

No. 373

AN ACT

Amending the act of June twenty-four, one thousand nine hundred thirty-nine (Pamphlet Laws 872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," regulating the advertising and offering for sale of merchandise, commodities and services.

The Penal Code.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 857, act of June 24, 1939, P.L. 872, amended, and the act is amended by adding section 857.1.

Section 1. Section eight hundred fifty-seven, act of June twenty-four, one thousand nine hundred thirty-nine (Pamphlet Laws 872), known as "The Penal Code," is amended and the act is amended by adding, after section eight hundred fifty-seven, a new section to read:

Section 857. Untrue, False and Misleading Advertising.—Whoever, with intent to sell or in any wise dispose of merchandise, securities, service, or any other thing, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto or any interest therein, makes, publishes, disseminates, or causes, directly or indirectly, the same to be made, published, disseminated, circulated, or placed before the public, in a newspaper or other publication in the form of a book, notice, handbill, poster, sign, bill, circular, pamphlet, or letter, or *over any radio or television station or other medium of wireless communication*, or in any other way, *similar or dissimilar to the foregoing*, an advertisement, *announcement, or statement*, of any sort regarding merchandise, security, investment, service or anything so offered to the public or concerning the quantity, quality, value, merit, use, present or former price, cost, reason for price, motive for sale, or concerning the method or cost of production or manufacture, or the possession of rewards, prizes or distinctions conferred, regarding such merchandise, security, investment, service or thing, which advertisement contains any assertion, representation, or statement of fact which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500), or undergo imprisonment not exceeding one (1) year, or both.

The provisions of this section shall not apply to any owner, agent, or employe of any radio or television

station or to any owner, publisher, printer, agent, or employes of a newspaper or other publication, periodical, or circular, who, in good faith and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published, or takes part in the publication of such advertisement.

It shall be deemed deceptive advertising, within the meaning of this section, for any person engaged in the business of buying or selling new or second hand furs, wearing apparel, jewelry, furniture, pianos, phonographs, or other musical instruments, motor vehicles, stocks, or generally any form of property, real, personal, or mixed, or in the business of furnishing any kind of service or investment, to advertise, by "liner ads" or likewise, such articles, property, or service for sale, in any manner indicating that the sale is being made by a private party or householder not engaged in such business, and such advertisement shall affirmatively and unmistakably indicate and state that the seller is a business concern and not a private party.

No owner of any newspaper or other publication, or *radio or television station*, or employe thereof, shall hereafter accept any advertisement for its classified or other columns without, at the time, obtaining the name and address of the advertiser, and making a record of the same, which record shall be retained for a period of two weeks, and shall be subject to the examination of any duly constituted law officer of this Commonwealth. No owner or owners of any newspaper or publication, or *radio or television station*, or employe thereof, shall knowingly accept any advertisement from any person engaged in any of the businesses mentioned in this section, if such advertisement does not affirmatively state that the merchandise, property, or service advertised belong to, and are the property of, the business concern from whom such advertisement is directly or indirectly received.

[Every person, engaged in any of the businesses mentioned in this section or in any other kind of business, whether conducting such business in a store, business block, residence, or other building, shall at all times keep a conspicuous sign posted on the outside of his establishment and another conspicuous sign in the sales-room, which sign shall clearly state the name of the person who actually owns said merchandise, property, or service which are being offered to the public and not the name of any other person; but an exterior sign shall not be required where the seller has no control over the exterior of the premises where such business is conducted.]

Section 857.1. Offers for Sale of Merchandise, Commodities or Services.—(a) Whoever by any means advertises or offers for sale to the general public any merchandise, commodity, service, or thing, with intent not to sell, or with intent not to sell at the price advertised or offered for sale, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1000), or to undergo imprisonment not exceeding six (6) months, or both.

(b) In any prosecution under this section, except in cases of innocent mistakes or typographical errors, the refusal by any person or any employe, agent, or servant, of any person to sell or the refusal to sell at the price advertised or offered for sale any merchandise, commodity, service, or thing, advertised or offered for sale to the general public, shall be prima facie evidence of a violation of this section: Provided, That this subsection shall not be applicable when a person advertises or offers for sale any merchandise, commodity, service, or thing, and clearly sets out in such advertisement or offer, by quantity or number, that he has a specific limited quantity of such merchandise, commodity, service, or thing, for sale, and when at the time of such advertisement or offer such person did in fact have at least such quantity or amount for sale.

APPROVED—The 1st day of March, A. D. 1956.

GEORGE M. LEADER

No. 374

AN ACT

Amending the act of April nine, one thousand nine hundred twenty-nine (Pamphlet Laws 177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation