

813.60 TRADE REGULATION - COMMERCE - INTRODUCTION.

NOTE WELL: Some, but not all, of the statutory "violation" provisions of Chapter 75 require, as an element of proof, that some connection with commerce be proven. In most cases, commerce will not be a contested issue. Normally, the parties will stipulate that commerce has been affected or the court will give a peremptory instruction to that effect. Where commerce is contested, however, one of the following instructions should be given. Those violations and their commerce requirements are:

1. Contracts or Conspiracies in Restraint of Trade¹ (N.C.P.I.-Civil 813.20), which must restrain "trade or commerce."

2. Unfair and Deceptive Methods of Competition and Unfair or Deceptive Acts or Practices² (N.C.P.I.-Civil 813.21), which must involve methods or practices "in or affecting commerce."

3. Representation of Winning a Prize³ (N.C.P.I.-Civil 813.35), Representation of Eligibility to Win a Prize⁴ (N.C.P.I.-Civil 813.36), Representation of Being Specially Selected⁵ (N.C.P.I.-Civil 813.37), and Simulation of Checks and Invoices⁶ (N.C.P.I.-Civil 813.38), which all must involve an actor "engaged in commerce."

The commerce instruction for Contracts or Conspiracies in Restraint of Trade is already incorporated in N.C.P.I.-Civil 813.20 (Issue of Violation).

The commerce instructions for the other two categories of trade regulation violations are as follows:

N.C.P.I.-Civil 813.62

Trade Regulation - Commerce - Unfair and Deceptive Methods of Competition and Unfair or Deceptive Trade Practices

N.C.P.I.-Civil 813.63

Trade Regulation - Commerce -
Representation of Winning a Prize,
Representation of Eligibility to Win a
Prize, Representation of Being
Specially Selected, and Simulation of
Checks and Invoices.

1 N.C. Gen. Stat. § 75-1.

2 N.C. Gen. Stat. § 75-1.1.

3 N.C. Gen. Stat. § 75-32.

4 N.C. Gen. Stat. § 75-33.

5 N.C. Gen. Stat. § 75-34.

6 N.C. Gen. Stat. § 75-35.