

Act No. 138
Public Acts of 2006
Approved by the Governor
May 10, 2006
Filed with the Secretary of State
May 12, 2006
EFFECTIVE DATE: May 12, 2006

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Reps. Huizenga, Dillon, Stahl and Green

ENROLLED HOUSE BILL No. 5811

AN ACT to amend 1971 PA 227, entitled "An act to prescribe the rights and duties of parties to home solicitation sales; to regulate certain telephone solicitation; to provide for the powers and duties of certain state officers and entities; and to prescribe penalties and remedies," by amending section 3 (MCL 445.113), as amended by 2002 PA 612.

The People of the State of Michigan enact:

Sec. 3. (1) In a home solicitation sale, unless the buyer requests the seller to provide goods or services without delay in an emergency, the seller shall present to the buyer and obtain the buyer's signature to a written agreement or offer to purchase that designates as the date of the transaction the date on which the buyer actually signs.

The agreement or offer to purchase shall contain a statement substantially as follows in immediate proximity to the space reserved in the agreement or offer to purchase for the signature of the buyer:

"You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right. Additionally, the seller is prohibited from having an independent courier service or other third party pick up your payment at your residence before the end of the 3-business-day period in which you can cancel the transaction."

(2) The seller shall attach to the copy or cause to be printed on the reverse side of the written agreement or offer to purchase retained by the buyer a notice of cancellation in duplicate that shall appear as follows:

"notice of cancellation

(enter date of transaction)

(date)

You may cancel this transaction, without any penalty or obligation, within 3 business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

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

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make

the goods available to the seller or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to (name of seller), at (address of seller's place of business) not later than midnight on

(date)

I hereby cancel this transaction.

(date)

(buyer's signature) "

(3) The notices required by this section shall be in not less than 10-point bold type and shall be 2 points larger than the text of the contract. A written agreement or offer to purchase and the notice of cancellation attached to the agreement or offer shall be written in the same language as that used in any oral presentation that was given to facilitate sale of the goods or services. The seller shall enter on the blanks in the notice of cancellation the date of transaction, which is the date the buyer signs the written agreement, and the date for mailing the notice of cancellation. An error in entering this information shall not diminish the buyer's rights under this act.

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

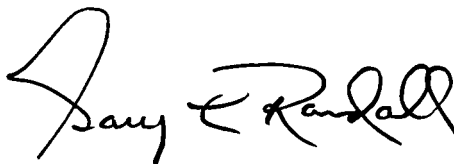
(5) This section does not apply to a home solicitation sale where the seller engaged in a telephone solicitation of the sale if sections 505 to 507 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2505 to 484.2507, apply to the solicitation or sale.

(6) This section does not apply to a home solicitation sale of natural gas or electricity if the seller is any of the following:

(a) An electric utility or gas utility that is regulated by the commission and complies with any orders or tariffs issued by the commission concerning home solicitations by alternative electric suppliers or alternative gas suppliers in making the solicitation.

(b) An alternative gas supplier or alternative electric supplier licensed by the commission that complies with any applicable orders or tariffs issued by the commission concerning home solicitations in making the solicitation.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor