, pulleys and cover, oil pump and gears, water pump, valve covers, oil pan, manifolds, flywheel, harmonic balancer, engine mounts, seals and gaskets, and turbo-charger housing; however, housing, engine block and cylinder heads are covered items only if damaged by the failure of an internal lubricated part. Transmission Automatic/Transfer Case--all internal lubricated parts, torque converter, vacuum modulator, transmission mounts, seals and gaskets. Transmission Manual/Transfer Case--all internal lubricated parts, transmission mounts, seals and gaskets, but excluding a manual clutch, pressure plate, throw-out bearings, clutch master or slave cylinders. Front-Wheel Drive--all internal lubricated parts, axle shafts, constant velocity joints, front hub bearings, seals and gaskets, Rear-Wheel Drive--all internal lubricated parts, propeller shafts, supports and U-joints, axle shafts and bearings, seals and gaskets.

"Dealer" means any person or business which sells or offers for sale a used motor vehicle after selling or offering for sale three or more used motor vehicles in the previous 12-month period.

"Deduction for personal use" means the mileage allowance set by the federal Internal Revenue Service for business usage of a motor vehicle in effect on the date a used motor vehicle is repurchased by a dealer in accordance with section 5 of this act, multiplied by the total number of miles a used motor vehicle is driven by a consumer from the date of purchase of that vehicle until the time of its repurchase.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Excessive wear and tear" means wear or damage to a used motor vehicle beyond that expected to be incurred in normal circumstances.

"Material defect" means a malfunction of a used motor vehicle, subject to a warranty, which substantially impairs its use, value or safety.

"Repair insurance" means a contract in writing to refund, repair, replace, maintain or take other action with respect to a used motor vehicle for any period of time or any specified mileage and provided at an extra charge beyond the price of the used motor vehicle.

"Service contract" means a contract in writing to refund, repair, replace, maintain or take other action with respect to a used motor vehicle for any period of time or any specific mileage or provided at an extra charge beyond the price of the used motor vehicle.

"Used motor vehicle" means a passenger motor vehicle, excluding motorcycles, motor homes and off-road vehicles, title to, or possession of which has been transferred from the person who first acquired it from the manufacturer or dealer, and so used as to become what is commonly known as "secondhand," within the ordinary meaning thereof.

"Warranty" means any undertaking, in writing and in connection with the sale by a dealer of a used motor vehicle, to refund, repair, replace, maintain or take other action with respect to the used motor vehicle, and which is provided at no extra charge beyond the price of the used motor vehicle.

56:8-68 Unlawful Practices

It shall be an unlawful practice for a dealer:

- a. To misrepresent the mechanical condition of a used motor vehicle;
- b. To fail to disclose, prior to sale, any material defect in the mechanical condition of the used motor vehicle which is known to the dealer;
- c. To represent that a used motor vehicle, or any component thereof, is free from material defects in mechanical condition at the time of sale, unless the dealer has a reasonable basis for this representation at the time it is made;
- d. To fail to disclose, prior to sale, the existence and terms of any written warranty, service contract or repair insurance currently in effect on a used motor vehicle provided by a person other than the dealer, and subject to transfer to a consumer, if known to the dealer;
- e. To misrepresent the terms of any written warranty, service contract or repair insurance currently in effect on a used motor vehicle provided by a person other than the dealer, and subject to transfer to a consumer;
- f. To fail to disclose, prior to sale, the existence and terms of any written warranty, service contract or repair insurance offered by the dealer in connection with the sale of a used motor vehicle;

- g. To misrepresent the terms of any warranty, service contract or repair insurance offered by the dealer in connection with the sale of a used motor vehicle;
- h. To represent, prior to sale, that a used motor vehicle is sold with a warranty, service contract or repair insurance when the vehicle is sold without any warranty, service contract or repair insurance;
- i. To fail to disclose, prior to sale, that a used motor vehicle is sold without any warranty, service contract, or repair insurance; and
- j. To fail to provide a clear written explanation, prior to sale, of what is meant by the term "as is," if the used motor vehicle is sold "as is."

56:8-69 Written warranty; minimum durations

It shall be an unlawful practice for a dealer to sell a used motor vehicle to a consumer without giving the consumer a written warranty which shall at least have the following minimum durations:

- a. If the used motor vehicle has 24,000 miles or less, the warranty shall be, at a minimum, 90 days or 3,000 miles, whichever comes first;
- b. If the used motor vehicle has more than 24,000 miles but less than 60,000 miles, the warranty shall be, at a minimum, 60 days or 2,000 miles, whichever comes first; or
- c. If the used motor vehicle has 60,000 miles or more, the warranty shall be, at a minimum, 30 days or 1,000 miles, whichever comes first, except that a consumer may waive his right to a warranty as provided under section 7 of this act.

56:8-70 Dealer required to correct failure or malfunction of covered items; excluded repairs

The written warranty shall require the dealer, upon failure or malfunction of a covered item during the term of the warranty, to correct the malfunction or defect, provided the used motor vehicle is delivered to the dealer, at his regular place of business, and subject to a deductible amount of \$50 to be paid by the consumer for each repair of a covered item. This written warranty shall exclude repairs covered by any manufacturer's warranty, or recall program, as well as repairs of a covered item required because of collision, abuse, or the consumer's failure to properly maintain such used motor vehicle in accordance with the manufacturer's recom-

mended maintenance schedule, or from damage of a covered item caused as a result of any commercial use of the used motor vehicle, or operation of such vehicle without proper lubrication or coolant, or as a result of any misuse, negligence or alteration of such vehicle by someone other than the dealer.

56:8-71 Failure to correct material defect; refund of purchase price; affirmative defenses

- a. If, within the periods specified in section 3 of this act, the dealer or his agent fails to correct a material defect of the used motor vehicle, after a reasonable opportunity to repair the used motor vehicle, the dealer shall repurchase the used motor vehicle and refund to the consumer the full purchase price, excluding all sales taxes, title and registration fees, or any similar governmental charges, and less a reasonable allowance for excessive wear and tear and less a deduction for personal use of such vehicle. Refunds shall be made to the consumer and lienholder, if any, as their interests appear on the records of ownership kept by the Director of the Division of Motor Vehicles.
- b. It shall be an affirmative defense to any claim under this section that:
 - (1) The alleged material defect does not substantially impair the use, value or safety of the used motor vehicle; or
 - (2) The material defect is the result of abuse, neglect or unauthorized modification or alteration of the used motor vehicle by anyone other than the dealer or his agent.
- c. It shall be presumed that a dealer has a reasonable opportunity to correct or repair a material defect in a used motor vehicle, if:
 - (1) The same material defect has been subject to repair three or more times by the dealer or his agent within the warranty period, but the material defect continues to exist; or
 - (2) The used motor vehicle is out of service by reason of waiting for the dealer to begin or complete repair of the material defect for a cumulative total of 20 or more days during the warranty period.

56:8-72 Term of written warranty extended by time spent waiting for dealer to begin or complete repairs

The term of any written warranty offered by a dealer in connection with the sale of a used motor vehicle shall be extended by any time period during which the used motor vehicle is waiting for the dealer or his agent to begin or complete repairs of a material defect of the used motor vehicle.

56:8-73 Election to waive warranty on used vehicle with over 60,000 miles; form and content of waiver

Notwithstanding any provision of this act to the contrary, a consumer, as a result of a price negotiation for the purchase of a used motor vehicle with over 60,000 miles, may elect to waive the dealer's obligation to provide a warranty on the used motor vehicle. The waiver shall be in writing and separately stated in the agreement of retail sale or in an attachment thereto and separately signed by the consumer. The waiver shall state the dealer's obligation to provide a warranty on used motor vehicles offered for sale, as set forth in sections 3 and 4 of this act. The waiver shall indicate that the consumer, having negotiated the purchase price of the used motor vehicle and obtained a price adjustment, is electing to waive the dealer's obligation to provide a warranty on the used motor vehicle and is buying the used motor vehicle "as is."

56:8-74 Dealer deemed to have given warranty in absence of written waiver

If a dealer fails to give a written warranty required by this act, the dealer nevertheless shall be deemed to have given the warranty as a matter of law, unless a waiver has been signed by the consumer in accordance with section 7 of this act.

56:8-75 Consumer rights and remedies not affected

Nothing in this act shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

56:8-76 Vehicles not covered by warranty

The provisions of sections 3, 4, and 5 shall not apply to: Any used motor vehicle sold for less than \$3,000; any used motor vehicle over 7 or more model years old; any used motor vehicle which has been declared a total loss by an insurance company and with respect to which the consumer, at or prior to the time of sale, has been advised in writing that the

used motor vehicle has been declared a total loss by an insurance company; or, any used motor vehicle with more than 100,000 miles.

56:8-77 Bond requirements

To assure compliance with the requirements of this act, a dealer shall provide a bond in favor of the State of New Jersey in the amount of \$10,000, executed by a surety company authorized to transact business in the State of New Jersey by the Department of Insurance and to be conditioned on the faithful performance of the provisions of this act. This bond shall be for the term of 12 months and shall be renewed at each expiration for a similar period. The Director of the Division of Motor Vehicles shall not issue a dealer's license and shall not renew a license of any dealer who has not furnished proof of the existence of the bond required by this act.

56:8-78 Rules and regulations

The Director shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.) to effectuate the purposes of this act.

56:8-79 Consumer awareness program

The director shall implement a consumer awareness program which shall advise consumers of the requirements, protections and benefits provided by this act, within 120 days following enactment of this act.

56:8-80 Administrative fee

The director may establish an administrative fee, to be paid by the consumer, in order to implement the provisions of this act, which fee shall be fixed at a level not to exceed the cost for the administration and enforcement of this act.