

Law of the People's Republic of China on Protection of Consumer Rights and Interests

(Adopted at the Fourth Meeting of the Standing Committee of the Eighth National People's Congress on October 31, 1993, and shall enter into force as of January 1, 1994.)

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Chapter I General Provisions

Article 1

The present Law is formulated for the protection of the legitimate rights and interests of consumers, maintenance of the socio-economic order and promotion of the healthy development of socialist market economy.

Article 2

The rights and interests of consumers in purchasing and using commodities or receiving services for daily consumption shall be under the protection of the present Law, or under the protection of other relevant laws and regulations in absence of stipulations in this Law.

Article 3

Business operators shall, in their supply of commodities produced and sold by them or services to consumers, abide by the present Law, or abide by other relevant laws and regulations in absence of stipulations in the present law.

Article 4

In transactions between business operators and consumers a principle of voluntariness, equality, fairness, honesty and credibility shall be followed.

Article 5

The State shall protect the legitimate rights and interests of consumers from infringement.

The State shall adopt measures to safeguard consumers' exercise of their rights in accordance with the law and to maintain the legitimate rights and interests of consumers.

Article 6

It is the common responsibility of the whole society to protect the legitimate rights and interests of consumers.

The State shall encourage and support all organizations and individuals to exercise social supervision over acts infringing upon consumer rights and interests.

Mass media shall conduct propaganda defending the legitimate rights and interests of consumers and, through public opinion, exercise supervision over acts infringing upon the legitimate rights and interests of consumers.

Chapter II Rights of Consumers

Article 7

Consumers shall, in their purchasing and using commodities or receiving services, enjoy the right of the inviolability of their personal and property safety.

Consumers shall have the right to demand business operators to supply commodities and services up to the requirements of personal and property safety.

Article 8

Consumers shall enjoy the right to obtain true information of the commodities they purchase and use or the services they receive.

Consumers shall have the right to demand business operators, in light of the different conditions of commodities or services, to provide their prices, origin, manufacturers, usage, functions, standards, grades, main ingredients, date of production, term of validity, certificates of inspection, operation instructions, aftersale services or information relating to contents, standards and costs of the services.

Article 9

Consumers shall enjoy the right of free choice of commodities or services.

Consumers shall have the right to make a free choice of business operators for supply of commodities or services, select freely among varieties of articles or forms of services and decide independently to buy or not to buy any kind of commodities, or to accept or not to accept any item of services.

Consumers shall have the right to make comparisons, differentiations and selections when they make a free choice of commodities or services.

Article 10

Consumers shall enjoy the right of fair deal.

Consumers shall, in their purchasing commodities or receiving services, have the right to obtain fair deal prerequisites such as guarantee of quality, reasonable prices and correct measurement, and have the right to refuse any compulsory transaction of business operators.

Article 11

Consumers suffering from personal injury or property damage resulting from their purchasing or using of commodities or receiving of services shall have the right to demand compensations in accordance with the law.

Article 12

Consumers shall have the right to form public organizations for the maintenance of their own legitimate rights and interests according to law.

Article 13

Consumers shall have the right to acquire knowledge concerning consumption and protection of consumer rights and interests.

Consumers shall make efforts to master the knowledge of their necessary commodities or services and the skill in operation thereof, apply the commodities in a correct way and raise their consciousness of self-protection.

Article 14

Consumers shall, in their purchasing and using commodities or receiving services, have the right that their human dignity, national customs and habits are respected.

Article 15

Consumers shall have the right to exercise supervision over commodities, services as well as the work of protection of consumer rights and interests.

Consumers shall have the right to inform and charge against the infringement upon consumer rights and interests and the breach of law or neglect of duty on the part of State organs and their functionaries in the work of protection of consumer rights and interests, and have the right to raise criticism of or proposals for the work of protection of consumer rights and interests.

Chapter III Obligations of Business Operators

Article 16

Business operators shall, in their supply of commodities and services to consumers, fulfill their obligations stipulated in the Law of the People's Republic of China on Product Quality and other laws and regulations concerned.

In case an agreement is reached between business operators and consumers, the business operators shall fulfill the obligations agreed upon in the agreement; but the agreement between the two parties shall not contravene the provisions of laws and regulations.

Article 17

Business operators shall listen to the consumers' opinions on the commodities and services they supply and accept consumers' supervision.

Article 18

Business operators shall guarantee that the commodities and services they supply meet the requirements for personal or property safety. As to commodities and services liable to

harm personal or property safety, business operators shall give the consumers truthful explanation and clear out warnings, and shall explain or indicate the correct ways of using the commodities or receiving services as well as the methods of preventing damage.

Business operators shall, upon discovery of serious defects of the commodities or services they supply which are liable to harm personal or property safety even though the commodities are correctly applied or services are received in a correct way, immediately report to the administrative departments concerned and inform the consumers, and adopt measures to prevent damage.

Article 19

Business operators shall provide consumers with authentic information concerning their commodities or services, and may not make any false and misleading propaganda.

Business operators shall give truthful and definite replies to inquiries from consumers about the qualities of the commodities or services they supply and the operation methods thereof.

Shops shall mark clearly the prices of the commodities they supply.

Article 20

Business operators shall indicate their real names and marks.

Business operators who lease counters or grounds from others shall indicate their own real names and marks.

Article 21

Business operators who supply commodities or services shall make out for consumers invoices for purchases or documents of services in accordance with relevant regulations of the State or commercial practices; business operators must produce such invoices or documents in case

consumers so demand.

Article 22

Business operators shall guarantee the quality, functions, usage and term of validity which the commodities or services they supply should possess under normal operation or acceptance, except that consumers are aware of the defects before they buy the commodities or receive the

services.

Business operators who employ advertisements, product instructions, samples or other ways to display the quality state of their commodities or services shall guarantee that the actual quality of the commodities or services they supply is in conformity with that demonstrated.

Article 23

Business operators who are under the obligation of repair or caveat venditor, or other responsibilities in accordance with regulations of the State or agreements with consumers

shall carry out such obligations correspondingly according to such regulations or agreements, and may not delay deliberately or refuse unreasonably to do so.

Article 24

Business operators may not, through format contracts, notices, announcements, entrance hall bulletins and so on, impose unfair or unreasonable rules on consumers or reduce or escape their civil liability for their infringement of the legitimate rights and interests of consumers.

Format contracts, notices, announcements, entrance hall bulletins and so on with contents mentioned in the preceding paragraph shall be invalid.

Article 25

Business operators may not insult or slander consumers, may not search the body of consumers or the articles they carry with them, and may not violate the personal freedom of consumers.

Chapter IV Protection of the Legitimate Rights and Interests of Consumers by the State

Article 26

The State shall heed to the opinions and demands from consumers when making laws, regulations and policies concerning consumer rights and interests.

Article 27

People's governments at various levels shall strengthen their leadership, and organize, coordinate and supervise the administrative departments concerned to do their work well in the protection of the legitimate rights and interests of consumers.

People's governments at various levels shall strengthen supervision to prevent occurrence of acts damaging to the personal or property safety of consumers and promptly check any such acts.

Article 28

Departments for industry and commerce of people's governments at various levels and other administrative departments concerned shall adopt measures to protect the legitimate rights and interests of consumers within the scope of their respective functions and duties in accordance with the provisions of the laws and regulations.

Administrative departments concerned shall listen to the complaints of consumers and their public organizations as to the transactions of business operators and the quality of their commodities and services, and carry out timely investigation and disposition.

Article 29

State organs concerned shall, in accordance with the provisions of laws and regulations, punish any law-breaking or criminal activities of business operators infringing upon the legitimate rights and interests of consumers in their supplying commodities or services.

Article 30

The people's courts shall adopt measures to facilitate consumers to take legal proceedings and must entertain and handle without delay cases of disputes over consumer rights and interests that meet the conditions for a lawsuit specified in the Civil Procedure Law of the People's Republic of China.

Chapter V Consumer Organizations

Article 31

Consumer associations and other consumer organizations are public organizations formed according to law to exercise social supervision over commodities and services and to protect the legitimate rights and interests of consumers.

Article 32

Consumer associations shall perform the following functions:

- (1) to afford consumption information and consultative services to consumers;
- (2) to participate in supervision over or inspection of commodities and services conducted by relevant administrative departments;
- (3) to make reports, inquiries and suggestions to relevant administrative departments about issues relating to the legitimate rights and interests of consumers;
- (4) to accept and hear complaints of consumers and offer investigations and mediations with respect to points of complaints;
- (5) in case quality of commodities or services is involved, to submit for appraisal the points of complaints to appraisal departments which shall inform them of the expert conclusions;
- (6) to render support to victims in their legal proceedings against infringement upon the rights and interests of consumers;
- (7) to expose and criticize through mass media the acts infringing upon the legitimate rights and interests of consumers.

People's governments at various levels shall give support to consumer associations in the performance of their functions.

Article 33

Consumer organizations may not be engaged in commodity transactions or profit-making services, and may not recommend to the society commodities or services for the purpose of making profits.

Chapter VI Settlement of Disputes

Article 34

In case of disputes with business operators over consumer rights and interests, consumers may settle the disputes through the following approaches:

- (1) to consult and conciliate with business operators;
- (2) to request to consumer associations for mediation;
- (3) to appeal to relevant administrative departments;
- (4) to apply to arbitral organs for arbitration according to the arbitral agreements with business operators;
- (5) to institute legal proceedings in the people's court.

Article 35

Consumers whose legitimate rights and interests are infringed upon in their purchasing or using commodities may demand compensation from the sellers concerned. In case the liability is on the manufacturers or other sellers who supply the commodities to the said sellers, the said sellers shall, after paying the compensations, have the right to recover the compensations from the manufacturers or the other sellers.

Consumers or other victims suffering personal injuries or property damage resulting from defects of commodities may demand compensations either from the sellers or from the manufacturers. If the liability is on the manufacturers, the sellers shall, after paying the compensations, have the right to recover the compensations from the manufacturers; if the liability is on the sellers, the manufacturers shall, after paying the compensations, have the right to recover the compensations from the sellers.

Consumers whose legitimate rights and interests are infringed upon in receiving services may demand compensations from suppliers of the services.

Article 36

Consumers whose legitimate rights and interests are infringed upon in purchasing or using commodities or receiving services may, if the enterprises supplying the commodities or services have been split-up or merged, demand compensations from the enterprises succeeding to the rights and obligations of the original ones after the modifications.

Article 37

In case a business operator unlawfully uses another's business license to supply commodities or services and infringes upon the legitimate rights and interests of consumers, the consumers may demand compensations either from such business operator or from the holder of the business licence.

Article 38

Consumers whose legitimate rights and interests are infringed upon in purchasing commodities or receiving services at trade fairs or leased counters may demand compensations from the sellers or suppliers of the services. In case the fairs are over or the lease of counters expires, they may also demand compensations from organizers of the fairs or lessors of the counters. Organizers of the fairs and lessors of the counters shall, after paying

the compensations, have the right to recover the compensations from the sellers or suppliers of the services.

Article 39

Consumers whose legitimate rights and interests are infringed upon on account of commodities or services supplied by business operators by means of false advertisement may demand compensations from the business operators. Consumers may demand the competent administrative departments to punish the advertising agents who make false advertisements. Advertising agents who cannot provide the real names and addresses of the business operators shall bear the responsibility for compensations.

Chapter VII Legal Responsibility

Article 40

Business operators shall, if the commodities and services they supply involve any of the following circumstances, bear civil liability in accordance with the provisions of the Law of the People's Republic of China on Product Quality and other relevant laws and regulations, except as otherwise provided in the present Law:

- (1) there existing defects in the commodities;
- (2) not possessing the properties for use they should possess and no declaration thereabout is made at the time of sale;
- (3) not conforming to the standards indicated on the commodities or on the packaging thereof;
- (4) not conforming to the quality indicated by the product description or by physical samples;
- (5) producing commodities that have been formally declared by the State to be obsolete or selling commodities that are no longer effective or deteriorated;
- (6) commodities sold being short of weight or quantity;
- (7) contents and costs of services being not in conformity with the agreements;
- (8) deliberately delaying or unreasonably refusing consumers' requests for repair, remanufacture,

replacement, return of goods, makeup for the short commodity, return of payment for goods or services, or compensation for losses;

- (9) other circumstances infringing upon consumer rights and interests as specified by laws and regulations.

Article 41

Business operators shall, if the commodities or services they supply have caused personal injuries to consumers or other victims, pay for the victims' medical expenses, nursing

expenses during medical treatment, the reduced income for loss of working time and other expenses. And business operators shall, if the commodities or services they supply have disabled the consumers, also pay for the victims' expenses on self-help devices, living allowances, compensations for disability and the necessary living cost of the persons supported by the disabled. Business operators shall, if the case constitutes a crime, be investigated for criminal responsibility according to law.

Article 42

Business operators shall, if the commodities or services they supply have caused death of consumers or other victims, pay for the victims' funeral expenses, compensations for death and the necessary living cost of the persons supported by the deceased during their lifetime. Business operators shall, if the case constitutes a crime, be investigated for criminal responsibility according to law.

Article 43

Business operators who violate the provisions of Article 25 of the present Law and violate the human dignity or personal freedom of consumers shall stop the violations, restore consumers' reputation, eliminate the bad effects, make apologies, and make compensations therefor.

Article 44

Business operators shall, if the commodities or services they supply have caused damage to the properties of consumers, bear civil liabilities by repair, remanufacture, replacement, return of goods, make-up for the short commodity, return of payment for goods and services, or compensation for losses and so on as demanded by consumers. If consumers and business operators have otherwise agreed upon, such agreements shall be fulfilled.

Article 45

Business operators shall be responsible for repair, replacement or return of goods, if repair, replacement or return of goods is guaranteed by provisions of the State or agreed upon between business operators and consumers. Business operators shall be responsible for replacement or return of goods if the commodities still malfunction after being repaired twice within the term of guaranteed repair.

As to large-sized commodities guaranteed for repair, replacement or return, business operators shall bear the reasonable costs such as expenses for carriage if consumers demand repair, replacement or return.

Article 46

Business operators who supply commodities by mail-order shall provide their commodities according to the agreements. Business operators who fail to provide their commodities according to the agreements shall fulfil the agreements or return the consumers' payment for the commodities on the demand of the consumers, and bear the reasonable expenses that the consumers must bear.

Article 47

Business operators who supply commodities or services in the form of advance payment shall provide their commodities or services according to the agreements. Business operators

who fail to provide their commodities or services according to the agreements shall fulfil the agreements or return the advance payment on the demand of the consumers, and shall also bear the interests of the advance payment and other necessary expenses that the consumers must bear.

Article 48

Business operators shall, on the demand of the consumers, be responsible for return of goods determined to be substandard commodities by administrative departments concerned according to law.

Article 49

Business operators engaged in fraudulent activities in supplying commodities or services shall, on the demand of the consumers, increase the compensations for victims' losses; the increased amount of the compensations shall be two times the costs that the consumers paid for the commodities purchased or services received.

Article 50

If business operators are under any of the following circumstances and the Law of the People's Republic of China on Product Quality and other laws and regulations have provided for punitive organs and forms therefor, the provisions of the laws or regulations shall be applied; in absence of such provisions in the laws or regulations, administrative departments for industry and commerce shall order them to make corrections, and may, in light of the circumstances, punish the offenders exclusively or concurrently the offenders with warning, confiscation of unlawful earnings, or imposition of a fine no less than one time but not more than five times the value of the unlawful earnings; in case there involves no unlawful earnings, the offenders shall be punished with a fine of 10,000 Yuan or less, and if the circumstances are serious, they shall be ordered to suspend business for rectification, and their business licences shall be revoked:

(1) producing or selling commodities failing to meet the requirements for the protection of personal and property safety;

(2) mixing adulterations into their commodities, or passing fake commodities off as genuine ones,

or passing defective commodities off as good ones, or passing substandard commodities off as standard ones;

(3) producing commodities which have been formally declared by the State to be obsolete, or selling commodities no longer effective or deteriorated;

(4) forging the origin of commodities, forging or counterfeiting the names and addresses of other factories, and forging or counterfeiting the authentication marks or famous-and-excellent-product marks;

(5) selling commodities not inspected or quarantined against the requirement therefore, or forging the result of inspection or quarantine;

(6) making false or misleading propaganda about their commodities or services;

(7) deliberately delaying or unreasonably refusing consumers' demand for repair, remanufacture, replacement, return of goods, make-up for the short commodity, refundment of payment for goods or

services, or compensations for losses;

(8) violating human dignity or personal freedom of consumers;

(9) other circumstances wherein punishment shall be given for infringement of consumer rights and interests as stipulated by laws or regulation..

Article 51

Any business operator who is not satisfied with the decision on punishment may apply to the organ at the next higher level for reconsideration within 15 days from the date of receipt of the decision; and he who is still not satisfied with the reconsideration decision may bring a lawsuit in the people's court within 15 days from the date of receipt of the reconsideration decision; or he may take legal proceedings directly in the people's court.

Article 52

Anyone who, by means of violence or threats, hinders functionaries of the administrative departments concerned from performing their duties according to law, shall be investigated for criminal responsibility according to law; and those who refuse or hinder functionaries of the administrative departments concerned from performing their duties according to law, without resorting to violence or threats, shall be punished by public security organs in accordance with the stipulations of the Regulations of the People's Republic of China on the Administrative Penalties for Public Security.

Article 53

Any functionary of the State organs, who neglects his duties or shields any business operator guilty of infringement of the legitimate rights and interests of consumers, shall be given administrative sanctions by the unit he belongs to, or by an organ at a higher level; if the circumstances are serious enough to constitute a crime, he shall be investigated for criminal responsibility according to law.

Chapter VIII Supplementary Provisions

Article 54

The present Law shall be applicable *mutatis mutandis* to peasants' purchase or application of means of production used directly in agricultural production.

Article 55

The present Law shall enter into force as of January 1, 1994.