

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1098
Committee Substitute Favorable 5/6/93
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Short Title: Ads in Written Periodicals.

(Public)

Sponsors:

Referred to:

April 19, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE CONTRACTS FOR THE PURCHASE OF ADVERTISING
3 IN FOR-PROFIT WRITTEN PERIODICALS TO INCLUDE CERTAIN TERMS,
4 INCLUDING A STATEMENT OF THE CIRCULATION OF THE PERIODICAL,
5 AND TO PROVIDE REMEDIES FOR THE PURCHASER IN THE EVENT THE
6 SELLER FAILS TO COMPLY.

7 The General Assembly of North Carolina enacts:

8 Section 1. Chapter 66 of the General Statutes is amended by adding a new
9 Article to read:

10 **"ARTICLE 32.**
11 **"CONTRACTS FOR THE PURCHASE OF ADVERTISING**
12 **IN FOR-PROFIT WRITTEN PERIODICALS.**

13 **"§ 66-250. Contractual requirements.**

14 (a) Every contract for the purchase of advertising in a for-profit written
15 periodical shall be in writing, dated, signed by the purchaser, and shall include:

16 (1) A statement of the current circulation of the periodical.

17 (2) The terms and conditions of payment, including the total of all
18 payments to be made by the purchaser.

19 (b) Upon the request of the purchaser, the seller shall supply the purchaser with
20 proof of the circulation.

21 (c) The seller shall notify the purchaser when the circulation of the periodical
22 decreases by ten percent (10%) or more from the circulation of the periodical at the date

1 the contract was entered into, if the contract is of a duration of 90 days or more and the
2 decline in circulation occurs during the time of the contract.

3 (d) The provisions of this section may not be waived or modified by the
4 agreement of the parties.

5 (e) As used in this section, 'circulation' does not include unpaid distribution in
6 public places. A seller shall not include unpaid distribution in public places in any
7 statement of circulation required in this section unless those figures are presented
8 separately and so labeled. A seller shall not include unpaid distribution in public places
9 in the calculation required for subsection (c) of this section.

10 (f) Notwithstanding subsection (a) of this section, contracts for classified
11 advertising as defined below need not be in writing. Nonwritten contracts for classified
12 advertising, however, are subject to all other requirements of this section. For purposes
13 of this section, 'classified advertising' means any advertisement no larger than two
14 column inches and any advertisement of employment opportunities.

15 **"§ 66-251. Remedies.**

16 (a) Any seller of advertising in a for-profit written periodical who violates any
17 provision of this Article is liable to the purchaser in an action brought by the purchaser
18 for liquidated damages, plus reasonable attorneys' fees. Liquidated damages shall be in
19 an amount equal to three times the value of all payments to be made by the purchaser
20 for the duration of the contract.

21 (b) A violation of G.S. 66-250 shall constitute an unfair practice under G.S. 75-
22 1.1.

23 (c) When the contract is for a duration of six months or more and the purchaser
24 receives a notice under G.S. 66-250(c), the contract is voidable or may be renegotiated,
25 at the option of the purchaser.

26 (d) The remedies provided under this section are in addition to any other
27 remedies, but the damages assessed shall not exceed the largest amount of damages
28 available by any single remedy."

29 Sec. 2. This act becomes effective October 1, 1993, and applies to any
30 contract entered into or extended or renewed on or after that date.