

AMENDMENTS TO LB838

(Amendments to E&R amendments, ER141)

Introduced by Bosn, 25.

1 1. Strike section 25 and insert the following new sections:

2 **Sec. 25.** Section 87-302, Revised Statutes Supplement, 2025, is
3 amended to read:

4 87-302 (a) A person engages in a deceptive trade practice when, in
5 the course of his or her business, vocation, or occupation, he or she:

6 (1) Passes off goods or services as those of another;

7 (2) Causes likelihood of confusion or of misunderstanding as to the
8 source, sponsorship, approval, or certification of goods or services;

9 (3) Causes likelihood of confusion or of misunderstanding as to
10 affiliation, connection, or association with, or certification by,
11 another;

12 (4) Uses deceptive representations or designations of geographic
13 origin in connection with goods or services;

14 (5) Represents that goods or services have sponsorship, approval,
15 characteristics, ingredients, uses, benefits, or quantities that they do
16 not have or that a person has a sponsorship, approval, status,
17 affiliation, or connection that he or she does not have;

18 (6) Represents that goods or services do not have sponsorship,
19 approval, characteristics, ingredients, uses, benefits, or quantities
20 that they have or that a person does not have a sponsorship, approval,
21 status, affiliation, or connection that he or she has;

22 (7) Represents that goods are original or new if they are
23 deteriorated, altered, reconditioned, reclaimed, used, or secondhand,
24 except that sellers may repair damage to and make adjustments on or
25 replace parts of otherwise new goods in an effort to place such goods in
26 compliance with factory specifications;

1 (8) Represents that goods or services are of a particular standard,
2 quality, or grade, or that goods are of a particular style or model, if
3 they are of another;

4 (9) Disparages the goods, services, or business of another by false
5 or misleading representation of fact;

6 (10) Advertises goods or services with intent not to sell them as
7 advertised or advertises the price in any manner calculated or tending to
8 mislead or in any way deceive a person;

9 (11) Advertises goods or services with intent not to supply
10 reasonably expectable public demand, unless the advertisement discloses a
11 limitation of quantity;

12 (12) Makes false or misleading statements of fact concerning the
13 reasons for, existence of, or amounts of price reductions;

14 (13) Uses or promotes the use of or establishes, operates, or
15 participates in a pyramid promotional scheme in connection with the
16 solicitation of such scheme to members of the public. This subdivision
17 shall not be construed to prohibit a plan or operation, or to define a
18 plan or operation as a pyramid promotional scheme, based on the fact that
19 participants in the plan or operation give consideration in return for
20 the right to receive compensation based upon purchases of goods,
21 services, or intangible property by participants for personal use,
22 consumption, or resale so long as the plan or operation does not promote
23 or induce inventory loading and the plan or operation implements an
24 appropriate inventory repurchase program;

25 (14) With respect to a sale or lease to a natural person of goods or
26 services purchased or leased primarily for personal, family, household,
27 or agricultural purposes, uses or employs any referral or chain referral
28 sales technique, plan, arrangement, or agreement;

29 (15) Knowingly makes a false or misleading statement in a privacy
30 policy, published on the Internet or otherwise distributed or published,
31 regarding the use of personal information submitted by members of the

1 public;

2 (16) Uses any scheme or device to defraud by means of:

3 (i) Obtaining money or property by knowingly false or fraudulent
4 pretenses, representations, or promises; or

5 (ii) Selling, distributing, supplying, furnishing, or procuring any
6 property for the purpose of furthering such scheme;

7 (17) Offers an unsolicited check, through the mail or by other
8 means, to promote goods or services if the cashing or depositing of the
9 check obligates the endorser or payee identified on the check to pay for
10 goods or services. This subdivision does not apply to an extension of
11 credit or an offer to lend money;

12 (18) Mails or causes to be sent an unsolicited billing statement,
13 invoice, or other document that appears to obligate the consumer to make
14 a payment for services or merchandise he or she did not order;

15 (19)(i) Installs, offers to install, or makes available for
16 installation or download a covered file-sharing program on a computer not
17 owned by such person without providing clear and conspicuous notice to
18 the owner or authorized user of the computer that files on that computer
19 will be made available to the public and without requiring intentional
20 and affirmative activation of the file-sharing function of such covered
21 file-sharing program by the owner or authorized user of the computer; or

22 (ii) Prevents reasonable efforts to block the installation,
23 execution, or disabling of a covered file-sharing program;

24 (20) Violates any provision of the Nebraska Foreclosure Protection
25 Act;

26 (21) In connection with the solicitation of funds or other assets
27 for any charitable purpose, or in connection with any solicitation which
28 represents that funds or assets will be used for any charitable purpose,
29 uses or employs any deception, fraud, false pretense, false promise,
30 misrepresentation, unfair practice, or concealment, suppression, or
31 omission of any material fact;

1 (22)(i) In the manufacture, production, importation, distribution,
2 promotion, display for sale, offer for sale, attempt to sell, or sale of
3 a substance:

4 (A) Makes a deceptive or misleading representation or designation,
5 or omits material information, about a substance or fails to identify the
6 contents of the package or the nature of the substance contained inside
7 the package; or

8 (B) Causes confusion or misunderstanding as to the effects a
9 substance causes when ingested, injected, inhaled, or otherwise
10 introduced into the human body.

11 (ii) A person shall be deemed to have committed a violation of the
12 Uniform Deceptive Trade Practices Act for each individually packaged
13 product that is either manufactured, produced, imported, distributed,
14 promoted, displayed for sale, offered for sale, attempted to sell, or
15 sold in violation of this section. A violation under this subdivision (a)
16 (22) shall be treated as a separate and distinct violation from any other
17 offense arising out of acts alleged to have been committed while the
18 person was in violation of this section;

19 (23)(i) Manufactures, produces, publishes, distributes, monetizes,
20 promotes, or otherwise makes publicly available any visual depiction of
21 sexually explicit conduct, any obscene material, or any material that is
22 harmful to minors in which any person depicted as a participant or
23 observer:

24 (A) Is under eighteen years of age;

25 (B) Is a trafficking victim;

26 (C) Has not expressly and voluntarily consented to such person's
27 depiction; or

28 (D) Participated in any act depicted without consent.

29 (ii) This subdivision (a)(23) does not apply to any
30 telecommunications or broadband Internet access service.

31 (iii) For purposes of this subdivision (a)(23):

1 (A) Harmful to minors has the same meaning as in 47 U.S.C. 254, as
2 such section existed on January 1, 2024;

3 (B) Obscene material has the same meaning as in section 28-807;

4 (C) Promote means to use any mechanism or publication, or take any
5 action, that suggests, highlights, advertises, markets, curates,
6 backlinks, hashtags, or otherwise directs, attempts to direct, or
7 encourages traffic toward specific materials, including acts carried out
8 affirmatively, through automation, algorithmically, and via other
9 technical means both known and unknown at this time;

10 (D) Publish means to communicate or make information available to
11 another person via an Internet website, regardless of whether the person
12 consuming, viewing, or receiving the material gives any consideration for
13 the published material;

14 (E) Trafficking victim has the same meaning as in section 28-830;

15 (F) Visual depiction of sexually explicit conduct has the same
16 meaning as in section 28-1802; and

17 (G) Without consent has the same meaning as in section 28-318;

18 (24) Offers or enters into a right-to-list home sale agreement as
19 defined in section 81-885.01; ~~or~~

20 (25) Violates section 81-2,282; or ~~or~~

21 (26)(i) With respect to a social media platform that accepts
22 payment, or any other form of compensation or thing of value, for
23 advertising on its platform;

24 (A) Fails to establish and implement:

25 (I) Identity verification for advertisers;

26 (II) An unlawful impersonation detection and mitigation program;

27 (III) Automated and manual fraud detection systems;

28 (IV) Measures to prevent repeated offenses by the same advertiser;

29 (V) A clear and conspicuous tool for users to report suspected
30 fraud; and

31 (VI) A process for law enforcement to report suspected fraudulent

1 advertisements;

2 (B) After a fraudulent advertisement is reported by a user, fails to
3 investigate and determine if such advertisement constitutes a fraudulent
4 advertisement within five business days after such report;

5 (C) After determining an advertisement to be a fraudulent
6 advertisement, fails to remove such advertisement from its platform
7 within five business days after such determination;

8 (D) After a fraudulent advertisement is reported by law enforcement,
9 fails to notify the submitter of the status of their report within five
10 business days after receipt of such report; or

11 (E) Knowingly permits fraudulent advertisement on its platform or
12 ignores credible reports that content on its platform constitutes
13 fraudulent advertisement.

14 (ii) For purposes of this subdivision (a)(26):

15 (A) Advertiser means any person who pays, or provides compensation
16 or a thing of value, to advertise, promote, or otherwise increase
17 impressions of ads or content on a social media platform;

18 (B) Fraudulent advertisement means an ad or content that
19 misrepresents material facts or unlawfully impersonates another in order
20 to induce a transaction or extract a benefit, and a social media platform
21 accepts payment, or any other form of compensation or thing of value, to
22 advertise, promote, or otherwise increase impressions of the ad or
23 content on its platform; and

24 (C) Social media platform means an electronic medium, including a
25 browser-based or application-based interactive computer service, Internet
26 website, telephone network, or data network, that allows an account
27 holder to create, share, and view user-generated content for the purpose
28 of social interaction, sharing, or viewing user-generated content, or
29 personal networking. Social media platform does not include:

30 (I) An Internet search provider;

31 (II) An Internet service provider;

1 (III) An email service;

2 (IV) A streaming service, online video game, e-commerce, or other
3 Internet website where the content is not user generated but where
4 interactive functions enable chat, comments, reviews, or other
5 interactive functionality that is incidental to, directly related to, or
6 dependent upon providing the content;

7 (V) A communication service, including text, audio, or video
8 communication technology, provided by a business to the business's
9 employees and clients for use in the course of business activities and
10 not for public distribution, except that social media platform includes a
11 communication service provided by a social media platform;

12 (VI) An advertising network with the sole function of delivering
13 commercial content;

14 (VII) A telecommunications carrier as defined in 47 U.S.C. 153;

15 (VIII) A broadband Internet access service as defined in 47 C.F.R.
16 8.1(b);

17 (IX) Single-purpose community groups for education or public safety;

18 (X) Teleconferencing or video-conferencing services that allow
19 reception and transmission of audio and video signals for real-time
20 communication, except that social media platform includes
21 teleconferencing or video-conferencing services provided by a social
22 media platform;

23 (XI) Cloud computing services, which may include cloud storage and
24 shared document collaboration;

25 (XII) Providing or obtaining technical support for a platform,
26 product, or service;

27 (XIII) A platform designed primarily and specifically for creative
28 professional users, as distinct from the general public, to share their
29 portfolio and creative content, engage in professional networking,
30 acquire clients, and market the creative professional user's creative
31 content and creative services through facilitated transactions; or

1 (XIV) A cable operator or an affiliate of a cable operator as such
2 terms are defined in 47 U.S.C. 522.

3 (b) In order to prevail in an action under the Uniform Deceptive
4 Trade Practices Act, a complainant need not prove competition between the
5 parties.

6 (c) This section does not affect unfair trade practices otherwise
7 actionable at common law or under other statutes of this state.

8 (d) It shall not be considered a violation of any provision of
9 antitrust laws for two or more entities to exchange or provide
10 information on suspected fraudulent activity or suspicious transactions
11 for purposes of identifying and enforcing against fraudulent advertisers
12 or advertisements.

13 **Sec. 39.** Original section 87-302, Revised Statutes Supplement, 2025,
14 is repealed.

15 2. On page 54, line 16, strike "87-302,".

16 3. Renumber the remaining sections accordingly.

17 4. Correct the operative date section so that the sections added by
18 this amendment become operative on January 1, 2027.