

Consumer Protection

Democrats believe that our nation's free enterprise system is the foundation supporting our economic strength, but consumer protection is at its core.

Our economic system provides many Americans with the highest living standards in the world. Our free markets encourage the development and marketing of new and ground-breaking technologies and products, and supports America's leadership in the world's economy.

Democrats believe that government has a fundamental role in providing a fair, level-playing field where consumers are protected from unscrupulous businesses, and where remedies are available to correct unfair practices.

Democrats also believe that strong laws and enforcement against unfair or deceptive business practices have the effect of weeding-out unsavory businesses, reducing unfair competition, and in-turn strengthening the profitability of businesses that treat their customers fairly and honestly.

How Commonplace is Consumer Fraud?

The Federal Trade Commission estimates that 25.6 million U.S. adults – 10.8 percent of the adult population – were victims of fraud in 2011, the last year the nation was surveyed. In South Carolina, consumer fraud is more common than in most other states. In 2017 **South Carolina ranked ninth highest in the nation for consumer fraud reports**, (660 reports per 100,000 population), according to the Federal Trade Commission Consumer Sentinel 2017 Data Book.

Top 10 Fraud Categories for 2017

1. Debt Collection 608,535 reports
2. Identity Theft..... 371,061 reports
3. Imposter Scams..... 347,829 reports
4. Telephone and Mobile Services 149,578 reports
5. Banks and Lenders..... 149,316 reports
6. Prizes, Sweepstakes and Lotteries..... 142,870 reports
7. Shop-at-home and Catalog Sales 126,387 reports
8. Credit Bureaus..... 107,473 reports
9. Auto Related 86,289 reports
10. Television and Electronic Media 47,456 reports

Source: Federal Trade Commission's Consumer Sentinel Project

The Cost of Consumer Fraud

Fraud perpetrated by unscrupulous businesses hits consumers right where it hurts – in their pocketbook. Over 1,400 scams were reported to the SC Department of Consumer Affairs in 2017. In total, South Carolina consumers reported **actual losses**

of over \$1,620,000 from scams. The department estimates another \$1,000,000 would have been lost if consumers had fell victim to scams they reported.

Legal Protections

Since the buying of goods and services is fundamental to our everyday life, and in response to the harm caused by consumer fraud, each state and the District of Columbia have enacted laws that prohibit deceptive and unfair practices in consumer transactions.

The National Consumer Law Center (NCLC), a non-profit organization, has reviewed the consumer protection laws that operate in each state. While each state, including South Carolina, has laws that prohibit deceptive business practices and thus

South Carolina's consumer protection laws seem stacked against the consumer in many instances.

provide a foundation of protection for consumers, these statutes vary greatly in their strength from state to state, according to the NCLC. The Center's most recent 50-state report concludes that "every state has room for improvement".

So how does South Carolina stack up in protecting the rights of consumers?

The NCLC concludes that South Carolina's Unfair and Deceptive Acts and Practices (UDAP) statute includes "both broad and specific prohibitions of unfair and deceptive practices". However, the NCLC found that in several ways SC falls short in protecting consumer rights. Highlights of the report include:

Special Barriers to Suit:

One weakness identified by the NCLC is that SC courts have required consumers to show not only that they were cheated, but that the business cheats consumers frequently or as a general rule. Only six other states impose this requirement. NCLC concludes that this is a complicated requirement that can force a South Carolina consumer who was cheated to foot the bill for an expensive investigation.

Immunizing Insurers:

According to the NCLC, another weakness in SC consumer law is an exemption for insurers, a peculiarity that is shared with 19 other states. Fortunately, in SC the courts have not construed the statute to create blanket exemptions for other businesses.

Prohibiting Class Actions:

South Carolina, and eight other states “deny consumers the right to join together in a class action under the state UDAP statute”.

Rulemaking Authority:

South Carolina also does not give a state agency substantive rulemaking authority to prohibit emerging forms of deception or unfairness, a weakness in the state statute the NCLC found in about half the states.

According to the NCLC, “the strongest UDAP statutes allow a state agency to issue detailed regulations prohibiting specific unfair and deceptive practices, allowing the state to target emerging or persistent unfair and deceptive practices and develop state-based solutions. It means that states can add bright-line rules to their general prohibitions so there is no question that a certain practice is unfair or deceptive. Specific rules also act as helpful

guidelines for businesses that want to use fair practices”.

Consumer Access to Relief:

The NCLC makes the important point that “giving consumers the ability to enforce their state UDAP statutes is crucial for consumer justice. Limited state consumer protection enforcement budgets are not able to police the marketplace fully. Fundamentally, there are so many businesses, transactions and practices, and the day-to-day economic activity... is so immense, that public enforcement cannot do the job no matter how well-funded. The market can never be policed adequately from above. Consumers must be able to protect themselves--and that ability is crucial for a well-functioning consumer marketplace”.

Reforms Needed

As Democrats, we call upon the SC State Legislature to review the UDAP statutes and make modifications or pass new laws to ensure that consumers have the ability to take a fraudulent business to court to get back the money they lost, and to seek relief in a class action if many consumers have been harmed in some way.

We also acknowledge the important roles that journalists and the news media play in the investigation and reporting of unfair and deceptive practices by a small percentage of businesses.

As Democrats, we know the overwhelming majority of businesses treat their customers fairly. But we also must rely on the news media to fairly and accurately report when consumers are cheated by a business. Only then can consumers “vote with their feet” and move their purchasing away from dishonest businesses and instead patronize businesses which value consumer rights.

The Myrtle Beach metro area (Horry, Georgetown and Brunswick counties) ranked 27th highest in the nation in 2017 for fraud and other related consumer complaints.

Source: [The Federal Trade Commission Consumer Sentinel 2017 Data Book](#)

Help HCDP address these problems.

Please contact issues@horrydemocrats.org for more information.

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