



## Legislative Update

### Revising Consumer Protections Wrong for Low-Income People

Ohio House Bill 275 attempts to destroy the nearly 40-year-old Consumer Sales Practices Act (CSPA) that protects working Ohioans from fraudulent or deceptive business practices. Bill supporters claim that it would expedite remedies to consumer complaints and limit costly lawsuits, but in reality it would take away the safeguards that Ohio consumers already have, putting all of the risks on consumers.

HB 275 proposes a “right to a cure.” What this means is that after a consumer files a lawsuit against a company claiming unfair or fraudulent business practices, the company has 30 days to provide a remedy (right to cure) that can include cash, goods or services. That means a business could simply offer coupons or some other service to make up for the original wrong, forcing the wronged customer to continue to deal with the offending business, and not solving or alleviating the problem.

An example given by the Ohio Chamber of Commerce, a proponent of the bill, is that of a person who buys a chair that’s supposed to have stain protector, but it doesn’t so they sue for the value of the chair. The furniture store offers a “cure” of applying stain protector. But what good is stain protector if the chair is already stained? The harm has been done and the “cure” is no cure at all.

The wronged consumer has the right to reject the “cure” offer and continue with their lawsuit, but if the court

awards a lower dollar amount than the remedy, the consumer will not get any reimbursement for attorney fees, putting all of the risk on the consumer. For low-income people who may not be able to afford an attorney to protect their rights, this is a large deterrent to fighting an injustice. So from the example above, if the chair-buyer isn’t happy with the offer of stain protector and goes to court, if they are awarded a

lesser value than the stain protector, they have to pay attorney fees and court costs, and still have a stained chair.

The proposed law also limits the amount of attorney fees a wronged customer can be reimbursed to no more than \$1500, an amount that attorneys who represent consumers say may not even be enough to do the investigation needed to file a lawsuit.

Under the current CSPA law, wronged consumers can be awarded triple the damages, reasonable attorney fees and up to \$5,000 in non-economic damages. Also under the current law, businesses can settle with consumers at any point rather than running the risk of paying triple the damages and other fees and penalties - that certainly sounds like an incentive to reach an agreement outside of court, as the “right to cure” is supposed to do.

*Continued*



## Legislative Update Continued...

The proposed law is also harmful to honest businesses because it acts as a shield for fraudulent and deceptive businesses to operate, putting legitimate, law-abiding Ohio businesses at a disadvantage. The bill's supporters assert that the right to cure would prevent CSPA from being used to force small businesses to pay exorbitant settlements on meritless consumer claims, but there is a provision allowing businesses to recover attorney fees if a consumer maintains a groundless claim.

While there are 13 other states and territories with "cure" provisions, Ohio would be the only state in the nation where the "cure" is triggered after a lawsuit is filed and attorney fees have started. We would also be the only state to place an arbitrary cap on the consumer's ability to recover reasonable attorney fees.

If enacted, this law would not only take away the current deterrent against fraudulent and unfair business practices, it would put all of the risk for pursuing justice onto the customer, and potentially take advantage of low-income people who might not have access to well-established businesses or legal representation. This is a bill that we must fight. Rather than a right to cure it is a wrong to consumers and low-income families.

