

Chapter ATCP 131

COUPON SALES PROMOTIONS

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Note: Chapter Ag 131 was renumbered chapter ATCP 131 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448.

Note: This chapter is adopted under authority of s. 100.20 (2), Stats., and is administered by the Wisconsin department of agriculture, trade and consumer protection. Violations of this chapter may be prosecuted under s. 100.20 (6), 100.26 (3) or (6), Stats. A person who suffers a monetary loss because of a violation of this chapter may sue the violator directly under s. 100.20 (5), Stats., and may recover twice the amount of the loss, together with costs and reasonable attorneys' fees.

ATCP 131.01 Definitions. (1) "Coupon" means any writing, form, ticket, certificate, token or similar device designed or intended to be sold or offered for sale which is represented as entitling the purchaser or holder to purchase or procure goods or services at a reduced price or free of charge upon presentation thereof to the seller or supplier of such goods or services. The term "coupon" includes "coupon book." It does not include:

(a) Coupons sold or offered for sale directly by the coupon sponsor where all proceeds from the sale are returned to the sponsor;

(b) Coupons redeemable only for motor vehicle parking or urban mass transit privileges;

(c) Coupons published by or distributed through newspapers or other periodicals, in advertisements other than their own;

(d) Coupons within, attached to, or a part of any package or container as packed by the original manufacturer and which are directly redeemed by such manufacturer;

(e) Trading stamps or coupons regulated by s. 100.15, Stats.

(2) "Coupon book" means a group of 2 or more coupons sold, offered for sale or otherwise distributed as a single unit.

(3) "Person" means any individual, partnership, firm, corporation, association, or other business organization or entity, including charitable or nonprofit organizations and their officers and employees.

(4) "Promoter" means any person, and any agent or representative of such person, engaged in the sale or offering or solicitation for sale of coupons.

(5) "Sponsor" means any person represented as being obligated to provide goods, services, or discount privileges to the purchaser or holder of a coupon.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

ATCP 131.02 Agreement between promoter and sponsor. (1) No promoter shall sell, offer for sale or otherwise publish or distribute any coupon without a prior contract or agreement in writing with the coupon sponsor. A copy of such contract shall be furnished to the sponsor at the time of its execution, and shall set forth all terms and conditions under which coupons obligating the sponsor may be published, distributed or sold and include the following:

(a) A specific description, exactly as it is to appear on the coupon, of:

1. The goods, services, or discount privileges which the sponsor will provide in exchange for each coupon presented for redemption.

2. The hours during each day and the days during each week when the coupon will be accepted for redemption by the sponsor.

3. The expiration date of the coupon.

4. All purchases required of a coupon holder as a condition of redemption and any other restrictions or limitations imposed on the redemption of the coupons by the sponsor.

(b) The maximum number of coupons which may be printed, issued, distributed or sold by the promoter.

(c) The beginning and ending dates of the promotion, before and after which no coupons may be sold or distributed.

(d) The amount or percentage of funds, if any, to be returned to the sponsor from the sale of coupons.

(e) The personal and business name and address of the promoter executing the contract. Non-residents shall include their permanent address in their state of residence.

(f) A statement that the coupon sales promotion is regulated by ch. ATCP 131.

(2) The promoter shall not represent, either directly or by implication, that the number of coupons presented to the sponsor for redemption will be less than the total number of coupons printed, sold or distributed, or make any promises or representation inconsistent with or contrary to the terms of the written contract between the promoter and sponsor.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

ATCP 131.03 Coupon contents. (1) Every coupon, whether sold or distributed individually or as part of a coupon book, shall clearly and conspicuously set forth, on its face, the name and business address of the coupon sponsor, and a specific description, as provided in the agreement between the promoter and the sponsor, of:

(a) The goods, services, or discount privileges which the sponsor will provide in exchange for the coupon.

(b) The hours during each day and the days during each week when the coupon will be accepted for redemption by the sponsor.

(c) The expiration date of the coupon.

(d) All purchases required of the coupon holder as a condition of redemption and any other restrictions and limitations imposed on the redemption of the coupons by the sponsor.

(2) Every coupon book, and every coupon sold or distributed individually, shall contain on its face:

(a) The name and permanent business address of the promoter.

(b) The following statement in bold face or other conspicuous type or lettering:

"REDEMPTION MAY BE SUBJECT TO CERTAIN CONDITIONS AND LIMITATIONS WHICH MUST BE STATED ON THE COUPON. YOU ARE ENTITLED TO INSPECT EACH COUPON BEFORE PURCHASE."

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

ATCP 131.04 Sale of coupons. (1) The total number of coupons sold, offered for sale or otherwise distributed shall not exceed the total number specified in the contract between the promoter and sponsor.

(2) No coupon may be published, sold, distributed or represented contrary to the terms of the agreement between the pro-

moter and the sponsor, or obligate the sponsor to provide goods, services or discount privileges other than those specified in the agreement.

(3) No individual coupon shall be redeemable at more than one place of business, unless all places of business at which it is redeemable are owned or operated by the same sponsor.

(4) No coupon may be sold, offered for sale or otherwise distributed prior to the promotion beginning date or after the promotion ending date specified in the contract between the promoter and sponsor.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

ATCP 131.05 Accounting to sponsor. Within 10 days after the promotion ending date or 10 days after all coupons have been sold or otherwise distributed, whichever occurs first, the promoter shall inform the sponsor in writing of the total number of coupons sold or distributed, and remit all funds owed to the sponsor from coupon sales under the terms of their agreement.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

ATCP 131.06 Agreements for use of name. All agreements between the promoter and persons authorizing the promoter to use their name, tradename or trade-mark in aid of the sale or promotion of the sale of coupons shall be in writing, with a copy being furnished to each such person. Such agreements shall conspicuously disclose that persons agreeing to the use of their name, tradename or trademark by the promoter may be held jointly accountable with the promoter for any violation of this chapter or other applicable laws.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78.

ATCP 131.07 Prohibited practices. (1) No promoter shall misrepresent, directly or by implication:

(a) That any person is sponsoring, endorsing, or participating in the sale of any coupon;

(b) That the promoter is an employee or agent of any person sponsoring, endorsing, or participating in the sale of any coupon or coupon book;

(c) That the coupon is not sold for profit or that the price charged for a coupon is solely or primarily to cover actual costs

incurred by the promoter in the printing, distribution or sale of the coupon;

(d) The name, address, or identity of the promoter or of the person or organization whom the promoter represents.

(2) No promoter shall represent, directly or by implication:

(a) That proceeds from the sale of any coupon will be donated to any charity, civic or religious group, or other nonprofit organization unless such representation is true, and the amount to be donated is disclosed in one of the following forms:

1. The minimum amount stated in dollars.
2. The minimum percentage of the gross income.
3. The minimum percentage of the net income.

(b) That an offer is being made to specially selected persons or that the buyer or prospective buyer has been specially selected, unless such representation is true and the specific basis on which such representation is made is concurrently disclosed to the prospective buyer;

(c) That a survey, test, contest or research project is being conducted, when in fact the principal objective is to sell coupons or coupon books or to obtain prospects for coupon sales.

(3) No promoter shall:

(a) Sell, offer to sell, or otherwise distribute any coupon in violation of any provisions of this chapter;

(b) Make any representation inconsistent with or contrary to the terms and conditions contained in any coupon or in the agreement between the promoter and sponsor;

(c) Advertise or otherwise represent that a coupon has a stated monetary value or will enable the purchaser or holder to save a stated amount of money, without disclosing in connection with such advertisement the total amount which must be paid by the purchaser or holder for the coupon and the total amount of all purchases which must be made by the purchaser or holder as a condition of redemption of the coupon;

(d) Use the name, tradename or trademark of any person to aid in the sale or promotion of the sale of coupons unless the promoter has entered into a written agreement with the person whose name, tradename or trademark is being used as required under this chapter.

History: Cr. Register, January, 1978, No. 265, eff. 2-1-78; CR 06-028: am. (2) (a) Register November 2006 No. 611, eff. 12-1-06.