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HOUSE BILL NO. 2422

Offered January 18, 2023

A BILL to amend and reenact §§ 59.1-21.2 and 59.1-21.3 of the Code of Virginia, relating to home solicitation sale; definition; cancellation.

Patron—Batten

Referred to Committee on Commerce and Energy

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-21.2 and 59.1-21.3 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-21.2. Definitions.

A. "Home solicitation sale" means:

1. A consumer sale or lease of goods or services in which the seller or a person acting for him engages (i) in a personal solicitation of the sale or lease or (ii) in a solicitation of the sale or lease by ~~telephonic~~ ~~telephone~~ or other electronic means at any residence other than that of the seller *without prior invitation, appointment, or consent*; and

2. The buyer's agreement or offer to purchase or lease is there given to the seller or a person acting for him.

B. 1. "Home solicitation sale" shall not mean a consumer sale or lease of farm equipment *or a consumer sale made by an entity regulated by the State Corporation Commission's Bureau of Insurance or its affiliates.*

2. It does not include cash sales of less than ~~twenty-five dollars~~ \$25, a sale or lease made pursuant to a preexisting revolving charge account, or a sale or lease made pursuant to prior negotiations between the parties.

3. *It does not include sales made entirely by telephone or electronic means at the initiation of the buyer and without any other contact between the buyer and the seller or its representative prior to the delivery of goods or performance of services.*

C. As used in this chapter, "goods" means tangible personal property and also includes a merchandise certificate whereby a writing is issued by the seller which is not redeemable in cash and is usable in lieu of cash in exchange for goods or services; "seller" means seller or lessor and "buyer" means buyer or lessee.

§ 59.1-21.3. Cancellation of sale.

(1) Except as provided in subsection (5), in addition to any right otherwise to revoke an offer, the buyer has the right to cancel a home solicitation sale until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase which complies with § 59.1-21.4.

(2) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address stated in the agreement or offer to purchase.

(3) Notice of cancellation, if given by mail, is given when it is deposited in a mailbox properly addressed and postage prepaid.

(4) Notice of cancellation given by the buyer need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the buyer not to be bound by the home solicitation sale.

(5) The buyer may not cancel a home solicitation sale if the buyer requests the seller to provide goods or services without delay because of an emergency, and

(a) The seller in good faith makes a substantial beginning of performance of the contract before the buyer gives notice of cancellation, and

(b) In the case of goods, the goods cannot be returned to the seller in substantially as good condition as when received by the buyer, and

(c) The buyer's emergency request is in a dated writing personally signed by the buyer and which expressly states that the buyer understands that he is waiving his right to cancel the sale under the provisions of this act.

(6) *The buyer may not cancel a home solicitation sale if the seller in good faith makes a substantial beginning of performance of the contract at the buyer's request.*

(7) Except as provided in subsection (5), any waiver or modification of a buyer's right to cancel is void and of no effect. In the event the seller obtains from the buyer a waiver or modification of his right to cancel, the buyer's right to cancel shall commence on the first business day following his learning that the waiver or modification is void and of no effect.

INTRODUCED

HB2422