

**CHAPTER 45A**  
**ADMINISTRATIVE RULES OF THE DIVISION**  
**OF CONSUMER AFFAIRS**

**Authority**

N.J.S.A. 56:8-1 et seq., specifically 56:8-48

**Source and Effective Date**

R.2000 d.460, effective October 20, 2000.  
See: 32 N.J.R. 3282(a), 32 N.J.R. 4126(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 45A, Administrative Rules of the Division of Consumer Affairs, expires on October 20, 2005.

**Chapter Historical Note**

Chapter 45A, Administrative Rules of the Division of Consumer Affairs, Subchapter 1, Deceptive Practices in Mail Order or Catalog Business, was adopted as R.1973 d.176, effective August 1, 1973. See: 5 N.J.R. 151(b), 5 N.J.R. 290(a).

Subchapter 2, Motor Vehicle Advertising Practices, was adopted as R.1973 d.183, effective July 15, 1973. See: 5 N.J.R. 191(a), 5 N.J.R. 290(d).

Subchapter 4, Banned Hazardous Products, was adopted as R.1973 d.222, effective August 15, 1973. See: 5 N.J.R. 229(d), 5 N.J.R. 317(c).

Subchapter 8, Tire Distributors and Dealers, was adopted as R.1973 d.309, effective December 1, 1973. See: 5 N.J.R. 354(a), 5 N.J.R. 390(e).

Subchapter 3, Sale of Meat at Retail, was adopted as R.1973 d.169, effective January 1, 1974. See: 5 N.J.R. 154(a), 5 N.J.R. 239(b).

Subchapter 5, Delivery of Household Furniture and Furnishings, was adopted as R.1973 d.262, effective January 1, 1974. See: 5 N.J.R. 287(a), 5 N.J.R. 357(b).

Subchapter 7, Deceptive Practices Concerning Automotive Repairs and Advertising, was adopted as R.1973 d.307, effective January 1, 1974. See: 5 N.J.R. 351(b), 5 N.J.R. 390(b).

Subchapter 9, Retail Store Advertising and Marketing Practices, was adopted as R.1974 d.15, effective March 1, 1974. See: 5 N.J.R. 422(a), 6 N.J.R. 82(b).

Subchapter 10, Servicing and Repairing of Home Appliances, was adopted as R.1974 d.16, effective March 1, 1974. See: 5 N.J.R. 421(a), 6 N.J.R. 82(c).

Subchapter 12, Sale of Animals, was adopted as R.1975 d.351, effective November 20, 1975. See: 7 N.J.R. 231(b), 7 N.J.R. 571(c).

Subchapter 13, Powers to be Exercised by County and Municipal Officers of Consumer Affairs, was adopted as R.1976 d.245, effective August 3, 1976. See: 8 N.J.R. 233(b), 8 N.J.R. 439(b).

Subchapter 14, Unit Pricing of Consumer Commodities in Retail Establishments, was adopted as R.1976 d.265, effective August 23, 1976. See: 8 N.J.R. 304(a), 8 N.J.R. 439(e).

Subchapter 6, Automotive Sales Practices, was adopted as R.1979 d.392, effective October 1, 1979. See: 11 N.J.R. 386(a), 11 N.J.R. 580(e).

Subchapter 16, Home Improvement Practices, was adopted as R.1980 d.111, effective April 1, 1980. See: 11 N.J.R. 577(a), 12 N.J.R. 209(b).

Subchapter 9, Retail Store Advertising and Marketing Practices, was repealed and Subchapter 9, Merchandise Advertising, was adopted as new rules by R.1980 d.200, effective May 6, 1980. See: 12 N.J.R. 45(a), 12 N.J.R. 348(b).

Subchapter 17, Sale of Advertising in Journals Relating or Purporting to Relate to Police, Firefighting or Charitable Organizations, was adopted as R.1981 d.294, effective August 6, 1981. See: 13 N.J.R. 235(b), 13 N.J.R. 520(b).

Subchapter 15, Disclosure of Refund Policy in Retail Establishment, was adopted as R.1982 d.29, effective February 1, 1982. See: 13 N.J.R. 665(a), 14 N.J.R. 160(a).

Subchapter 21, Representations Concerning and Requirements for the Sale of Kosher Food, was adopted as R.1984 d.113, effective April 2, 1984. See: 16 N.J.R. 220(a), 16 N.J.R. 741(a).

Subchapter 20, Resale of Tickets of Admission to Places of Entertainment, was adopted as R.1984 d.196, effective May 21, 1984. See: 16 N.J.R. 417(a), 16 N.J.R. 1281(b).

Pursuant to Executive Order No. 66(1978), Subchapter 6, Deceptive Practices Concerning Automotive Practices, was readopted as R.1984 d.526, effective October 24, 1984. See: 16 N.J.R. 2349(a), 16 N.J.R. 3214(a).

Subchapter 7, Deceptive Practices Concerning Automotive Repairs and Advertising, was readopted as R.1984 d.527, effective October 24, 1984. See: 16 N.J.R. 2350(a), 16 N.J.R. 3214(b).

Pursuant to Executive Order No. 66(1978), Subchapter 16, Home Improvement Practices, expired April 1, 1985.

Pursuant to Executive Order No. 66(1978), Subchapter 9, Merchandise Advertising, was readopted as R.1985 d.256, effective April 29, 1985. See: 17 N.J.R. 678(a), 17 N.J.R. 1323(b).

Subchapter 16, Home Improvement Practices, was adopted as new rules by R.1985 d.255, effective May 20, 1985. See: 17 N.J.R. 679(a), 17 N.J.R. 1325(a).

Subchapter 23, Deceptive Practices Concerning Watercraft Repair, was adopted as R.1985 d.306, effective June 17, 1985. See: 17 N.J.R. 680(a), 17 N.J.R. 1581(a).

Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, was adopted as R.1985 d.407, effective August 5, 1985. See: 17 N.J.R. 1241(a), 17 N.J.R. 1901(b).

Pursuant to Executive Order No. 66(1978), Subchapter 14, Unit Pricing of Consumer Commodities in Retail Establishments, expired on October 9, 1985.

Subchapter 14, Unit Pricing of Consumer Commodities in Retail Establishments, was adopted as new rules by R.1985 d.643, effective December 16, 1985. See: 17 N.J.R. 2232(b), 17 N.J.R. 2991(c).

Subchapter 2, Motor Vehicle Advertising Practices, was repealed and Subchapter 2, Motor Vehicle Advertising Practices, was adopted as new rules by R.1987 d.341, effective August 17, 1987. See: 19 N.J.R. 1056(a), 19 N.J.R. 1562(c).

Subchapter 21, Representations Concerning and Requirements for the Sale of Kosher Food, and Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, were repealed and Subchapter 21, Sale of Kosher Products, and Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, were adopted as new rules by R.1987 d.450, effective November 2, 1987. See: 19 N.J.R. 1060(a), 19 N.J.R. 2060(d).

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Subchapter 25, Sellers of Health Club Services, was adopted as R.1988 d.23, effective January 4, 1988. See: 19 N.J.R. 1967(a), 20 N.J.R. 103(a).

Subchapter 12, Sale of Animals, was repealed and Subchapter 12, Sale of Animals, was adopted as new rules by R.1988 d.271, effective June 20, 1988. See: 19 N.J.R. 853(a), 20 N.J.R. 501(b), 20 N.J.R. 1463(a).

Subchapter 25, Sellers of Health Club Services, was repealed and Subchapter 25, Sellers of Health Club Services, was adopted as new rules by R.1988 d.520, effective November 7, 1988. See: 20 N.J.R. 2036(a), 20 N.J.R. 2790(b).

Subchapter 26, Automotive Dispute Resolutions, was adopted as R.1989 d.65, effective February 6, 1989. See: 20 N.J.R. 2681(b), 21 N.J.R. 339(b).

Subchapter 2, Motor Vehicle Advertising Practices, was repealed and Subchapter 2, Motor Vehicle Advertising Practices, was adopted as new rules by R.1989 d.253, effective May 15, 1989. See: 21 N.J.R. 115(a), 21 N.J.R. 1368(a).

Subchapter 17, Sale of Advertising in Journals Relating or Purporting to Relate to Police, Firefighting or Charitable Organizations, was repealed by R.1990 d.606, effective December 17, 1990. See: 22 N.J.R. 2396(a), 22 N.J.R. 3758(a).

Subchapter 19, Petition for Rulemaking, was adopted as R.1990 d.371, effective August 6, 1990. See: 22 N.J.R. 786(a), 22 N.J.R. 2331(c).

Petition for Rulemaking. See: 22 N.J.R. 3166(b).

Pursuant to Executive Order No. 66(1978), Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.1990 d.606, effective November 9, 1990. See: 22 N.J.R. 2396(a), 22 N.J.R. 3758(a).

Subchapter 24, Toy and Bicycle Safety, was adopted as R.1993 d.372, effective July 19, 1993. See: 24 N.J.R. 3019(b), 24 N.J.R. 3666(a), 25 N.J.R. 3235(a).

Subchapter 21, Sale of Kosher Products, and Subchapter 22, Inspections of Kosher Meat Dealers, Kosher Poultry Dealers, and Dealers of Kosher Food and Food Products; Records Required to be Maintained by Kosher Meat Dealers and Kosher Poultry Dealers, were repealed and Subchapter 21, Regulations Concerning the Sale of Food Represented as Kosher, was adopted as new rules by R.1994 d.204, effective April 18, 1994. See: 25 N.J.R. 3086(a), 26 N.J.R. 1667(a).

Pursuant to Executive Order No. 66(1978), Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.1995 d.618, effective November 6, 1995, and Subchapter 2, Motor Vehicle Advertising Practices, Subchapter 6, Deceptive Practices Concerning Automotive Sales Practices, Subchapter 7, Deceptive Practices Concerning Automotive Repairs and Advertising, and Subchapter 8, Tire Distributors and Dealers, were recodified as Subchapter 26A, Motor Vehicle Advertising Practices, Subchapter 26B, Automotive Sales Practices, Subchapter 26C, Automotive Repairs, and Subchapter 26D, Tire Distributors and Dealers, by R.1995 d.618, effective December 4, 1995. See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

Subchapter 28, Motor Vehicle Leasing, was adopted as R.1996 d.129, effective March 4, 1996. See: 27 N.J.R. 4130(a), 28 N.J.R. 1394(b).

Subchapter 26E, Motorized Wheelchair Dispute Resolution, was adopted as R.1996 d.407, effective August 19, 1996. See: 28 N.J.R. 2320(a), 28 N.J.R. 3965(a).

Subchapter 26F, Unfair Trade Practices—Used Motor Vehicles—Sale and Warranty, was adopted as R.1999 d.45, effective February 1, 1999. See: 30 N.J.R. 518(a), 31 N.J.R. 446(a).

Pursuant to Executive Order No. 66(1978), Chapter 45A, Administrative Rules of the Division of Consumer Affairs, was readopted as R.2000 d.460, effective October 20, 2000. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. DECEPTIVE MAIL ORDER PRACTICES**

**13:45A-1.1 General provisions**

(a) Without limiting any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., this rule makes unlawful thereunder some specific practices in the mail order or catalog business.

(b) It is an unlawful practice in connection with the advertisement or sale of merchandise for a person conducting a mail order or catalog business to accept money through the mail or any electronic transfer medium, for merchandise ordered by mail, telephone, facsimile transmission or electronic mail and then permit six weeks to elapse without either:

1. Delivering or mailing the merchandise order; or
2. Making a full refund; or
3. Sending the consumer a letter or notice advising the consumer of the duration of an expected delay or the substitution of merchandise of equivalent or superior quality, and offering to send a refund within one week if so requested. If a proposal to substitute merchandise is made, it shall describe, in specific detail, how the substituted merchandise differs from the merchandise ordered; or
4. Sending the consumer substituted merchandise of equivalent or superior quality, together with:

i. A written notice offering, without reservation, to accept the return of the merchandise at the seller's expense within 14 days of receipt of the merchandise and, upon request, the consumer's choice of either, a refund of cash paid, including the amount of postage to return the item, or a credit; and

ii. A postage-paid letter or card on which the consumer may indicate whether he wishes the purchase price to be refunded or credited to his account within 14 days of receipt of the letter or card by the seller. The consumer's request entered on such a letter or card must be honored by the seller; and

iii. The written notice and postage-paid letter or card, as stated in (b)4i and ii above, need not be sent with the merchandise, if in lieu thereof, a statement that the seller will accept the return of the merchandise for a period of at least 14 days without reservation is printed in the catalog itself.

(c) For purposes of (b)3 and 4 above, merchandise may not be considered of "equivalent or superior quality" if it is not substantially similar to the merchandise ordered or not fit for the purposes intended, or if the seller normally offers the substituted merchandise at a price lower than the price of the merchandise ordered.

(d) Subsection (b) above does not apply:

1. To merchandise ordered pursuant to an open-end credit plan as defined in the Federal Consumer Credit Protection Act or any other credit plan pursuant to which the consumer's account was opened prior to the mail order in question, and under which the creditor may permit the customer to make purchases from time to time from the creditor or by use of a credit card; or

2. When all advertising for the merchandise contains a notice (which, in the case of printed advertising, shall be in a type size at least as large as the price) that delay may be expected of a specified period. In such cases, one of the events described in (b) above must occur no later than one week after expiration of the period specified in the advertisement; or

3. To merchandise, such as quarterly magazines, which by their nature are not produced until a future date and for that reason cannot be stocked at the time of order; or

4. To installments other than the first of merchandise, such as magazine subscriptions, ordered for serial delivery.

(e) It is an unlawful practice in connection with the advertisement or sale of merchandise for a person conducting a mail order or catalog business to fail to disclose the legal name of the company and the complete and permanent street address from which the business is actually conducted in any materials, including advertising and promotional materials, order blanks and order forms, which contain a mailing address other than the actual street address from which the business actually engages in or conducts business.

(f) The provisions of this section shall apply to any person who conducts a mail order or catalog business in or from the State of New Jersey or who advertises or sells merchandise via mail order or catalog into this State.

Amended by R.1995 d.618, effective December 4, 1995.  
See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

**Case Notes**

Franchise arrangement; application of New Jersey Consumer Fraud Act. *J & R Ice Cream Corp. v. California Smoothie Licensing Corp.*, C.A.3 (N.J.)1994, 31 F.3d 1259.

Purchaser of rail cars was not a "consumer" and the car design was not "merchandise" under New Jersey Consumer Fraud Act. *R.J. Longo Const. Co., Inc. v. Transit America, Inc.*, D.N.J. 1996, 921 F.Supp. 1295.

Multi-million dollar transaction between large corporations not covered by Consumer Fraud Act. *BOC Group, Inc. v. Lummus Crest, Inc.*, 251 N.J.Super. 271, 597 A.2d 1109 (L.1990).

Action against gas company for misuse of Purchased Gas Adjustment Clause was not cognizable under the Consumer Fraud Act; Public Utilities Commission has exclusive jurisdiction over misuse of such clauses. *Daaleman v. Elizabethtown Gas Co.*, 77 N.J. 267, 390 A.2d 566 (1978).

Respondent's motion to depose the Executive Director of the Office of Consumer Protection, in furtherance of defense that inspection processes were arbitrary and capricious, denied due to lack of good cause showing that information could not be otherwise obtained. *Div. of Consumer Affairs v. Acme Markets, Inc.*, 3 N.J.A.R. 210 (1981).

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SUBCHAPTER 2. (RESERVED)

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SUBCHAPTER 3. SALE OF MEAT AT RETAIL

**13:45A-3.1 Definitions**

The following words and terms, when used in this Subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Back ribs" means ribs derived from the rib area of pork loin.

"Bottom sirloin butt" means meat derived from the posterior portion of the loin of cattle after removal of the short loin and which is the lower portion (ventral side) of the sirloin after removal of the top sirloin butt (dorsal side) by a cut following the natural muscle seam (blue tissue).

"Club steak" means meat derived from the anterior end (rib end) of the short loin of cattle or the posterior end (loin end) of the rib. Any labeling of or advertising for "club steak" shall indicate short loin or rib, whichever is appropriate.

**13:45A-21.4 Recordkeeping requirements**

Complete and accurate records of all meat and/or poultry purchased as kosher shall be kept by dealers. This shall include the name and address of the slaughterhouse, wholesaler or other source from which such purchases are made, the dates, quantities and identity or nature of meat and/or poultry, and copies of all invoices and bills of sale. A dealer shall retain such records on its premises for a two year period following the purchase of properly identified kosher meat and/or poultry. Wash letters as referred to in N.J.A.C. 13:45A-21.1 shall be kept as long as the meat is in possession of the dealer and shall be kept attached to its appropriate invoice.

**13:45A-21.5 Filing requirements**

(a) Every dealer shall file annually with the Director:

1. If the dealer is under rabbinical supervision, a letter, in English, from a supervising rabbi or rabbinical agency that the dealer is rabbinically supervised. The letter shall include the name and address of the person providing the certification, the date the letter was issued, the date it becomes effective, the date it expires, the name and address of the dealer receiving certification and the type of establishment certified;

2. In the case of products produced on behalf of another person, a letter, in English, from the supervising rabbi or rabbinical agency that states the name and address of the person providing the certification, the date the letter was issued, the date it becomes effective, the date it expires, the name and address of the manufacturer receiving certification, the type of establishment certified, and where applicable, the specific products and brands certified; or

3. If the establishment is not under rabbinical supervision, a letter so stating.

(b) Any individual or organization giving rabbinical supervision to any dealer located in New Jersey shall file annually with the Director a document listing the name, address and type of each establishment that is supervised.

(c) Dealers required to file pursuant to this section shall provide written notification to the Director of any change related to rabbinical supervision, represented status, address or ownership status within seven business days of such change.

(d) Any person whose sole representation of kosher products is limited to properly sealed packages prepared by others shall be exempt from the requirements of this section.

**13:45A-21.6 Inspections of dealers**

(a) Inspections are to be conducted by authorized inspectors of the Division.

(b) For the purpose of making any inspection an inspector shall have a right of entry to, upon and through the business premises of persons making any representation of kosher.

**13:45A-21.7 Unlawful practices**

(a) In addition to a violation of any other laws, the following shall constitute an unlawful practice under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq.:

1. Failure to comply with the disclosure requirements of N.J.A.C. 13:45A-21.2;

2. Failure to comply with the filing requirements of N.J.A.C. 13:45A-21.5;

3. Failure to conform sales practices with the posted disclosures;

4. Failure to conform posted disclosures with the disclosure filed with the Division;

5. Use of any of the following in the advertisement or sale of any food by a dealer that fails to post or file the required disclosure or by a person not representing itself as selling kosher food:

i. By direct statements, orally or in writing, that the food sold is kosher or pareve;

ii. By display or by inscription on any food or its package, container or contents, the word "kosher", "pareve", "Glatt" or "rabbinical supervision" or similar expression, in any language, or by any sign, emblem, insignia, six-pointed star, Menorah, symbol or mark in simulation of the word kosher unless such inscription is on a properly sealed package; or

iii. By display on any interior or exterior sign, menu or otherwise, or by advertisement, either oral or in writing, the words "kosher-style", "kosher-type", "Jewish", "Hebrew", "holiday (Jewish) foods", "traditional (Jewish)", "Bar Mitzvah", "Bat Mitzvah" or other similar words, either alone or in conjunction with the word "type", "style" or other similar expression, unless there is clearly and conspicuously stated a disclaimer in the same size type or letters in some prominent place or location on the sign or menu or in the case of an advertisement in type no smaller than the smallest type in the advertisement, and in no event less than 10-point type, that the product or products offered for sale are not represented as kosher.

(1) The disclaimer shall appear in a box within the advertisement and shall be preceded with the word "NOTICE" or other similar word, in not smaller than bold 14-point type.

(2) An advertisement that utilizes any kosher symbol that also promotes the sale of non-kosher food is in violation of this section unless there is clearly and conspicuously stated in the advertisement a disclaimer in accordance with the requirement of this section,

that some of the food offered for sale is not represented to be kosher;

6. By advertising an establishment as being under rabbinical supervision without including in the advertisement the name of the supervising rabbi or agency;

7. By representing a food and/or an establishment as being under rabbinical supervision when that food and/or establishment is not in conformance with the requirements of that supervision;

8. Use by any person of a recognized kosher food symbol, including but not limited to OU, OK, Kof-K, Triangle-K, Star-K, without first obtaining written authorization from the person or agency represented by that symbol;

9. Use of the word(s) "kosher" or "pareve" or a kosher symbol insignia or the letter(s) "K", "KM," "KP" or "KD", on properly sealed packages that are not produced under rabbinical supervision, shall bear the statement "not under rabbinical supervision" in bold type on the label;

10. Use of the letter "P" as part of a kosher symbol on any product when that product is not represented as kosher for Passover;

11. Possession by any person, other than the manufacturer or packer at its premises, of kosher or kosher for Passover identification bearing a kosher symbol, unless the certifying entity of that symbol authorizes application of that symbol to that product on that premise;

12. Possession by any person of meat and/or poultry represented as having been slaughtered to be sold as kosher, when that meat and/or poultry is not properly identified with the slaughterhouse tag and/or plumba or the wholesaler's tag;

13. Failure to comply with the labeling requirements of N.J.A.C. 13:45A-21.3;

14. Failure to comply with the recordkeeping requirements of N.J.A.C. 13:45A-21.4;

15. Failure to allow an inspector entry upon the business premises of a dealer or to interfere in any way with an inspection;

16. Failure to respond in a timely fashion to an inquiry conducted by the Division;

17. Failure to attend any scheduled proceeding as directed by the Division. In the event that a person elects to retain counsel for the purpose of representation in any such proceeding, it shall be the person's responsibility to do so in a timely fashion. The failure of a person to retain counsel, absent a showing of good cause for such failure, shall not require an adjournment of the proceeding;

18. Failure to answer any question pertinent to an inquiry made pursuant to N.J.S.A. 56:8-3, or other applicable law, unless the response is subject to a bona fide claim of privilege; or

19. Failure to make a proper and timely response by way of appearance and/or production of documents to any subpoena issued pursuant to N.J.S.A. 56:8-3 or as otherwise may be provided by law.

#### Case Notes

Regulations covering kosher products had a secular purpose and were valid. *Ran-Dav's County Kosher, Inc. v. State*, 243 N.J.Super. 232, 579 A.2d 316 (A.D.1990), reversed 129 N.J. 141, 608 A.2d 1353, certiorari denied 113 S.Ct. 1366, 507 U.S. 952, 122 L.Ed.2d 744.

Test to determine validity of kosher product regulations was not whether there were any circumstances where regulations were valid or invalid. *Ran-Dav's County Kosher, Inc. v. State*, 243 N.J.Super. 232, 579 A.2d 316 (A.D.1990), reversed 129 N.J. 141, 608 A.2d 1353, certiorari denied 113 S.Ct. 1366, 507 U.S. 952, 122 L.Ed.2d 744.

#### 13:45A-21.8 Presumptions

Possession by a dealer of any product not in conformance with its disclosure is presumptive evidence that the dealer is in possession of that food with the intent to sell.

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#### SUBCHAPTER 22. (RESERVED)

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#### SUBCHAPTER 23. DECEPTIVE PRACTICES CONCERNING WATERCRAFT REPAIR

##### 13:45A-23.1 Definitions

"Customer" means the owner, or any family member, employee or any other person whose use of the watercraft is authorized by the owner.

"Director" means the Director of the Division of Consumer Affairs.

"Repair of watercraft" means all maintenance and repair to such watercraft, its engine or motor, but excluding lubrication, oil changes, installing light bulbs, and other such minor accessories and services. No service or accessory to be installed shall be excluded for purpose of this rule if the Director determines that the performance of the service or the installation of an accessory requires mechanical expertise has given rise to a high incidence of fraud or deceptive practices or involves a part of such watercraft essential to its safe operation.