Session Law 71-304

Florida Senate & House of Representatives

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4/14/71 SENATE ADOPTED AS AMENDED - SJB 0141, AYES OPO - SJ 0082
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4/17/70 Senate- Recommended unfavorable, laid on table under Rule - SJ 0176

SB 353 GENERAL BILL, BY MATHENOS
Florida Sciences Advisory Council; creates Florida Sciences and Technology Advisory Council to be appointed by Speaker of House and President of Senate to advise legislature on social and scientific developments and problems.
4/07/70 Senate- Introduced, referred to Rules and Calendar, Ways and Means - SJ 0056
4/20/70 Senate- Recommended favorable, Rules and Calendar - SJ 0175
4/23/70 Senate- Extension of time granted Committee - SJ 0200
5/05/70 Senate- Extension of time granted Committee - SJ 0309
5/15/70 Senate- Extension of time granted Committee Ways and Means - SJ 0419
5/29/70 Senate- Extension of time granted Committee Ways and Means - SJ 0628
6/05/70 Senate- Died in Committee

SB 354 GENERAL BILL, BY POSTON
Provides for regulation of certain games of chance held in conjunction with sale of commodities or goods; provides penalties.
4/07/70 Senate- Introduced, referred to Commerce and Licensed Businesses, Judiciary - SJ 0056; subreferred to Financial Institutions & Consumer Protection - SJ 0069
4/21/70 Senate- Extension of time granted Committee - SJ 0176
4/28/70 Senate- Extension of time granted Committee - SJ 0239
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6/05/70 Senate- Died in Committee

SB 355 GENERAL BILL, BY SAYLER (SIMILAR HB 3685)
Street beautification; amends Sect. 359.24(1) and adds subsection 4 to provide for cooperation in road or street beautification programs by Div. of Road Operations, Bd's of County Commissioners and Municipal Corporations, etc.
4/07/70 Senate- Introduced, referred to Transportation - SJ 0056
4/17/70 Senate- Recommended favorable with amendments, placed on Calendar - SJ 0175
4/24/70 Senate- Passed as amended; Yeas 030 Nays 005 - SJ 0221
4/29/70 House- Received, referred to Transportation - HJ 0364
6/05/70 House- Died in Committee

SB 356 GENERAL BILL, BY SAYLER AND OTHERS
Seminole Indian scholarships; amends Sect. 239.66(1) and (2) to make eligible all Seminole Indians for scholarships and eliminating reservation residence requirements.
4/07/70 Senate- Introduced, referred to Education, Ways and Means - SJ 0056; subreferred to Universities and Colleges - SJ 0069
4/20/70 Senate- Recommended unfavorable, laid on table under Rule - SJ 0176

SB 357 GENERAL BILL, BY POSTON
Amends Sect. 208.04(1) to levy additional 1 cent per gallon tax on gasoline and other petroleum products. Amends Secs. 208.04 & 208.08(4), etc.
4/07/70 Senate- Introduced, referred to Transportation, Ways and Means - SJ 0056
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SB 374
6/05/70 Senate- Conference Committee report received; Conference Committee report adopted; passed as amended; yeas 040 nays 000
6/05/70 House- Conference Committee report received; Conference Committee report adopted; passed; yeas 097 nays 001
6/22/70 Senate- signed by officers and presented to Governor
7/08/70 Became law without approval
7/15/70 Chapter No. 70-374

SB 375
General Bill, by Askew (Companion HB 4637)
Elections; amends sect. 99.061(1), (2), and (3), F.S., changing dates for filing qualification papers and paying fees.
4/07/70 Senate- introduced, referred to judiciary - SJ 0057
4/08/70 Senate- subreferred to labor and industrial relations - SJ 0074
4/21/70 Senate- extension of time granted committee - SJ 0177
4/22/70 Senate- recommended committee substitute; placed on calendar - SJ 0199
5/05/70 Senate- laid on table under rule; committee substitute substituted - SJ 0316; committee substitute passed; yeas 032 nays 000 - SJ 0317
5/08/70 House- received; referred to elections - HJ 0659
5/15/70 House- recommended favorable, placed on calendar - HJ 0659
5/27/70 House- passed; yeas 098 nays 004; motion to reconsider laid on table - HJ 0871
6/02/70 Senate- signed by officers and presented to Governor - SJ 0703
6/10/70 Approved by Governor
6/17/70 Chapter No. 70-93

SB 376
General Bill, by Poston
Promotional sales bonuses; prohibits offering or transferring promotional sales bonus to dealer or consumer of product on which the combined state and federal excise tax exceeds 15% of total retail price.
4/07/70 Senate- introduced, referred to commerce and licensed businesses; judiciary - SJ 0058; subreferred to financial institutions & consumer protection - SJ 0069
4/21/70 Senate- extension of time granted committee - SJ 0176
4/28/70 Senate- extension of time granted committee - SJ 0239
5/05/70 Senate- recommended committee substitute, commerce and licensed businesses - SJ 0308
5/14/70 Senate- extension of time granted committee judiciary - SJ 0415
5/18/70 Senate- extension of time granted committee judiciary - SJ 0447
5/19/70 Senate- withdrawn from committee, placed on calendar - SJ 0459
5/20/70 Senate- laid on table under rule; committee substitute substituted; committee substitute passed; yeas 034 nays 000 - SJ 0479
5/22/70 House- received; referred to commerce - HJ 0764
5/28/70 House- recommended favorable, placed on calendar - HJ 0925
6/05/70 House- died on calendar

SB 377
General Bill, by Williams and others (similar HB 3604)
State environmental education; adds sect. 229.80 to part III of ch. 229 creating State Environmental Education Programs.
4/07/70 Senate- introduced, referred to education, ways and means - SJ 0058; subreferred to public schools - SJ 0069
4/13/70 Senate- recommended favorable; education - SJ 0130
4/16/70 Senate- subreferred to appropriations - SJ 0146
4/23/70 Senate- extension of time granted committee - SJ 0200
5/05/70 Senate- extension of time granted committee - SJ 0309
5/15/70 Senate- extension of time granted committee ways and means - SJ 0419
5/29/70 Senate- recommended favorable with amendment; placed on calendar - SJ 0624
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A bill to be entitled
An act relating to game promotions used in connection with the promotion or sale of consumer products or services; providing for regulation thereof; providing definitions; prohibiting certain deceptive or misleading practices in the conduct of said games; requiring filing with the attorney general of rules promulgated by the operator of said game; requiring certain financial disclosure; requiring a trust account or bond in lieu thereof to insure payment to winners; requiring disclosure by operators of said games of winners, amounts won, and the date of the prize; prohibiting coercion to force certain lessees and holders of franchises to participate; providing procedures for enforcement by attorney general; providing penalties; providing exceptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. As used in this act:

(1) "Game promotion" means, but is not limited to, "contest," "game of chance," and "gift enterprise," in which the elements of chance and prize are present provided, however, that Game promotion shall not be construed to apply to
bingo games or guest games conducted pursuant

to chapter 849.093.

(2) "Operator" means any person, firm,
corporation, association, or agent or employee
thereof who promotes, operates or conducts a game
promotion except charitable non-profit organiza-
tions.

Section 2. It is unlawful for any operator to
design, engage in, promote or conduct such a game
promotion, in connection with the promotion or sale
of consumer products or services, wherein the winner
may be predetermined or said game may be manipulated
or rigged so as to allocate a winning game or any
portion thereof to certain lessees, agents or
franchises or to allocate a winning game or part
thereof to a particular period of the game promotion
or to a particular geographic area or to arbitrarily
remove, disqualify, disallow or reject any entry or
to fail to award prizes offered or to print, publish
or circulate literature or advertising material used
in connection with such game promotions which is
false, deceptive or misleading.

Section 3. All rules and regulations promul-
gated by the operator of such game promotion must
be filed with the office of the attorney general at
least thirty (30) days in advance of its commenc-
ment and may not thereafter be changed, modified
or altered. Such rules and regulations shall be
conspicuously posted in each and every retail outlet
or place where such game promotion may be played or
participated in by the public.
Section 4. (1) Every operator of such a game promotion conducted in the state shall establish a trust account in a national or state chartered financial institution with a balance sufficient to pay or purchase the total value of all prizes offered. In lieu of establishing such trust account, the operator may obtain a bond, with sufficient sureties, in amount equivalent to the total value of all prizes offered. A copy of a certificate of deposit indicating the balance of said trust account or of the bond shall be filed with the office of the attorney general simultaneously with the filing of rules and regulations as herein provided, together with a list of all prizes and prize categories offered.

(2) The moneys so held in escrow or the bond shall at all times equal the total amount of the prizes offered. Moneys may be withdrawn, from time to time, in order to pay the prizes offered only upon certification to the attorney general of the name of the winner and the amount of the prize or the value thereof.

Section 5. Every operator of such a game promotion conducted in the state shall disclose to the public the names and addresses of all persons who have won prizes, the value of such prizes and the dates when the same were won, upon a poster, prominently displayed at each location where such
game promotion was conducted, and the same shall be
published in a newspaper of general circulation
within the local geographic area wherein such game
was played, maintained or operated, all within
fifteen (15) days after such winners have been
determined. A certified list thereof shall be
simultaneously filed with the office of the attorney
general. All winning entries shall be held by the
operator for a period of thirty (30) days after the
close or completion of such game.

Section 6. No operator shall force, directly
or indirectly, a lessee, agent or franchise dealer
to purchase or participate in any game promotion.
For the purpose of this act, coercion or force shall
be presumed in these circumstances in which a course
of business extending over a period of one (1) year
or longer is materially changed coincident with a
failure or refusal of a lessee, agent or franchise
dealer to participate in such game promotions. Such
force or coercion shall further be presumed where an
operator advertises generally that game promotions
are available at its lessee dealers, agent dealers
or franchise dealers unless a majority of those
located within the state have consented in writing,
filed with the office of the attorney general, to
participate therein.

Section 7. (1) The attorney general shall
have the power to promulgate such rules and regula-
tions respecting the operation of game promotions
as he may deem advisable.
(2) Whenever the attorney general has reason to believe that such a game promotion is being operated in violation of this act, he may bring an action in the supreme court in the name and on behalf of the people of the state against any operator thereof to enjoin the continued operation of such game promotion.

(3) An action for violation of this act may be instituted by the attorney general in the name of the people of the state, and in any such action, the attorney general shall exercise all of the powers and perform all the duties which any state attorney would otherwise be authorized to exercise or to perform therein.

Section 8. (1) Any person, firm, corporation, association, agent or employee thereof who engages in any acts or practices stated in this article to be unlawful, or who violates any of the rules and regulations of the attorney general made pursuant to this act, is guilty of a misdemeanor.

(2) Any person, firm, corporation, association, agent or employee who violates any provision of this act or any of the rules and regulations of the attorney general made pursuant to this act shall be liable to a civil penalty of not more than one thousand dollars ($1,000) for each such violation, which shall accrue to the State of Florida and may be recovered in a civil action brought by the attorney general.
Section 9. This act shall not apply to a game promotion conducted in less than three retail outlets or places where such game promotion may be played or participated in by the public.

Section 10. This act shall take effect on October 1, 1971.
This bill generally regulates the use of game promotions in connection with the promotion or sale of consumer products. Its basic intent is to restrict the use of promotional schemes which can be manipulated or rigged or which have predetermined winners. The Attorney General is given administrative, civil, and criminal enforcement powers. Operators of games are required to post bond or set up trust accounts to cover the value of prizes offered and to disclose certain information about game winners.

The Senate amended the original bill so that it does not apply to bingo or guest games or to charitable non-profit organizations. The Senate also amended it to make an exception to a game promotion conducted in less than three retail outlets.
CONSUMER PROTECTION

IN FLORIDA

A REPORT

BY

THE JOINT SENATE-HOUSE COMMITTEE

MARCH, 1970
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THE FLORIDA LEGISLATURE

JOINT COMMITTEE ON CONSUMER PROTECTION

The Capitol
TALLAHASSEE, FLORIDA 32304

SENATE MEMBERSHIP

Senator Frederick B. Karl, Chairman
Senator C. William Beaufort
Senator Ralph R. Poston
Senator Dan Scarborough
Senator Charles H. Weber

HOUSE MEMBERSHIP

Representative Eugene F. Shaw, Chairman
Representative John Crider
Representative Tom Gallen
Representative William G. James
Representative Ed S. Whitson
Representative Leonard V. Wood
May 21, 1969

Senator Fred B. Karl, Chairman
Senate Standing Subcommittee on Financial Institutions and Consumer Protection
The Capitol
Tallahassee, Florida

Dear Senator:

As you know, the broad field of consumer protection, embodying not only the Uniform Code but the federal legislation and all aspects of the matter, has been so complicated that it is impossible to achieve a final work product during the 1969 session of the Legislature. We discussed this together and also with Senator Barrow at the beginning of the session and realized it might well be a two-step proposition with much of the legislation being considered or finalized in the 1970 session.

Since our initial prediction seems to be coming true and since the 1969 session is entering its final weeks, I want to designate your Subcommittee on Financial Institutions and Consumer Protection as not only the standing subcommittee but also a select committee to develop legislation in this field. I particularly charge you with the responsibility of bringing forth a program that will be of benefit to consumers and business in Florida.

On this particular subject I do not feel that I can stress too much the concern of all citizens of Florida that an enlightened program be developed.

Sincerely,

[Signature]

John E. Mathews, Jr.

COPY: Senator William Dean Barrow
The Honorable Eugene F. Shaw, Chairman
Subcommittee on Consumer Protection
of the Commerce Committee
P.O. Box 1086
Starke, Florida

Dear Gene:

The 1969 session labored at length on the problem of consumer protection. As the session drew to a close, it was obvious much was left to be done. As the protectors of the public health and welfare, the legislature will truly never complete the job of consumer protection lawmaking.

Therefore, I appointed you and the members of your subcommittee on Consumer Protection of the Commerce Committee as appointees to a joint committee on Consumer Protection.

I know this joint effort has been fruitful. Your talents have been applied to the task in full measure. I feel certain the people of Florida will profit from your work.

The Committee's product should not be thought of as the final answer to assuring the buyer he is getting full value. It should encourage government and business to continue the responsible cooperation in service to the consumer.

Sincerely,

Fred Schultz

FS:slb
INTRODUCTION
PREFACE

This is a report to the 1970 Florida Legislature by the Senate Select Committee on Consumer Protection and House Sub-committee on Consumer Protection. It was determined early in the discussions organizing the committees' activities that it would be beneficial--and more efficient--for the Houses to pool their efforts and conduct joint meetings and activities. Thus, the information contained herein represents the combined activities, findings, and recommendations of both committees.

It is hoped that the contents of this report will provide its readers with a better understanding of the problems of today's consumers and will encourage them to begin the complex task of finding solutions. The recommendations are, for the most part, in general terms. There are no simple and easy answers. If the consumer is to receive more than sympathetic lip service, an entirely new legislative philosophy must be developed and enacted.

Here, then, is a brief statement of the present situation and a blueprint for future
legislation in the field of consumer protection.

The Committee wishes to thank all those governmental agencies, private industries, the news media, and, most of all, the consumers of Florida for their advice and assistance in developing this report.
The Committee officially organized on August 25, 1969, in Tallahassee, Florida. At that time, Senate President John E. Mathews, Jr. made the following observation:

... I think this Committee, after viewing the entire field of consumer protection, has a considerable job in just drawing us up an agenda that will lead to a legitimate work product in the 1970 Session.

President Mathews concluded that while many state agencies of the government are involved in consumer protection and though some laws have been passed "... no coordinated effort (has been) oriented toward consumer protection."

During this first hearing, Chairman Karl further defined the role and scope of the Committee's work by stating:

We're interested in complaints, suggestions, observations or anything else that may be helpful to either or both of these committees in formulating some ideas about legislation. It cannot be stressed too often that, first of all, we're not on an anti-business or anti-chamber of commerce, or anti-consumer or any other kind of an anti crusade. We want to improve the lot of the consumer in Florida by presenting to the next Session of the Legislature a constructive package of legislation designed to improve the consumer's position. The second thing that must be stressed each time we begin is that we're not an enforcement agency. This is a legislative body. Our sole objective is to gather facts or information that will or should lead to the development of legislation.

Chairman Shaw called for a responsible effort by the Committee when he said:
. . . I think we ought to look at all consumer protection legislation in that we should not arbitrarily or capriciously enact legislation without giving it serious study and consideration. I am convinced that unless the State Legislature assumes their responsibility relative to consumer protection that the Federal Congress will begin to move in that area.

The Committee organized its approach to the subject into three major tasks. The first task was to hear and accumulate as much information as possible. A staff consisting of a director, an intern, and a secretary were employed to compile this information.

The second was to accumulate this data into a useful report for members of the Legislature.

The third task was to develop and/or guide appropriate consumer protection legislation through the 1970 Session.

The Committee felt that a codification of existing Florida Statutes regarding consumer protection would be helpful in the course of its studies. This was done by the Legislative Service Bureau and copies are on file in that office.

**Consumer Hearings**

Since its organization, the Consumer Protection Committee has held nine public hearings throughout the State:

1. July 15 (organizational meeting) -- Jacksonville
2. August 25 -- Tallahassee
3. September 11-12 -- Miami
4. October 16-17 -- Fort Lauderdale
5. October 30 -- Orlando
6. October 31 -- Daytona Beach
The public hearings of the Committee have served a three-fold purpose: (1) they have been a source of information to the Committee about consumer problem areas; (2) they have served as a forum where any citizen-consumer could air his complaint; and (3) they have contributed to consumer education.

At each hearing, a wide range of complaints was heard. However, the Committee attempted to concentrate on the problems peculiar to the local community. For example, the Fort Lauderdale hearing concentrated on condominiums; the St. Petersburg hearing on mobile homes; the Miami hearing on fish inspections; the Jacksonville and Daytona hearings on non-public schools; and the Tampa hearing on consumer protection enforcement.

In the course of the hearings, information about consumer protection activities on the national level was presented by Federal representatives. Among them were Mr. Gale Gotschall of the Federal Trade Commission, Washington, D. C., and Mr. Robert Meade of the Office of Consumer Affairs under the Executive Office of the President, the White House. These Federal officials have been most cooperative in providing information about consumer protection activities in other states, as well as those of the Federal government. Both officials expressed a desire to see vigorous state action in the area of consumer
The Committee heard from many businessmen, Chambers of Commerce, Better Business Bureaus, who all made excellent presentations and added immeasurably to the Committee's knowledge.

Attendance at the hearings was excellent, usually averaging 100 or more persons in the audience. The number of witnesses scheduled to appear before the Committee necessitated a two-day stay in most of the hearing locations.

Staff members made several on-the-site-inspections for the Committee. This was done in an effort to secure complete information and a better understanding of various problems.

The Committee estimates that well over 500 consumers wrote letters expressing their views and describing various complaints. The greatest number of complaints fall into the general categories of repair and servicing of automobiles and appliances, non-public schools, and the lack of effective channels through which consumers may gain redress of grievance.

Wherever possible the Committee made an effort to encourage consumer education. The Division of Consumer Affairs distributed consumer literature at the Committee hearings. Various Committee members made several television and public appearances to discuss such consumer problems as gas station games, hazardous toys, condominiums, and consumer protection in general.

The Committee feels that the Committee hearings held throughout the State served a useful purpose and that they were
well worth the effort. If a committee is to continue this work further, public hearings would be in order.
The Committee found that the vast majority of Florida businessmen are honest, ethical, and conscientious. The reputable members of the business community are vitally interested in protecting the consumer from a dishonest and irresponsible minority.

In every field of commerce (as in every other field), there are a few who would cheat, defraud, and take advantage of consumers. As their schemes have been discovered and outlawed, they and their successors have developed new schemes. It probably never will be possible to completely prevent them from making an unfair and unconscionable profit. Government must keep after such people by legislating against their newest schemes, by providing more effective remedies for the consumer, and by making the consumer more sophisticated and less vulnerable through education.

It was found that there are many good and protective laws already on the books and that much has already been done on behalf of the consumer.

The Committee observed that there are numerous governmental agencies involved in consumer protection. On the State level, the Office of the Comptroller has many responsibilities in the field of consumer affairs. The State Insurance Commissioner, the Department of Business Regulation, the Department of Agriculture and Consumer Affairs, and the Department of Health
and Rehabilitative Services all have some regulatory interest in consumer affairs. The Public Service Commission exists to regulate utility and transportation companies for the protection of the public. Other agencies also play an important role in this work.

On the local scene, Better Business Bureaus of the Chambers of Commerce were found to be active in some areas. The local consumer affairs offices of Miami and Jacksonville, in particular, were found to be creative and responsible in their approach to consumer problems. The Committee discovered that very few complaints were received from residents of cities with effective local agencies.

Representatives of some of Florida's leading business organizations appeared before the Committee hearings to present their consumer protection programs. It was observed by the Committee that many of the reputable merchants adhere to the philosophy of "satisfaction or your money back!"

Several consumer organizations have come into existence in Florida in the past year. Two of these organizations—the Florida Consumers Association and the American Consumers Association—sent representatives to most of the Committee's nine hearings. They contributed information and spotlighted particular consumer problems. Many of their recommendations should be of great benefit to Florida consumers.

The present posture of consumer affairs would be incomplete without some mention of Florida's news media and its
role in this field. Many Florida newspapers conduct "Action Line" columns which tend to serve as a place for consumers to seek redress. Many television and radio stations have conducted consumer-oriented programs pointing out various pitfalls perpetrated by disreputable businessmen. Educational columns also have appeared to assist the consumer in his buying habits.

The Committee observed that legislative action of the Florida Legislature can deter deceptive practices in our State. One example is the home improvement legislation passed in the 1969 Session. Representative Shaw's bill has virtually stamped out the fraudulent home repair swindles that were plaguing our State. While some "bugs" are still apparent, the law has done much to correct this problem.

The consumer in Florida is in a better posture than many believe; but fraud, deception, misrepresentation, and unethical practices still exist. The consumer is frustrated and angry. There is a need for responsible governmental action, and it is being requested by both the consumer and the good businessman.
SPECIFIC FINDINGS
Give-away Games

The Committee has found, in general, that gas station and store promotional games have often been conducted in an unfair or deceptive manner and, consequently, mislead or defraud the public. The misleading practices include the exaggeration, overstatement, and overemphasis of a customer's chances of winning a prize; failure to disclose information about the exact number of prizes in each category; and manipulation and rigging of games by such methods as placing major prize-winning tickets in selected retail outlets.

Free Vacation Gimmicks

The "free vacation" gimmick, which is being used by many of the smaller land sales companies in Florida, drew nearly 60,000 persons a month to the state last summer. The problem with these promotions is that many of them are neither free nor are they entirely vacations. The misrepresentations involved in this practice are damaging the good name of Florida.

Auctions

Another business enterprise which operates primarily in the major tourist areas of the state is auctions. The problem in this area, which has been reported to the Committee, centers around "fictitious bidders" who artificially inflate prices at auction sales.

Most auction companies advertise a thirty-day money back period. Some are unwilling to honor that representation.
RECOMMENDATIONS
RECOMMENDATIONS

Advertising

Chapter 817 should be amended to broaden the definition of false advertising.

A statute requiring "rainchecks" for advertised sale items that are out of stock should be enacted.

More effective enforcement procedures should be provided.

Packaging and Labeling

This subject requires an in-depth study.

The model state laws on weights and measures and on packaging and labeling can be adapted to the Florida situation and would be helpful.

All pre-packaged meats and produce should be in containers which allow all sides of the product to be seen.

Meats should be labeled only with U.S.D.A. grades and standard cut description.

Trading Stamps

A successor committee should undertake a complete study of this very widespread and very lucrative business giving special attention to: (1) redemption practices, (2) consumer's right to exchange stamps, (3) restrictions imposed by printed material in stamp books, (4) escheat of unredeemed stamps, and (5) whether stamp companies pay a fair share of state taxes.
Repair and Servicing

The Legislature should take immediate action to increase vocational training in the field of automobile mechanics and appliance repairs. There is a crying need for competent craftsmen in every area.

A strict and enforceable licensing law for mechanics and repairmen is needed. Those people who undertake to repair vehicles and appliances that involve the safety and health of the consumer should be licensed and supervised as closely as plumbers, electricians, and sheet metal workers.

Severe penalties should be imposed for fraud and incompetence.

See, also, recommendations on "consumer recourse," "consumer education," and "consumer credit."

Warranties and Guarantees

Disclosure of all limitations and internal practices, such as factory procedures, that will adversely affect the enforcement of a contract should be required on warranties and guarantees delivered with automobiles and appliances.

A survey procedure for the enforcement of warranties and guarantees should be enacted.

See, also, recommendations on "consumer recourse," "consumer education," and "consumer credit."
Odometer Settings

While existing law probably prohibits the turning back of an odometer to make it indicate that the vehicle has traveled fewer miles, there is a need for a specific prohibition. A means of investigating complaints and enforcement of the law is also necessary.

It is, therefore, recommended that a statute be enacted making it a misdemeanor to change an odometer setting. It is further recommended that the odometer reading be recorded on the title certificate each time title is transferred and that the odometer reading be included on every inspection form used at inspection stations.

Give-Away Games

A give-away game promotion should be required to give 100 percent of advertised prizes.

A game promotion operator should be required to set up a trust account or obtain a bond for the entire amount of advertised prizes.

Intimidation of franchised dealers who do not desire to participate in game promotion should be prohibited.

Free Vacation Gimmicks

Since the problem with free vacation gimmicks is the failure to deliver what is promised or what the consumer is led to believe he has been promised, it is recommended
that there be a statutory definition of the word "free" and that the existing statutes on fraud and misrepresentation be broadened to specifically include the free vacation schemes.

To the extent that it is constitutionally possible, it is further recommended that all persons, firms, and corporations offering free vacations in Florida be licensed and bonded.

**Auctions**

Consideration should be given to a revision and tightening of Chapter 839.021, Florida Statutes, relative to fictitious bidders at auctions.

A severe penalty should be imposed for failure to honor a thirty-day refund agreement or requirement.

A strong consumer agency on the local or state level would solve most consumer problems with auctions.

**Door-To-Door Sales**

A "cooling-off" period of two to three days should be allowed during which time a consumer may cancel a contract resulting from a door-to-door sale.

**Franchise Operations**

Unfair practices in preliminary negotiations leading up to franchise agreements should be prohibited.

Full disclosure requirements and consumer education on franchise agreements will help prevent the troubles now being experienced by many franchisees.
Condominiums

Chapter 711, Florida Statutes, should be amended to provide for full disclosure of all costs and details involved in the purchase of a condominium.

Mobile Home Industry

The mobile home industry should be the subject of an intensive and detailed legislative study.

A focus of the study should be the tenant-landlord relationship in a mobile home park.

Another focus should be regulations for the operation of mobile home dealerships and their financing procedures. See, also, the recommendations on Warranties and Guarantees.

Consumer Credit

The operation and role of the credit bureau should be closely studied with an eye toward protecting consumers from unwarranted damage to their credit ratings without their knowledge. If credit bureaus were required to furnish the individual consumer with a copy of any credit reports issued about him, it would help to prevent such damage and would tend to improve accuracy of information.

The Uniform Consumer Credit Code is an extremely complex piece of legislation which should be studied thoroughly. Such provisions, particularly the "holder-in-due-course" section, deserve immediate attention.

The mailing of unsolicited credit cards should be prohibited.
Utilities

All private and public utilities systems should be regulated to some extent by a public agency.

The Public Service Commission should be strengthened and revitalized; this could be accomplished by providing adequate financing for professional staff.

Hazardous Substances

Provisions should be made for testing and control of hazardous substances and products which travel in intrastate commerce.

In providing these control, the many new and unsafe toys which are on the market should not be overlooked.

Seafood Inspections

Continuous inspection of seafood processing plants should be the long-range goal of the Florida Legislature.

The adequate funding of inspection procedures contained in the Seafood Sanitary Code is the immediate need and should be provided in 1970.

Consumer Protection Organizations

The definition of "charitable organizations" as found in Chapter 496.02, Florida Statutes, should be extended to include consumer protection organizations.

Non-Public Schools

The Committee has devoted much of its attention to the area of non-public schools and would recommend the following
for the Legislature's consideration:

A board of non-public education should be established which would promulgate rules, regulations, and standards for non-public schools of Florida. A means of maintaining a proper balance in board membership and terms of office should be devised.

The Commissioner of Education should administer the rules adopted by the board of non-public education.

The Committee found that many of the levels of non-public education have dissimilar problems, and it is suggested that the board consider the problems of each level individually. (Levels of non-public education include such categories as vocational-technical, colleges and universities, secondary-elementary, pre-school, etc.)

The Committee recommends that the board seriously scrutinize the literature and advertising of each non-public school to insure that it does not contain false and misleading claims.

The board should consider the performance of new schools.

All non-public schools should be subjected to a full disclosure law that will require non-accredited schools to state that fact on all publications of the school.
Consumer Recourse

Provision should be made for collection of attorney's fees by consumers as a part of compensatory damages.

Courts should be allowed to award punitive damages in certain consumer cases.

Class actions should be authorized in cases of consumer abuse.

Consumer Education

A complete program of consumer education should be provided in the public school system.

There should be increased use of the mass media in order to better reach the low-income and poorly-educated consumer who is often exposed to fraudulent business practices.

Better distribution of currently available consumer education material should be affected.

Consumer Protection Agency

There is a definite need for an arm of the state government to promote and represent the consumer interest by performing such functions as the following: investigations, research and testing, dissemination of educational information, coordination of local and federal consumer efforts, handling of complaints, and advocacy before agencies, the courts, and the Legislature.
Although the agency would not necessarily have to perform the actual inspecting and testing of consumer products, it should be empowered to see that these functions are carried out properly.

To this end, the Committee recommends that the state agency charged with the consumer protection responsibilities be given the power and appropriations necessary to carry out the functions outlined above.

Future Legislative Action

Finally, the Committee recommends that a standing joint legislative committee be created, funded, and directed to carry out this work. There is a need. The consumer is demanding attention. The Florida Legislature should respond.
By Senator Poston

Prefiled March 2, 1970

A bill to be entitled

AN ACT relating to games of chance;
providing for the regulation of certain games of chance held in conjunction with the sale of commodities or goods; providing penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) Every person, firm, or corporation proposing to engage in any games, contests, or other promotion or advertising scheme or plan whereby a retail establishment offers the opportunity to receive gifts, prizes, or gratuities, as determined by chance, in order to promote its business, where the total announced value of the prizes offered is in excess of five thousand dollars ($5,000) shall file with the secretary of state upon a form that he shall provide, a statement setting forth: the minimum number of participating objects to be made available; the minimum number of prize-winning objects that will be included in such promotion or advertising scheme or plan; the proportionate opportunity of winning prizes; the minimum value of prizes to be made available; and the rules and regulations pertaining to such promotion or advertising scheme or plan, which shall include the period

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of time and the geographic area to be covered by the contest. Failure to file such a statement is a misdemeanor.

(2) Every person, firm, or corporation who manipulates or rigs any promotion or advertising game or contest of a type set forth in subsection (1) shall cause to be posted in a conspicuous and prominent location in every retail establishment offering the opportunity to participate in such games or contests the minimum number and value of prizes available to be won over a stated period of time and stated geographic area, and the rules and regulations pertaining to such promotion or advertising scheme or plan. Failure to cause such posting is a misdemeanor.

(3) Every person, firm, or corporation who manipulates or rigs any promotion or advertising scheme or plan of the type set forth in subsection (1) of this section so that prize-winning objects are dispensed to predetermined individuals or retail establishments is guilty of a misdemeanor; provided, however, that this subsection shall not prevent distribution of prize-winning objects of equal value to retail establishments in a uniform ratio to the number of participating objects distributed to those establishments.

(4) Every person, firm, or corporation engaging in any promotion or advertising scheme or plan of the type set forth in subsection (1) shall
maintain for six (6) months following the completion of said promotion or advertising scheme or plan adequate records to enable such person, firm, or corporation to report to the secretary of state, upon his request, the name and address of each winner of every prize having a value of more than twenty-five dollars ($25), the description of the prize won by each such person, and the date when such prize was delivered to each such person. Failure to file such information with the secretary of state upon his request within such six (6) months is a misdemeanor.

(5) Every person, firm, or corporation who prints, publishes, or circulates literature or advertising material, used in connection with any promotion or advertising scheme or plan of the type set forth in subsection (1), which is false, deceptive, or misleading, shall be guilty of a misdemeanor.

(6) Every person, firm, or corporation who coerces a retail dealer to participate in any promotion or advertising scheme or plan of the type set forth in subsection (1) is guilty of a misdemeanor. Such coercion includes, but is not limited to, circumstances in which a course of business conduct extending over a period of one (1) year or longer between a supplier and a dealer is materially changed, for no legitimate business reason, coincident with a failure or refusal of the dealer to participate in such games.

(7) Whenever the attorney general has reason
to believe that any promotion or advertising scheme or plan of the type set forth in subsection (1) is being operated in violation of this section, he may bring an action in the supreme court, in the name and on behalf of the people of the state to enjoin the continued operation of such promotion or advertising scheme or plan.

(8) Any person, firm, or corporation violating the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars ($500), or in the case of individuals, members of a firm, and responsible officers of a corporation, by imprisonment in the county jail not exceeding one (1) year, or by both such fine and imprisonment.

Section 2. This act shall take effect July 1, 1970.
LEGISLATIVE SERVICE BUREAU SUMMARY

Requires anyone engaging in any games, contests, or other promotion or advertising scheme in order to promote business where the announced value of the prizes offered exceeds $5,000 to file with the Secretary of State a report showing minimum number of prizes, the proportionate opportunity of winning, and contest rules and regulations. Requires conspicuous posting of signs in every retail establishment offering these schemes describing substantially the same matter as is required to be filed with the Secretary of State. Provides misdemeanor penalty for noncompliance and a similar penalty for dispensing prize winnings in accordance with a predetermined plan. Requires the maintenance of records for six months following the completion of a scheme showing name and address of winners and description of the prize, unless value is under $25. Provides misdemeanor penalty for false, deceptive or misleading advertising material or coercion of a retailer to participate in such a scheme. Authorizes the Attorney General to bring necessary action whenever he believes there has been a violation. Establishes penalties not to exceed $500 or one year imprisonment or both.
By the Committee on Commerce & Licensed Businesses

May 20, 1970

...A bill to be entitled...in connection with the promotion or sale of consumer products or services; providing for regulation thereof; providing definitions; prohibiting certain deceptive or misleading practices in the conduct of said games; requiring filing with the attorney general of rules promulgated by the operator of said game; requiring certain financial disclosure; requiring a trust account or bond in lieu thereof, to insure payment to winners; requiring disclosure by operators of said games of winners, amounts won, and the dates of the prize; prohibiting coercion to force certain lessees and holders of franchises to participate; providing procedures for enforcement by attorney general; providing penalties; providing an effective date.

Be it enacted by the Legislature of the State of Florida...

Section 1. As used in this act...

Section 2. Every operator of such a game, holding...

(1) "Game promotion" means, but is not limited to, "contest," "game of chance," and "gift enterprise," in which the elements of chance and prize are present...

(2) "Operator" means any person, firm, corporation, association, or agent or employee thereof who promotes, operates or conducts a game...
Section 2. It is unlawful for any operator to design, engage in, promote or conduct such a game promotion, in connection with the promotion or sale of consumer products or services, wherein the winner may be predetermined or said game may be manipulated or rigged so as to allocate a winning game or any portion thereof to certain lessees, agents or franchisees or to allocate a winning game or part thereof to a particular period of the game promotion or to a particular geographic area or to arbitrarily remove, disqualify, disallow or reject any entry or to fail to award prizes offered or to print, publish or circulate literature or advertising material used in connection with such game promotion which is false, deceptive or misleading.

Section 3. All rules and regulations promulgated by the operator of such game promotion must be filed with the office of the attorney general at least thirty (30) days in advance of its commencement and may not thereafter be changed, modified or altered. Such rules and regulations shall be published in all advertising copy used in conjunction therewith and shall be conspicuously posted in each and every retail outlet or place where such game promotion may be played or participated in by the public.

Section 4. If the retail cost of merchandise or service offered for sale is increased because of the game promotion, the amount of such increase in cost shall be prominently displayed at each and
Section 5. (1) Every operator of such a game promotion conducted in the state shall establish a trust account in a national or state chartered financial institution, with a balance sufficient to pay, or purchase, the total value of all prizes offered. In lieu of establishing such a trust account, the operator may obtain a bond, with sufficient sureties, in an amount equivalent to the total value of all prizes offered. A copy of a certificate of deposit indicating the balance of said trust account or of the bond shall be filed with the office of the attorney general simultaneously with the filing of rules and regulations as herein provided, together with a list of all prizes and prize categories offered, said list to include the total amount to which each prize or category of prizes shall be increased or reduced by any law or legal process among the persons interested. The money so held in escrow or the bond shall at all times equal the total amount of the prizes offered. Moneys may be withdrawn, from time to time, in order to pay the prizes offered only upon certification to the attorney general of the name of the winner and the amount of the prize or the value thereof.

Section 6. Every operator of such a game promotion conducted in the state shall disclose to the public the names and addresses of all persons who have won prizes, the value of such prizes and the dates when the same were won, upon a poster, prominently displayed at each location where such
game promotion was conducted, and the same shall be
published in a newspaper of general circulation
within the local geographic area wherein such game
was played, maintained or operated; all within
fifteen (15) days after such winners have been
determined. A certified list thereof shall be
simultaneously filed with the office of the attorney
general. All winning entries shall be held by the
operator for a period of thirty (30) days after the
close of completion of such game.

Section 7. No operator shall force, directly
or indirectly, a lessee, agent or franchise dealer
to purchase or participate in any game promotion.
For the purpose of this act, coercion or force shall
be presumed in these circumstances in which a cause
of business extending over a period of one (1) year
or longer is materially changed coincident with the
failure or refusal of a lessee, agent or franchise
dealer to participate in such game promotions. Such
force or coercion shall further be presumed where an
operator advertises generally that game promotions
are available at its lessee dealers, agent dealers,
or franchise dealers unless a majority of those
located within the state have consented in writing
filed with the office of the attorney general to
participate therein.

Section 8. (1) The attorney general shall
have the power to promulgate such rules and regula-
tions respecting the operation of game promotions
as he may deem advisable and shall have the
power to refuse licenses on the ground that
(2) Whenever the attorney general has reason
to believe that such a game promotion is being
operated in violation of this act, he may bring an
action in the supreme court in the name and on
behalf of the people of the state against any
operator thereof to enjoin the continued operation
of such game promotion.

(3) An action for violation of this act may
be instituted by the attorney general in the name
of the people of the state, and in any such action,
the attorney general shall exercise all of the
powers and perform all the duties which any state
attorney would otherwise be authorized to exercise
or to perform therein.

Section 9. (1) Any person, firm, corpora-
tion, association, agent or employee thereof who
engages in any acts or practices stated in this
article to be unlawful, or who violates any of the
rules and regulations of the attorney general made
pursuant to this act, is guilty of a misdemeanor.

(2) Any person, firm, corporation, associa-
tion, agent or employee who violates any provision
of this act or any of the rules and regulations of
the attorney general made pursuant to this act shall
be liable to a civil penalty of not more than one
thousand dollars ($1,000) for each such violation,
which shall accrue to the State of Florida and may
be recovered in a civil action brought by the attorney
general.

Section 10. This act shall take effect upon
becoming a law.
SUMMARY: GAMES OF CHANCE  
(Senate Companion #324)

This bill provides that persons or firms which engage in game-of-chance promotions shall file with the secretary of state a statement with information: including the proportionate opportunity of winning prizes and the minimum value of prizes to be made available. The statement filed with the secretary of state must include rules and regulations under which the game promotion will be conducted.
A bill to be entitled
AN ACT relating to game promotions used in connection with the promotion or sale of consumer products or services; providing for regulation thereof; providing definitions; prohibiting certain deceptive or misleading practices in the conduct of said games; requiring filing with the attorney general of rules promulgated by the operator of said game; requiring certain financial disclosure; requiring a trust account or bond in lieu thereof to insure payment to winners; requiring disclosure by operators of said games of winners, amounts won, and the date of the prize; prohibiting coercion to force certain lessees and holders of franchises to participate; providing procedures for enforcement by attorney general; providing penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. As used in this act:

(1) “Game promotion” means, but is not limited to, “contest,” “game of chance,” and “gift enterprise,” in which the elements of chance and prize are present.

(2) “Operator” means any person, firm, corporation, association, or agent or employee thereof who promotes, operates or conducts a game
Section 2. It is unlawful for any operator to design, engage in, promote or conduct such a game promotion, in connection with the promotion or sale of consumer products or services, wherein the winner may be predetermined or said game may be manipulated or rigged so as to allocate a winning game or any portion thereof to certain lessees, agents or franchises or to allocate a winning game or part thereof to a particular period of the game promotion or to a particular geographic area or to arbitrarily remove, disqualify, disallow or reject any entry or to fail to award prizes offered or to print, publish or circulate literature or advertising material used in connection with such game promotions which is false, deceptive or misleading.

Section 3. All rules and regulations promulgated by the operator of such game promotion must be filed with the office of the attorney general at least thirty (30) days in advance of its commencement and may not thereafter be changed, modified or altered. Such rules and regulations shall be published in all advertising copy used in conjunction therewith and shall be conspicuously posted in each and every retail outlet or place where such game promotion may be played or participated in by the public.

Section 4. If the retail cost of merchandise or services offered for sale is increased because of the game promotion, the amount of such increase in cost shall be prominently displayed at each and
every retail purchasing outlet and at each and every
place where such game promotion may be played or
participated in by the public.

Section 5. (1) Every operator of such a
game promotion conducted in the state shall estab-

lish a trust account in a national or state chartered
financial institution with a balance sufficient to
pay or purchase the total value of all prizes
offered. In lieu of establishing such trust account,
the operator may obtain a bond, with sufficient
sureties, in amount equivalent to the total value
of all prizes offered. A copy of a certificate of
deposit indicating the balance of said trust account
or of the bond shall be filed with the office of the
attorney general simultaneously with the filing of
rules and regulations as herein provided, together
with a list of all prizes and prize categories
offered.

(2) The moneys so held in escrow or the bond
shall at all times equal the total amount of the
prizes offered. Moneys may be withdrawn, from time
to time, in order to pay the prizes offered only
upon certification to the attorney general of the
name of the winner and the amount of the prize or
the value thereof.

Section 6. Every operator of such a game
promotion conducted in the state shall disclose to
the public the names and addresses of all persons
who have won prizes, the value of such prizes and
the dates when the same were won, upon a poster,
prominently displayed at each location where such
game promotion was conducted, and the same shall be published in a newspaper of general circulation within the local geographic area wherein such game was played, maintained or operated, all within fifteen (15) days after such winners have been determined. A certified list thereof shall be simultaneously filed with the office of the attorney general. All winning entries shall be held by the operator for a period of thirty (30) days after the close or completion of such game.

Section 7. No operator shall force, directly or indirectly, a lessee, agent or franchise dealer to purchase or participate in any game promotion. For the purpose of this act, coercion or force shall be presumed in these circumstances in which a course of business extending over a period of one (1) year or longer is materially changed coincident with a failure or refusal of a lessee, agent or franchise dealer to participate in such game promotions. Such force or coercion shall further be presumed where an operator advertises generally that game promotions are available at its lessee dealers, agent dealers or franchise dealers unless a majority of those located within the state have consented in writing, filed with the office of the attorney general, to participate therein.

Section 8. (1) The attorney general shall have the power to promulgate such rules and regulations respecting the operation of game promotions as he may deem advisable.

(2) Whenever the attorney general has reason
to believe that such a game promotion is being operated in violation of this act, he may bring an action in the supreme court in the name and on behalf of the people of the state against any operator thereof to enjoin the continued operation of such game promotion.

(3) An action for violation of this act may be instituted by the attorney general in the name of the people of the state, and in any such action, the attorney general shall exercise all of the powers and perform all the duties which any state attorney would otherwise be authorized to exercise or to perform therein.

Section 9. (1) Any person, firm, corporation, association, agent or employee thereof who engages in any acts or practices stated in this article to be unlawful, or who violates any of the rules and regulations of the attorney general made pursuant to this act, is guilty of a misdemeanor.

(2) Any person, firm, corporation, association, agent or employee who violates any provision of this act or any of the rules and regulations of the attorney general made pursuant to this act shall be liable to a civil penalty of not more than one thousand dollars ($1,000) for each such violation, which shall accrue to the State of Florida and may be recovered in a civil action brought by the attorney general.

Section 10. This act shall take effect upon becoming a law.
LEGISLATIVE SERVICE BUREAU SUMMARY

Relates to promotional games. The bill defines game promotion and operator of games. Making it unlawful to promote games that may be rigged. Requires the operator to file the game rules with the Attorney General at least 30 days before the game begins; requires public notice of increase in sales price of the merchandise to pay for the game, requires the operator to set up a trust to pay for all prizes offered and file a certified copy of the trust with the Attorney General's Office, requires the operator to publicly display the names and addresses of all winners within 15 days of their determination and certified lists of winners to be filed with the Attorney General. No operator may force any agent, lessee or franchise dealer to participate in a game. The Attorney General shall promulgate rules to govern game promotions. Provides enforcement by Attorney General; criminal violation is a misdemeanor. A civil penalty of up to $1,000 for each violation may be recovered by state in action by Attorney General.