

R152. Commerce, Consumer Protection.

R152-1. Division of Consumer Protection Buyer Beware List Rule.

R152-1-1. Buyer Beware List.

- (1) Authority and purpose.
 - (a) This rule is promulgated pursuant to:
 - (i) the Division's general authority as set forth in Utah Code Section 13-2-5; and
 - (ii) specific authority granted to the Division in:
 - (A) Utah Code Section 13-11-8(2); and
 - (B) Utah Code Section 13-15-3(1).
 - (b) The purposes of this rule are to:
 - (i) protect consumers from individuals and businesses who have engaged in and committed deceptive acts or practices, or have engaged in and committed unconscionable acts or practices;
 - (ii) supply consumers with pertinent information about the nature of deceptive acts or practices committed or engaged in by certain persons against whom the Division has taken action; and
 - (iii) encourage the development of fair consumer sales practices and wise decision making by consumers.
- (2) Placement on the Buyer Beware List.
 - (a) The following circumstances warrant a person's being placed on the Buyer Beware List:
 - (i) failure or refusal to respond to an administrative subpoena of the Division;
 - (ii) after notification and opportunity to respond, failure or refusal to respond to a consumer complaint on file with the Division establishing a reasonable basis from which the Division may assert jurisdiction;
 - (iii) failure to comply with an order issued by the Division, including a default order; or
 - (iv) breach of a settlement agreement, stipulation, assurance of voluntary compliance, or similar instrument entered into with the Division.
 - (b) Failure or refusal to respond is evidenced:
 - (i) where certified mail, properly addressed, is returned to the Division as unclaimed or refused;
 - (ii) where the person who is responsible to respond:
 - (A) allows a compliance deadline, as set forth in a statute, rule, or in a properly served order, citation, or notice, to pass without taking action or communicating with the Division; or
 - (B) indicates to the Division that the person does not intend to comply; or
 - (iii) in any circumstances comparable to those set forth in this subsection (2)(b)(i)-(ii).
- (3) Removal from Buyer Beware List.

A person whose name is included in the Buyer Beware List may qualify to have the listing removed by:

 - (a)(i) demonstrating that the person has had no complaints filed against the person with the Division for a period of 90 consecutive days after being placed on the list; and
 - (ii) complying with all aspects of the order entered against the person by the Division, including full payment of any administrative fines assessed;
 - (b) providing a sufficient response to an outstanding Division subpoena;
 - (c) providing a satisfactory response to outstanding Division inquiries; or
 - (d) entering into a stipulated settlement with the Division that:
 - (i) resolves all allegations raised by the Division in its action; and
 - (ii) supersedes any previous order issued by the Division in the action.

KEY: consumer protection, buyer beware list

Date of Enactment or Last Substantive Amendment: June 8, 2015

Notice of Continuation: February 25, 2020

Authorizing, and Implemented or Interpreted Law: 13-2-5(1); 13-11-8(2); 13-15-3(1); 13-16-12