

SENATE BILL 929

I3

7lr2091
CF HB 959

By: **Senator Astle**

Introduced and read first time: February 3, 2017

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2017

CHAPTER _____

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**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 14–301.

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

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

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

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

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

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

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

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

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

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

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

25 (iii) In which the buyer has initiated the contact and the goods or
26 services are needed to meet a bona fide immediate personal emergency of the buyer, and
27 the buyer furnishes the seller with a separate dated and signed personal statement in the
28 buyer’s handwriting which describes the situation that requires immediate remedy and
29 expressly acknowledges and waives the right to cancel the sale within three business days
30 for a contract other than a home improvement contract, or, for a home improvement
31 contract, 5 business days or 7 business days if the buyer is at least 65 years old, and the
32 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

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

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

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

6 **2. THE CONSUMER SERVICES ARE OFFERED FOR SALE;**

7 **(2) THE CONSUMER MAY RESCIND THE TRANSACTION UNDER THE**
8 **PROVISIONS OF THE FEDERAL CONSUMER CREDIT PROTECTION ACT OR ANY**
9 **REGULATION ADOPTED UNDER THE ACT;**

10 **(3) (I) THE BUYER HAS INITIATED THE CONTACT;**

11 **(II) THE GOODS OR SERVICES ARE NEEDED TO MEET A BONA**
12 **FIDE IMMEDIATE PERSONAL EMERGENCY OF THE BUYER, INCLUDING THE ADDITION**
13 **OF COMPONENTS NECESSARY FOR THE RENOVATION OR CONSTRUCTION OF**
14 **RESIDENTIAL PROPERTY TO IMPROVE THE ACCESSIBILITY OF THE RESIDENTIAL**
15 **PROPERTY FOR INDIVIDUALS WHO ARE MOBILITY IMPAIRED OR OTHERWISE**
16 **DISABLED;**

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

19 **1. IS DATED;**

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

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

22 **4. DESCRIBES THE SITUATION THAT REQUIRES**
23 **IMMEDIATE REMEDY; AND**

24 **5. EXPRESSLY ACKNOWLEDGES AND WAIVES THE RIGHT**
25 **TO CANCEL THE SALE:**

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

28 **B. FOR A HOME IMPROVEMENT CONTRACT IN WHICH**
29 **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; AND

(IV) THE SELLER IN GOOD FAITH MAKES A SUBSTANTIAL
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)~~ (5) (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;
4. GENERALLY DESCRIBES THE CHANGE ORDER; AND
5. EXPRESSLY ACKNOWLEDGES AND WAIVES THE RIGHT TO CANCEL THE CHANGE ORDER:

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; OR

~~(7)~~ (6) THE TRANSACTION PERTAINS TO:

(I) THE SALE OR RENTAL OF REAL PROPERTY;

(II) THE SALE OF INSURANCE; OR

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

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

~~(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 EXCEEDS 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.~~

~~(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.