

IC 24-5-17

Chapter 17. Environmental Marketing Claims

IC 24-5-17-1

Policy

Sec. 1. It is the policy of the state to discourage deceptive environmental advertising claims.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-2

Application of chapter; violations

Sec. 2. (a) This chapter applies to a person who represents in advertising or on the label or package of a consumer good that the consumer good the person manufactures or distributes, or its package, is not harmful to or is beneficial to the natural environment by terms such as the following:

- (1) Environmental choice.
- (2) Ecologically, earth, or environmentally friendly.
- (3) Ecologically or environmentally sound.
- (4) Ecologically or environmentally safe.
- (5) Environmentally "lite".
- (6) Green product.
- (7) Any term or terms similar to the other terms listed in this chapter.

(b) It is a violation of this chapter for any person to represent that any consumer good which the person manufactures or distributes or its package is "ozone friendly", "biodegradable", "compostable", "photodegradable", "recyclable", or "recycled" unless that consumer good or its package meets the definitions contained in this chapter or meets definitions established in trade regulations or guides adopted by the Federal Trade Commission or in enforceable regulations adopted by another federal agency expressly for the purpose of establishing standards for environmental advertising or representations.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-3

"Biodegradable" defined

Sec. 3. As used in this chapter, "biodegradable" means that material has the proven capability to decompose in less than one (1) year in the most common environment where the material is usually disposed through natural biological processes into nontoxic carbonaceous soil, water, or carbon dioxide.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-4

"Compostable" defined

Sec. 4. As used in this chapter, "compostable" means that material

will decompose into a soil-like material in less than one (1) year under controlled biological circumstances.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-5

"Consumer goods" defined

Sec. 5. As used in this chapter, "consumer goods" means an article that is used or bought for use primarily for personal, family, or household purposes.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-6

"Ozone friendly" defined

Sec. 6. As used in this chapter, "ozone friendly" or any similar term that connotes that stratospheric ozone is not being depleted through use or production of the product means that a chemical or material released into the environment as a result of the use or production of a product will not migrate to the stratosphere and cause unnatural and accelerated deterioration of ozone.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-7

"Package" defined

Sec. 7. As used in this chapter, "package" means the coating, covering, container, or wrapping used during a product's life cycle, including any outer container, wrapping, or label used in the retail display of any consumer goods.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-8

"Photodegradable" defined

Sec. 8. As used in this chapter, "photodegradable" means that material has the proven capability to decompose within one (1) year into nontoxic carbonaceous soil, water, or carbon dioxide in the most common environment where the material is usually disposed through physical processes such as exposure to heat and light.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-9

"Recyclable" defined

Sec. 9. As used in this chapter, "recyclable" means that a material or product can be redeemed or returned at an identifiable recycling location for the purpose of returning the material to the economic mainstream in the form of raw material for new, reused, or reconstituted materials which meet quality standards necessary to be used in the marketplace.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-10**"Recycled" defined**

Sec. 10. As used in this chapter, "recycled" means that an article contains at least ten percent (10%) by weight of postconsumer or post manufacture material.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-11**Representations; determination of initiation**

Sec. 11. For purposes of this chapter, a wholesaler or retailer is not considered to have made a representation if the wholesaler or retailer does not initiate a representation by placing the representation on a package.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-12**Representation's validity; information and documentation requirements**

Sec. 12. A person shall maintain in written form in the person's records the following information and documentation supporting the validity of the representation:

- (1) The reasons why the person believes the representation to be true.
- (2) Any significant adverse environmental impacts directly associated with the production, distribution, use, or disposal of the consumer good.
- (3) Any measures that the person has taken to reduce the environmental impacts directly associated with the production, distribution, and disposal of the consumer good.
- (4) Any violations of federal, state, or local permits directly associated with the production or distribution of the consumer good.
- (5) Whether the consumer good is recycled, recyclable, biodegradable, photodegradable, compostable, or ozone friendly.

As added by P.L.13-1991, SEC.2.

IC 24-5-17-13**Disclosure requirements**

Sec. 13. Upon the written request of the department of environmental management established by IC 13-13-1-1 or the office of the attorney general created under IC 4-6-1-2, a person shall fully disclose to the requesting office, within the limits of all applicable laws, the information and documentation maintained by the person under section 12 of this chapter. The requesting office shall make the information and documentation disclosed under this section available for public inspection and copying at its offices.

As added by P.L.13-1991, SEC.2. Amended by P.L.1-1996, SEC.79.

IC 24-5-17-14

Violations; penalties; claims for damages

Sec. 14. (a) A person who knowingly violates this chapter commits a deceptive act that is subject to remedies and penalties under IC 24-5-0.5.

(b) A person who suffers actual damages from a violation of this act may bring an action to recover the actual damage plus attorney's fees.

As added by P.L.13-1991, SEC.2.