All fifty states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands have enacted at least one statute with broad applicability to most consumer transactions, aimed at preventing consumer deception and abuse in the marketplace.¹

Many of these statutes are patterned after the language in Section 5(a)(1) of the Federal Trade Commission (FTC) Act² that prohibits “unfair or deceptive acts or practices.” The term “UDAP” is an acronym for this prohibition.

“UDAP” will be used in this treatise somewhat imprecisely to refer to all state consumer statutes of general applicability, as listed in Appendix A [1], infra, whether the legislation proscribes unfair, unconscionable, deceptive, misleading, or even simply fraudulent practices. This terminological convenience is necessitated by the lack of any other common name for such statutes. These statutes are referred to in different states as consumer protection acts, consumer sales acts, unfair trade practices acts, deceptive and unfair trade practices acts, deceptive consumer sales acts, deceptive trade practices acts, and consumer fraud acts. In addition, commentators often call these statutes “Little FTC Acts,” although this name is only precise for those statutes that parallel the FTC Act and prohibit “unfair methods of competition and unfair or deceptive acts or practices.”

UDAP should not be confused with UDAAP. The Consumer Financial Protection Bureau (CFPB) has authority to prohibit unfair, deceptive and abusive practices, and this authority has been called UDAAP authority. Two states, Indiana and Maryland, have recently added a prohibition of abusive acts to their UDAP statutes.³ Courts have not yet begun to interpret this term in the context of state UDAP statutes. Decisions addressing it under the Consumer Financial Protection Act are discussed in another book in this series.⁴ This treatise will use UDAP to label state statutes and UDAAP when discussing the CFPB’s authority.

Most UDAP statutes were enacted in the ten-year span between the mid-1960s and the mid-1970s, but significant amendments and even some new statutes have been enacted since that period. There continues to be legislative activity in this area.

Footnotes

1 ¹ See Appx. A [1], infra.


3 ³ Ind. Code § 24-5-0.5-3; Md. Code Ann., Comm. Law § 13-301 (West).


Source URL: https://library.nclc.org/udap/0101-0

Links

[1] https://library.nclc.org/nclc/link/UDAP.AA
[2] https://library.nclc.org/nclc/link/FDL.03.02.04