

# HOUSE BILL 959

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CF SB 929

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By: **Delegate Kramer**

Introduced and read first time: February 6, 2017

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Consumer Protection – Door-to-Door Sales**

3 FOR the purpose of recodifying, in part, the definition of “door-to-door sale” as provisions  
4 that establish the application of the Maryland Door-to-Door Sales Act; altering the  
5 transactions to which the Maryland Door-to-Door Sales Act applies; making stylistic  
6 and clarifying changes; and generally relating to the Maryland Door-to-Door Sales  
7 Act.

8 BY repealing and reenacting, with amendments,  
9 Article – Commercial Law  
10 Section 14–301  
11 Annotated Code of Maryland  
12 (2013 Replacement Volume and 2016 Supplement)

13 BY adding to  
14 Article – Commercial Law  
15 Section 14–301.1  
16 Annotated Code of Maryland  
17 (2013 Replacement Volume and 2016 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
19 That the Laws of Maryland read as follows:

20 **Article – Commercial Law**

21 14–301.

22 (a) In this subtitle the following words have the meanings indicated.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(b) “Business day” means any calendar day except Sunday or the following business holidays: New Year’s Day, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving Day, and Christmas Day.

(c) “Consumer goods” and “consumer services” mean:

(1) Goods or services purchased, leased, or rented primarily for personal, family, or household purposes; and

(2) Courses of instruction or training regardless of the purpose for which they are taken.

(d) **[(1)]** “Door-to-door sale” means a sale, lease, or rental of consumer goods or consumer services under single or multiple contracts with a purchase price of \$25 or more, in which:

**[(i)] (1)** The seller or the seller’s representative personally solicits the sale, including a solicitation in response to or following an invitation by the buyer; and

**[(ii)] (2)** The buyer’s agreement or offer to purchase is made at a place other than the place of business of the seller.

**[(2)]** “Door-to-door sale” does not include a transaction:

(i) Made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment which has a fixed permanent location where the consumer goods are exhibited or the consumer services are offered for sale on a continuing basis;

(ii) In which the consumer may rescind under the provisions of the federal Consumer Credit Protection Act or any regulation adopted under the Act;

(iii) In which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer’s handwriting which describes the situation that requires immediate remedy and expressly acknowledges and waives the right to cancel the sale within three business days for a contract other than a home improvement contract, or, for a home improvement contract, 5 business days or 7 business days if the buyer is at least 65 years old, and the seller in good faith makes a substantial beginning of the performance of the contract;

(iv) Conducted and consummated entirely by mail or telephone, without any other contact between the buyer and the seller or its representative before delivery of the consumer goods or performance of the consumer services;

(v) In which the buyer has initiated the contact and specifically requests the seller to visit the buyer’s home to repair or perform maintenance on the buyer’s

personal property, except that, if, in the course of the visit, the seller sells the buyer the right to receive any additional consumer services or consumer goods, other than replacement parts necessarily used to perform the maintenance or to make the repairs, the sale of the additional consumer goods or consumer services is not within this exclusion; or

(vi) Which pertains to the sale or rental of real property, to the sale of insurance, or to the sale of securities or commodities by a broker-dealer registered with the Securities and Exchange Commission or with the Division of Securities of this State.]

(e) (1) "Home improvement contract" has the meaning stated in § 8-101 of the Business Regulation Article.

(2) "Home improvement contract" does not include an oral or written agreement between a contractor and an owner for the installation of a smoke detector, a heat detector, or a carbon monoxide detector.

(f) "Person" includes an individual, corporation, business trust, statutory trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(g) "Place of business" means the main or permanent branch office or local address of a seller.

(h) "Purchase price" means the total price paid or to be paid for the consumer goods or consumer services, including all interest and service charges.

(i) "Sale" means a door-to-door sale.

(j) "Seller" means a person engaged in the door-to-door sale of consumer goods or consumer services.

#### **14-301.1.**

**(A) THIS SUBTITLE DOES NOT APPLY TO A TRANSACTION IF:**

**(1) (I) THE TRANSACTION IS MADE:**

**1. PURSUANT TO PRIOR NEGOTIATIONS; AND**

**2. IN THE COURSE OF A VISIT BY THE BUYER TO A RETAIL BUSINESS ESTABLISHMENT; AND**

**(II) THE RETAIL BUSINESS ESTABLISHMENT HAS A FIXED PERMANENT LOCATION WHERE, ON A CONTINUING BASIS:**

**1. THE CONSUMER GOODS ARE EXHIBITED; OR**

1                               2.     THE CONSUMER SERVICES ARE OFFERED FOR SALE;

2                               (2)    THE CONSUMER MAY RESCIND THE TRANSACTION UNDER THE  
3 PROVISIONS OF THE FEDERAL CONSUMER CREDIT PROTECTION ACT OR ANY  
4 REGULATION ADOPTED UNDER THE ACT;

5                               (3)    (I)     THE BUYER HAS INITIATED THE CONTACT;

6                               (II)   THE GOODS OR SERVICES ARE NEEDED TO MEET A BONA  
7 FIDE IMMEDIATE PERSONAL EMERGENCY OF THE BUYER, INCLUDING THE ADDITION  
8 OF COMPONENTS NECESSARY FOR THE RENOVATION OR CONSTRUCTION OF  
9 RESIDENTIAL PROPERTY TO IMPROVE THE ACCESSIBILITY OF THE RESIDENTIAL  
10 PROPERTY FOR INDIVIDUALS WHO ARE MOBILITY IMPAIRED OR OTHERWISE  
11 DISABLED;

12                              (III)   THE BUYER FURNISHES TO THE SELLER A SEPARATE,  
13 PERSONAL STATEMENT THAT:

14                              1.     IS DATED;

15                              2.     IS SIGNED BY THE BUYER;

16                              3.     IS IN THE BUYER'S HANDWRITING;

17                              4.     DESCRIBES THE SITUATION THAT REQUIRES  
18 IMMEDIATE REMEDY; AND

19                              5.     EXPRESSLY ACKNOWLEDGES AND WAIVES THE RIGHT  
20 TO CANCEL THE SALE:

21                              A.     FOR A CONTRACT OTHER THAN A HOME  
22 IMPROVEMENT CONTRACT, WITHIN 3 BUSINESS DAYS;

23                              B.     FOR A HOME IMPROVEMENT CONTRACT IN WHICH  
24 THE BUYER IS UNDER 65 YEARS OLD, 5 BUSINESS DAYS; OR

25                              C.     FOR A HOME IMPROVEMENT CONTRACT IN WHICH  
26 THE BUYER IS AT LEAST 65 YEARS OLD, 7 BUSINESS DAYS; AND

27                              (IV)   THE SELLER IN GOOD FAITH MAKES A SUBSTANTIAL  
28 BEGINNING OF THE PERFORMANCE OF THE CONTRACT;

**(4) THE TRANSACTION IS:**

**(I) CONDUCTED AND CONSUMMATED ENTIRELY BY MAIL, TELEPHONE, OR ELECTRONIC COMMUNICATIONS; AND**

**(II) MADE WITHOUT ANY OTHER CONTACT BETWEEN THE BUYER AND THE SELLER OR THE SELLER'S REPRESENTATIVE BEFORE DELIVERY OF THE CONSUMER GOODS OR PERFORMANCE OF THE CONSUMER SERVICES;**

**(5) (I) THE BUYER HAS INITIATED THE CONTACT;**

**(II) THE BUYER SPECIFICALLY REQUESTS THE SELLER TO VISIT THE BUYER'S HOME TO REPAIR OR PERFORM MAINTENANCE ON THE BUYER'S PERSONAL PROPERTY; AND**

**(III) THE SELLER, DURING THE VISIT TO THE BUYER'S HOME, SELLS TO THE BUYER THE RIGHT TO RECEIVE ANY ADDITIONAL CONSUMER GOODS OR CONSUMER SERVICES, THE COST OF WHICH DOES NOT EXCEED THE GREATER OF:**

**1. \$2,500; OR**

**2. 5% OF THE PRICE OF THE CONSUMER GOODS OR CONSUMER SERVICES SPECIFIED IN THE CONTRACT PREVIOUSLY SIGNED BY THE BUYER AND THE SELLER;**

**(6) (I) THE TRANSACTION IS THE RESULT OF A WRITTEN CHANGE ORDER;**

**(II) THE CHANGE ORDER:**

**1. IS AGREED TO BY THE BUYER AND THE SELLER; AND**

**2. IS A PART OF A TRANSACTION UNDER A CONTRACT PREVIOUSLY SIGNED BY THE BUYER AND THE SELLER; AND**

**(III) THE BUYER FURNISHES TO THE SELLER A SEPARATE, PERSONAL STATEMENT THAT:**

**1. IS DATED;**

**2. IS SIGNED BY THE BUYER;**

**3. IS IN THE BUYER'S HANDWRITING;**

1                               4.     GENERALLY DESCRIBES THE CHANGE ORDER; AND

2                               5.     EXPRESSLY ACKNOWLEDGES AND WAIVES THE RIGHT  
3 TO CANCEL THE CHANGE ORDER:

4                               A.     FOR A CONTRACT OTHER THAN A HOME  
5 IMPROVEMENT CONTRACT, WITHIN 3 BUSINESS DAYS;

6                               B.     FOR A HOME IMPROVEMENT CONTRACT IN WHICH  
7 THE BUYER IS UNDER 65 YEARS OLD, 5 BUSINESS DAYS; OR

8                               C.     FOR A HOME IMPROVEMENT CONTRACT IN WHICH  
9 THE BUYER IS AT LEAST 65 YEARS OLD, 7 BUSINESS DAYS; OR

10                   (7)    THE TRANSACTION PERTAINS TO:

11                           (I)    THE SALE OR RENTAL OF REAL PROPERTY;

12                           (II)   THE SALE OF INSURANCE; OR

13                           (III) THE SALE OF SECURITIES OR COMMODITIES BY A  
14 BROKER-DEALER REGISTERED WITH THE SECURITIES AND EXCHANGE  
15 COMMISSION OR THE DIVISION OF SECURITIES OF THE STATE.

16           (B)   (1)   SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS  
17 SUBTITLE APPLIES TO A TRANSACTION IF:

18                           (I)    THE BUYER HAS INITIATED THE CONTACT;

19                           (II)   THE BUYER SPECIFICALLY REQUESTS THE SELLER TO VISIT  
20 THE BUYER'S HOME TO REPAIR OR PERFORM MAINTENANCE ON THE BUYER'S  
21 PERSONAL PROPERTY; AND

22                           (III) THE SELLER, DURING THE VISIT TO THE BUYER'S HOME,  
23 SELLS TO THE BUYER THE RIGHT TO RECEIVE ANY ADDITIONAL CONSUMER GOODS  
24 OR CONSUMER SERVICES, THE COST OF WHICH EXCEEDS THE GREATER OF:

25                           1.     \$2,500; OR

26                           2.     5% OF THE PRICE OF THE CONSUMER GOODS OR  
27 CONSUMER SERVICES SPECIFIED IN THE CONTRACT PREVIOUSLY SIGNED BY THE  
28 BUYER AND THE SELLER.

**(2) THIS SUBTITLE DOES NOT APPLY TO THE SALE OF ADDITIONAL CONSUMER GOODS OR CONSUMER SERVICES DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IF:**

**(I) THE ADDITIONAL CONSUMER GOODS ARE REPLACEMENT PARTS NECESSARILY USED TO PERFORM MAINTENANCE OR TO MAKE REPAIRS SPECIFIED IN A CONTRACT PREVIOUSLY SIGNED BY THE BUYER; OR**

**(II) THE BUYER FURNISHES TO THE SELLER A SEPARATE, PERSONAL STATEMENT THAT:**

**1. IS DATED;**

**2. IS SIGNED BY THE BUYER;**

**3. IS IN THE BUYER'S HANDWRITING;**

**4. GENERALLY DESCRIBES THE ADDITIONAL CONSUMER GOODS OR CONSUMER SERVICES; AND**

**5. EXPRESSLY ACKNOWLEDGES AND WAIVES THE RIGHT TO CANCEL THE ADDITIONAL CONSUMER GOODS OR CONSUMER SERVICES:**

**A. FOR A CONTRACT OTHER THAN A HOME IMPROVEMENT CONTRACT, WITHIN 3 BUSINESS DAYS;**

**B. FOR A HOME IMPROVEMENT CONTRACT IN WHICH THE BUYER IS UNDER 65 YEARS OLD, 5 BUSINESS DAYS; OR**

**C. FOR A HOME IMPROVEMENT CONTRACT IN WHICH THE BUYER IS AT LEAST 65 YEARS OLD, 7 BUSINESS DAYS.**

**SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2017.**