
HOUSE BILL No. 1122

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5.

Synopsis: Country of origin of caskets. Requires a supplier of a casket or a person who sells a casket or prepares a casket for sale to mark the country of origin on the casket in a manner that indicates to the ultimate purchaser the English name of the country of origin. Makes a failure to mark the casket a Class B infraction. Provides that a supplier of a casket or a person who sells a casket or prepares a casket for sale who: (1) removes, covers, alters, or makes unreadable a country of origin marking on the casket; or (2) marks the casket as originating from a country other than the true country of origin; commits a deceptive act.

Effective: July 1, 2013.

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January 8, 2013, read first time and referred to Committee on Commerce, Small Business and Economic Development.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1122



A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-0.5-3, AS AMENDED BY P.L.226-2011,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 3. (a) The following acts, and the following
4 representations as to the subject matter of a consumer transaction,
5 made orally, in writing, or by electronic communication, by a supplier,
6 are deceptive acts:

7 (1) That such subject of a consumer transaction has sponsorship,
8 approval, performance, characteristics, accessories, uses, or
9 benefits it does not have which the supplier knows or should
10 reasonably know it does not have.

11 (2) That such subject of a consumer transaction is of a particular
12 standard, quality, grade, style, or model, if it is not and if the
13 supplier knows or should reasonably know that it is not.

14 (3) That such subject of a consumer transaction is new or unused,
15 if it is not and if the supplier knows or should reasonably know
16 that it is not.

17 (4) That such subject of a consumer transaction will be supplied



- 1 to the public in greater quantity than the supplier intends or
 2 reasonably expects.
- 3 (5) That replacement or repair constituting the subject of a
 4 consumer transaction is needed, if it is not and if the supplier
 5 knows or should reasonably know that it is not.
- 6 (6) That a specific price advantage exists as to such subject of a
 7 consumer transaction, if it does not and if the supplier knows or
 8 should reasonably know that it does not.
- 9 (7) That the supplier has a sponsorship, approval, or affiliation in
 10 such consumer transaction the supplier does not have, and which
 11 the supplier knows or should reasonably know that the supplier
 12 does not have.
- 13 (8) That such consumer transaction involves or does not involve
 14 a warranty, a disclaimer of warranties, or other rights, remedies,
 15 or obligations, if the representation is false and if the supplier
 16 knows or should reasonably know that the representation is false.
- 17 (9) That the consumer will receive a rebate, discount, or other
 18 benefit as an inducement for entering into a sale or lease in return
 19 for giving the supplier the names of prospective consumers or
 20 otherwise helping the supplier to enter into other consumer
 21 transactions, if earning the benefit, rebate, or discount is
 22 contingent upon the occurrence of an event subsequent to the time
 23 the consumer agrees to the purchase or lease.
- 24 (10) That the supplier is able to deliver or complete the subject of
 25 the consumer transaction within a stated period of time, when the
 26 supplier knows or should reasonably know the supplier could not.
 27 If no time period has been stated by the supplier, there is a
 28 presumption that the supplier has represented that the supplier
 29 will deliver or complete the subject of the consumer transaction
 30 within a reasonable time, according to the course of dealing or the
 31 usage of the trade.
- 32 (11) That the consumer will be able to purchase the subject of the
 33 consumer transaction as advertised by the supplier, if the supplier
 34 does not intend to sell it.
- 35 (12) That the replacement or repair constituting the subject of a
 36 consumer transaction can be made by the supplier for the estimate
 37 the supplier gives a customer for the replacement or repair, if the
 38 specified work is completed and:
- 39 (A) the cost exceeds the estimate by an amount equal to or
 40 greater than ten percent (10%) of the estimate;
- 41 (B) the supplier did not obtain written permission from the
 42 customer to authorize the supplier to complete the work even

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- 1 if the cost would exceed the amounts specified in clause (A);
 2 (C) the total cost for services and parts for a single transaction
 3 is more than seven hundred fifty dollars (\$750); and
 4 (D) the supplier knew or reasonably should have known that
 5 the cost would exceed the estimate in the amounts specified in
 6 clause (A).
- 7 (13) That the replacement or repair constituting the subject of a
 8 consumer transaction is needed, and that the supplier disposes of
 9 the part repaired or replaced earlier than seventy-two (72) hours
 10 after both:
 11 (A) the customer has been notified that the work has been
 12 completed; and
 13 (B) the part repaired or replaced has been made available for
 14 examination upon the request of the customer.
- 15 (14) Engaging in the replacement or repair of the subject of a
 16 consumer transaction if the consumer has not authorized the
 17 replacement or repair, and if the supplier knows or should
 18 reasonably know that it is not authorized.
- 19 (15) The act of misrepresenting the geographic location of the
 20 supplier by listing a fictitious business name or an assumed
 21 business name (as described in IC 23-15-1) in a local telephone
 22 directory if:
 23 (A) the name misrepresents the supplier's geographic location;
 24 (B) the listing fails to identify the locality and state of the
 25 supplier's business;
 26 (C) calls to the local telephone number are routinely forwarded
 27 or otherwise transferred to a supplier's business location that
 28 is outside the calling area covered by the local telephone
 29 directory; and
 30 (D) the supplier's business location is located in a county that
 31 is not contiguous to a county in the calling area covered by the
 32 local telephone directory.
- 33 (16) The act of listing a fictitious business name or assumed
 34 business name (as described in IC 23-15-1) in a directory
 35 assistance data base if:
 36 (A) the name misrepresents the supplier's geographic location;
 37 (B) calls to the local telephone number are routinely forwarded
 38 or otherwise transferred to a supplier's business location that
 39 is outside the local calling area; and
 40 (C) the supplier's business location is located in a county that
 41 is not contiguous to a county in the local calling area.
- 42 (17) The violation by a supplier of IC 24-3-4 concerning

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- 1 cigarettes for import or export.
- 2 (18) The act of a supplier in knowingly selling or reselling a
- 3 product to a consumer if the product has been recalled, whether
- 4 by the order of a court or a regulatory body, or voluntarily by the
- 5 manufacturer, distributor, or retailer, unless the product has been
- 6 repaired or modified to correct the defect that was the subject of
- 7 the recall.
- 8 (19) The violation by a supplier of 47 U.S.C. 227, including any
- 9 rules or regulations issued under 47 U.S.C. 227.
- 10 (20) The violation by a supplier of the federal Fair Debt
- 11 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
- 12 rules or regulations issued under the federal Fair Debt Collection
- 13 Practices Act (15 U.S.C. 1692 et seq.).
- 14 (21) A violation of IC 24-5-7 (concerning health spa services), as
- 15 set forth in IC 24-5-7-17.
- 16 (22) A violation of IC 24-5-8 (concerning business opportunity
- 17 transactions), as set forth in IC 24-5-8-20.
- 18 (23) A violation of IC 24-5-10 (concerning home consumer
- 19 transactions), as set forth in IC 24-5-10-18.
- 20 (24) A violation of IC 24-5-11 (concerning home improvement
- 21 contracts), as set forth in IC 24-5-11-14.
- 22 (25) A violation of IC 24-5-12 (concerning telephone
- 23 solicitations), as set forth in IC 24-5-12-23.
- 24 (26) A violation of IC 24-5-13.5 (concerning buyback motor
- 25 vehicles), as set forth in IC 24-5-13.5-14.
- 26 (27) A violation of IC 24-5-14 (concerning automatic
- 27 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 28 (28) A violation of IC 24-5-15 (concerning credit services
- 29 organizations), as set forth in IC 24-5-15-11.
- 30 (29) A violation of IC 24-5-16 (concerning unlawful motor
- 31 vehicle subleasing), as set forth in IC 24-5-16-18.
- 32 (30) A violation of IC 24-5-17 (concerning environmental
- 33 marketing claims), as set forth in IC 24-5-17-14.
- 34 (31) A violation of IC 24-5-19 (concerning deceptive commercial
- 35 solicitation), as set forth in IC 24-5-19-11.
- 36 (32) A violation of IC 24-5-21 (concerning prescription drug
- 37 discount cards), as set forth in IC 24-5-21-7.
- 38 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 39 appraisals), as set forth in IC 24-5-23.5-9.
- 40 (34) A violation of IC 24-5-26 (concerning identity theft), as set
- 41 forth in IC 24-5-26-3.
- 42 **(35) A violation of IC 24-5-27-5 (concerning country of origin**

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1 **markings on caskets), as set forth in IC 24-5-27-5.**
2 ~~(35)~~ **(36)** A violation of IC 24-5.5 (concerning mortgage rescue
3 fraud), as set forth in IC 24-5.5-6-1.
4 ~~(36)~~ **(37)** A violation of IC 24-8 (concerning promotional gifts
5 and contests), as set forth in IC 24-8-6-3.
6 (b) Any representations on or within a product or its packaging or
7 in advertising or promotional materials which would constitute a
8 deceptive act shall be the deceptive act both of the supplier who places
9 such representation thereon or therein, or who authored such materials,
10 and such other suppliers who shall state orally or in writing that such
11 representation is true if such other supplier shall know or have reason
12 to know that such representation was false.
13 (c) If a supplier shows by a preponderance of the evidence that an
14 act resulted from a bona fide error notwithstanding the maintenance of
15 procedures reasonably adopted to avoid the error, such act shall not be
16 deceptive within the meaning of this chapter.
17 (d) It shall be a defense to any action brought under this chapter that
18 the representation constituting an alleged deceptive act was one made
19 in good faith by the supplier without knowledge of its falsity and in
20 reliance upon the oral or written representations of the manufacturer,
21 the person from whom the supplier acquired the product, any testing
22 organization, or any other person provided that the source thereof is
23 disclosed to the consumer.
24 (e) For purposes of subsection (a)(12), a supplier that provides
25 estimates before performing repair or replacement work for a customer
26 shall give the customer a written estimate itemizing as closely as
27 possible the price for labor and parts necessary for the specific job
28 before commencing the work.
29 (f) For purposes of subsection (a)(15) and (a)(16), a telephone
30 company or other provider of a telephone directory or directory
31 assistance service or its officer or agent is immune from liability for
32 publishing the listing of a fictitious business name or assumed business
33 name of a supplier in its directory or directory assistance data base
34 unless the telephone company or other provider of a telephone
35 directory or directory assistance service is the same person as the
36 supplier who has committed the deceptive act.
37 (g) For purposes of subsection (a)(18), it is an affirmative defense
38 to any action brought under this chapter that the product has been
39 altered by a person other than the defendant to render the product
40 completely incapable of serving its original purpose.
41 SECTION 2. IC 24-5-27 IS ADDED TO THE INDIANA CODE AS
42 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2013]:

Chapter 27. Marking Caskets

Sec. 1. As used in this chapter, "casket" means a rigid enclosure that:

- (1) is made of wood, metal, or other material;
- (2) is ornamented;
- (3) has a fixed or nonfixed inner lining; and
- (4) is designed to encase human remains.

Sec. 2. As used in this chapter, "person" has the meaning set forth in IC 24-5-0.5-2.

Sec. 3. As used in this chapter, "supplier" has the meaning set forth in IC 24-5-0.5-2.

Sec. 4. (a) If the name of the country of origin of a casket is not marked on the casket:

- (1) a supplier of the casket; or
- (2) a person who sells the casket or prepares the casket for sale;

shall mark the country of origin on the casket in a manner that indicates to the ultimate purchaser of the casket the English name of the country of origin.

(b) A person who violates this section commits a Class B infraction.

Sec. 5. (a) A:

- (1) supplier of a casket; or
- (2) person who sells a casket or prepares a casket for sale;

may not remove, cover, alter, or make unreadable a country of origin marking on the casket or mark the casket as originating from a country other than the true country of origin of the casket.

(b) A person who violates this section commits a deceptive act that is:

- (1) actionable by the attorney general under IC 24-5-0.5; and
- (2) subject to the penalties listed in IC 24-5-0.5.

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