



HOUSE BILL No. 5486

April 20 1994 Introduced by Reps LeTarte Gernaat Baade Bobier Crissman Voorhees Middleton Horton McBryde Kukuk Hammerstrom McManus Weeks Nye Walberg Schroer Martin Randall Brackenridge Griffin Galloway Johnson Gilmer and Goschka and referred to the Committee on Senior Citizens

A bill to amend sections 2 and 3 of Act No 227 of the Public Acts of 1971, entitled

An act to prescribe the rights and duties of parties to home solicitation sales '

being sections 445 112 and 445 113 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 2 and 3 of Act No 227 of the Public
2 Acts of 1971, being sections 445 112 and 445 113 of the Michigan
3 Compiled Laws, are amended to read as follows

4 Sec 2 (1) Except as provided in subsection (5), in addi-
5 tion to any right otherwise to revoke an offer, a buyer has the
6 right to cancel a home solicitation sale until midnight of the
7 third business day after the day on which the buyer signs an
8 agreement or offer to purchase which complies with this act IF

1 THE BUYER IS 75 YEARS OF AGE OR OLDER, THE BUYER HAS THE RIGHT TO
2 CANCEL UNTIL MIDNIGHT OF THE FIFTEENTH BUSINESS DAY AFTER THE DAY
3 ON WHICH THE BUYER SIGNS AN AGREEMENT OR OFFER TO PURCHASE

4 (2) Cancellation occurs when the buyer mails or delivers the
5 notice of cancellation provided for in section 3(2) or any other
6 written notice, or sends a telegram, to the seller at the address
7 stated in the notice of cancellation

8 (3) A notice of cancellation or other written notice, if
9 mailed to the seller is given when it is deposited in a mailbox
10 properly addressed and postage prepaid

11 (4) A written notice or telegram given by the buyer other
12 than the notice of cancellation need not take a particular form
13 and is sufficient if it indicates by any form of written expres-
14 sion the intention of the buyer not to be bound by the home
15 solicitation sale

16 (5) A buyer may not cancel a home solicitation sale if the
17 buyer requests the seller to provide goods or services without
18 delay because of an emergency — and ALL OF THE FOLLOWING APPLY

19 (a) ~~the~~ THE seller in good faith makes a substantial
20 beginning of performance of the contract before the buyer gives
21 notice of cancellation —

22 (b) ~~the~~ THE buyer furnishes the seller with a separate
23 dated and signed personal statement in the buyer s handwriting
24 describing the situation requiring immediate remedy and expressly
25 acknowledging and waiving the right to cancel the sale ~~within 3~~
26 ~~business days, and~~ AS PROVIDED BY THIS ACT

1 (c) ~~in the case of~~ IF THE SALE IS FOR goods, the goods
2 cannot be returned to the seller in substantially as good
3 condition as when received by the buyer

4 (6) If a home solicitation sale is also subject to the
5 debtor s right to rescind certain transactions, the buyer may
6 proceed either under those provisions or under this section

7 Sec 3 (1) In a home solicitation sale unless the buyer
8 requests the seller to provide goods or services ~~without delay~~
9 ~~in an emergency~~ PURSUANT TO SECTION 2(5), the seller shall
10 present to the buyer and obtain the buyer's signature to a writ-
11 ten agreement or offer to purchase which designates as the date
12 of the transaction the date on which the buyer actually signs
13 The agreement or offer to purchase shall contain a statement
14 substantially as follows in immediate proximity to the space
15 reserved in the agreement or offer to purchase for the signature
16 of the buyer

17 You, the buyer may cancel this transaction at any time
18 prior to midnight of the third business day after the date of
19 this transaction AND IF YOU ARE 75 YEARS OF AGE OR OLDER AT ANY
20 TIME PRIOR TO MIDNIGHT OF THE FIFTEENTH BUSINESS DAY AFTER THE
21 DATE OF THIS TRANSACTION See the attached notice of cancella-
22 tion form for an explanation of this right "

23 (2) The seller shall attach to the copy or cause to be
24 printed on the reverse side of the written agreement or offer to
25 purchase retained by the buyer a notice of cancellation in dupli-
26 cate which shall appear as follows

1 notice of cancellation

2 (enter date of transaction)
3 _____
4 (date)

4 You may cancel this transaction without any penalty or
5 obligation, within 3 business days from the above date AND IF YOU
6 ARE 75 YEARS OF AGE OR OLDER, WITHIN 15 BUSINESS DAYS FROM THE
7 ABOVE DATE

8 If you cancel, any property traded in, any payments made by
9 you under the contract or sale and any negotiable instrument
10 executed by you will be returned within 10 business days follow-
11 ing receipt by the seller of your cancellation notice and any
12 security interest arising out of the transaction will be
13 canceled

14 If you cancel, you must make available to the seller at your
15 residence in substantially as good condition as when received
16 any goods delivered to you under this contract or sale or you
17 may if you wish comply with the instructions of the seller
18 regarding the return shipment of the goods at the seller's
19 expense and risk

20 If you do make the goods available to the seller and the
21 seller does not pick them up within 20 days of the date of your
22 notice of cancellation, you may retain or dispose of the goods
23 without any further obligation If you fail to make the goods
24 available to the seller or if you agree to return the goods to
25 the seller and fail to do so, then you remain liable for per-
26 formance of all obligations under the contract

27 To cancel this transaction, mail or deliver a signed and
28 dated copy of this cancellation notice or any other written

1 notice or send a telegram to (name of seller) at (address of
 2 seller s place of business) not later than midnight on

3 _____
 4 (date)
 5 I hereby cancel this transaction
 6 _____
 7 (date)

8 _____
 9 (buyer s signature)

10
 11 (3) The notices required by this section shall be in not
 12 less than 10-point bold type and shall be 2 points larger than
 13 the text of the contract A written agreement or offer to pur-
 14 chase and the notice of cancellation attached to the agreement or
 15 offer shall be written in the same language as that used in any
 16 oral presentation ~~which~~ THAT was given to facilitate sale of
 17 the goods or services The seller shall enter on the blanks in
 18 the notice of cancellation the date of transaction, which is the
 19 date the buyer signs the written agreement, and the date for
 20 mailing the notice of cancellation An error in entering this
 21 information shall not diminish the buyer s rights under this
 22 act

23 (4) Until the seller has complied with this section, the
 24 buyer may cancel the home solicitation sale by notifying the
 25 seller in any manner and by any means of his or her intention to
 26 cancel