

**Ala. Code 1975, § 13A-9-43**

**Bait Advertising**

The defendant is charged with bait advertising.

A person commits the crime of bait advertising if in any manner, including advertising or other means of communication to the public or to a substantial number of persons, he/she offers to sell property or services with the intent, plan or purpose not to sell or provide the advertised property or services: (1) at the price at which he/she offered them; or (2) in a quantity sufficient to meet reasonably expected public demand, unless the advertisement discloses a limitation of quantity; or (3) at all.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The Defendant offered to sell property or services, **[describe the property or services]**,
- (2) The Defendant did so with the intent, plan or purpose not to sell or provide the advertised property or services:
  - (A) At the price at which he/she offered them; **(OR)**
  - (B) In a quantity sufficient to meet reasonably expected public demand, unless the advertisement discloses a limitation of quantity; **(OR)**
  - (C) At all; **(AND)**
- (3) The Defendant did so in any manner, including advertising or other means of communication to the public or to a substantial number of persons.

**[Read as appropriate]:** *Property* is any money, tangible or intangible personal property, property (whether real or personal) the location of which can be changed (including things growing on, affixed to, or found in land and documents, although the rights represented hereby have no physical location), contract right, chose-in-action, interest in a claim to wealth, credit, or any other article or thing of value of any kind. [13A-8-1(11)]

**[Read as appropriate]:** *Services* includes, but is not necessarily limited to, labor, professional services, transportation, telephone or other public services, accommodation in motels, hotels, restaurants or elsewhere, admission to exhibitions, computer services, and the supplying of equipment for use. [13A-9-40(b) & 13A-8-10(b)]

A person acts *intentionally* with respect to a result or to conduct when his/her purpose is to cause that result or to engage in that conduct. [13A-2-2(1)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of bait advertising, then you shall find the defendant guilty of bait advertising.

If you find that the State has failed to prove any one or more of the elements of bait advertising, then you cannot find the defendant guilty of bait advertising.

### **Use Notes**

A television or radio broadcasting station, or a publisher or printer of a newspaper, magazine or other form of printed advertising, which broadcasts, publishes or prints a false advertisement or a bait advertisement of another person or a telephone company which furnishes service to a subscriber, without knowledge of the advertiser's or subscriber's intent, plan or purpose, does not commit a crime under this section. [13A-9-44]

[Approved 02-27-17.]