

This tipsheet is intended to provide general information and is not a substitute for legal advice.

The *Fair Trading Act* and its regulations came into effect September 1, 1999. It combines seven provincial Acts and adds new businesses to the list of regulated industries or practices.

To whom does this Act apply?

Licensing is required by Alberta Government Services (municipal approval or licensing may also be required) for some (but not all) businesses. For a list of affected businesses, and forms and instructions visit our web site at www.gov.ab.ca/gs and click on How to Licence and Register a Business or call a licensing office (see pg. 4).

Contracts for time shares, electricity marketing, natural gas direct marketing, Internet sales and prepaid contracting have consumer cancellation rights and specific contract requirements.

Unfair practices identified in the Act apply to many Alberta consumer transactions. For more information, get the tipsheet *Unfair Practices: Fair Trading Act*.

Most businesses that **grant credit** such as loans, leases, credit cards and mortgages must comply with the cost of credit disclosure requirements of the Act.

This tipsheet will cover:

- an overview of what's new,
- what's old, and
- where to get more information.

What's new

- The *Fair Trading Act* applies to more transactions because the definitions of

supplier, goods, and services have been expanded.

- Time share promotions and contracts, credit and personal reporting, and consignment motor vehicle sales are now regulated.
- Negative option sales and advance fee loan brokering are illegal.
- The Act can deal with future and emerging market place issues such as regulating travel clubs.
- There is a broader range of enforcement tools and penalties.
- The Alberta Motor Vehicle Industry Council (AMVIC) is responsible for automotive licensing and complaints about automotive sales (including consignment sales) and repairs.

What's old

The following Acts are replaced by the *Fair Trading Act*:

- *Unfair Trade Practices Act*
- *Collection Practices Act*
- *Consumer Credit Transactions Act*
- *Direct Sales Cancellation Act*
- *Licensing of Trades and Businesses Act*
- *Public Auctions Act*
- *Wage Assignments Act*

An overview of what's new

Definitions

Consumer: - a person who pays for goods or services that have been bought or leased, received as a gift, to be given as a gift, or as a contest prize.

Consumer transaction: - any sale, lease or other transfer of goods or services for payment. This includes a contest prize, and goods or services given to someone else.

Goods: - generally, material things which are used primarily for personal, family or household purposes, as well as a new residential dwelling, whether or not it is attached to land. Vouchers, defined as a promise of goods or services in the future, are included in the definition.

Services: - any service for primarily personal, family or household purposes, including:

- services to maintain, improve, or repair goods or private homes;
- services involving membership in any club or organization if the club or organization is in a business to make a profit for its owners;
- the right to use property under a timeshare contract.

Supplier: - a person who receives money as a result of a consumer transaction. This includes people who manufacture, produce, distribute, advertise or sell goods or services. The definition has been expanded to include any salesperson, representative or agent of the supplier.

Key Principles

The following principles apply to the *Fair Trading Act*.

- A person cannot waive his or her rights under the Act.
- The Act doesn't restrict other rights consumers may have under other legislation.
- If a consumer contract is vague, the terms of the contract are interpreted in favour of the consumer.

Application

The Act applies to unfair practices if:

- the supplier or consumer lives in Alberta;
- the offer or acceptance is made in or sent from Alberta; or

- the unfair practice is made or received in Alberta and involves a supplier's representative.

The Act also allows the Minister to define new unfair practices to respond to marketplace problems.

The Act increases the number of practices that are deemed to be unfair. These practices apply to all consumer transactions under the *Fair Trading Act* and are offences under the Act. For more information, see the tipsheet *Fair Trading Act: Unfair Practices*.

Internet Sales Businesses

The regulation that came into effect October 15, 2001 applies to a consumer contract where the goods or services exceed \$50 and the contract is formed by text-based Internet communications. The regulation sets out specific disclosure requirements for Internet sellers and provides for consumer cancellation and refund rights if these are not met. In addition, if payment is made by credit card, the card issuer is also obligated to provide a refund to the purchaser if the seller fails to do so. For more information, get the tipsheet *Shopping on the Internet*.

Time share

Consumers who purchase time shares used for accommodation can cancel the contract within 7 days after getting a copy of the contract. The Act identifies what must be included in the contract, and how money is to be refunded after the contract is cancelled. The *Fair Trading Act* doesn't apply to time shares sold under the *Real Estate Act*. See the tipsheet *Buying a Time Share* for more information.

Credit and personal reporting

Credit reporting agencies are now regulated in Alberta. The Act specifies what can and cannot be included in a consumer's file and report. It also says who can get a report. Consumers have the right to explain or correct information in their report. See the tipsheet *Credit and Personal Reporting* for more information.

Consignment motor vehicle sales

Motor vehicle consignment sales agreements must contain specific information. The Act also specifies when the seller (consignor) must be paid, and that known lien holders must be paid first. Money paid for consigned goods is held in trust for the seller. The Alberta Motor Vehicle Industry Council (AMVIC) is responsible for motor vehicle consignment sales. Contact AMVIC for information (see pg.4).

Negative option sales

Companies cannot require consumers to pay for unordered goods or services unless the consumer agrees in writing to pay. If the consumer does not agree, the consumer does not have to pay. It is an offence to use negative option to sell goods or services. For more information, contact Alberta Government Services.

Advance-fee loan brokers

Loan brokers cannot ask for any money before the consumer gets the loan. They must either take their fee from the loan balance and send the remainder to the consumer, or send the consumer a bill after the consumer receives the loan.

Consumers living outside of Alberta who have sent money to a loan broker in Alberta are covered by the *Fair Trading Act*.

The Act does not apply to mortgage brokers authorized under the *Real Estate Act* where the loan is part of a mortgage as defined by the *Real Estate Act*. Contact Alberta Government Services for more information.

Cost of credit disclosure

The *Fair Trading Act* and the Cost of Credit Regulation identify the specific disclosure requirements for all credit transactions. These requirements will, in time, be the same across Canada as part of a national harmonization agreement. The Act and regulation provide a clear and consistent formula for calculating the annual percentage rate (APR). This calculation must be used for most credit contracts including

leases. For more information, contact Alberta Government Services.

Enforcement and penalties

The *Fair Trading Act* includes new penalties to fit the changing marketplace. Offences may result in:

- up to two years in jail;
- fines of up to \$100,000 or three times the amount obtained as a result of the offence, whichever ever is greater; or
- both a jail term and a fine.

The Act also allows the courts to issue restitution orders. Not paying an order is also an offence.

Alberta Motor Vehicle Industry Council

The *Fair Trading Act* allows the Minister to establish industry self-regulatory boards. The Alberta Motor Vehicle Industry Council has the authority to license automotive businesses that include retail and wholesale vehicle sales, body shops, garages, specialty-repair shops (e.g. transmission repairs), mobile automobile repair services, automotive leasing, prepaid auto service contracts and consignment sales. The Council will also investigate complaints about automotive businesses.

For more information

Fair Trading Act regulations

- Appeal Board Regulation
- Automotive Business Regulation
- Collection Practices Regulation
- Cost of Credit Disclosure Regulation
- Credit and Personal Reports Regulation
- Designation of Trades and Businesses Regulation
- Direct Sales Cancellation and Exemption Regulation
- Direct Selling Business Licensing Regulation
- Electricity Marketing Regulation
- Employment Agency Business Licensing Regulation

- Exemption Regulation
- General Licensing and Security Regulation
- Internet Sales Contract Regulation
- Natural Gas Direct Marketing Regulation
- Prepaid Contracting Business Licensing Regulation
- Public Auctions Regulation
- Retail Home Sales Business Licensing Regulation
- Time Share Contracts Regulation

Fair Trading Act tipsheets

- *Fair Trading Act: What's New*
- *Direct-Marketing of Natural Gas: What Consumers Should Know*
- *Buying Time Shares*
- *Credit and Personal Reporting*
- *Dealing with Bill Collection Agencies*
- *Dealing with Door-to-Door Sales*
- *Electricity Marketing: What Consumers Should Know*
- *Home Renovations and Repairs*
- *Negotiating a Consumer Complaint*
- *Provincial Business Licences & Registrations*
- *Shopping on the Internet*
- *Unfair Practices: The Fair Trading Act*

Alberta Government Services Consumer Information Centre

Phone: Edmonton (780) 427-4088
Toll free in Alberta 1-877-427-4088
www.gov.ab.ca/gs

Alberta Government Services Licensing

Edmonton: (780) 422-1335
Calgary (403) 297-5743
Toll free in Alberta: 1-877-427-4088

Alberta Motor Vehicle Industry Council (AMVIC)

Box 11, Suite 303
9945 50 Street
Edmonton, Alberta
T6A 0L4

Edmonton (780) 466-1140

Toll free in Alberta:

Investigations: 1-877-313-3833,

Licensing: 1-877-9798100

Fax: (780) 462-0633

www.amvic.org

Copies of the *Fair Trading Act* and regulations can be purchased from Queen's Printer Bookstore or viewed on its web site at www.gov.ab.ca/qp

Queen's Printer Bookstore

Calgary: (403) 297-6251

Edmonton: (780) 427-4952

Toll free in Alberta by calling 310-0000 and following the instructions.

A current version of this tipsheet and other tipsheets are available at the Alberta Government Services web site at www.gov.ab.ca/gs. Most public libraries have Internet access available if you don't have access at home.

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