

**21 NCAC 40 .0205            BAITING OR DECEPTIVE ADVERTISING**

(a) Statements regarding optical goods and services must be accurate and truthful pursuant to Article 1, Chapter 75, of the North Carolina General Statutes. Deceptive advertising of any kind is unlawful. Any advertising that tends to mislead the consumer is interpreted to be unlawful.

(b) If an item or service is advertised for sale but the offer is qualified the qualification must be conspicuously placed in the advertisement. For example, if spectacles or eyeglasses are offered for sale and a second pair is offered at a special or reduced price, the advertisement must state expressly whether the second pair is other than a duplicate of the first pair purchased. Likewise if a picture, illustration or description is included in the advertisement, it must accurately represent the item for sale. Bait advertising is an alluring but insincere offer to sell a product or service which the advertiser does not actually wish to sell at the price advertised. A seller may not in any way discourage the purchase of the advertised product. Specifically, he may not refuse to show or sell the advertised product or disparage the same in an attempt to sell another product. Furthermore, he may not demonstrate or show an unattractive or shopworn item or product in place of the advertised product. When a product is offered for sale at a discounted price, the discount must be truthful. In order to be truthful, the discounted price must be based upon a bona fide original price. A bona fide original price is established by selling the product at the original price for a majority of the time that the product is offered for sale.

(c) If the seller offers in an advertisement, whether written, oral, electronic or otherwise, a certificate, check payable to bearer or any coupon representing cash or a discount in any amount off the cost of a pair of spectacles or eyeglasses, the seller must be able to prove that the price has not been increased by that amount or more for the duration of the advertised offer or sale, that is, prior to the advertised discounted sale.

*History Note:    Authority G.S. 90-249;  
                      Eff. February 1, 1976;  
                      Amended Eff. July 1, 1991; February 1, 1989; November 1, 1981; September 6, 1977;  
                      Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December  
                      22, 2018.*