

HOUSE BILL 0088HOUSE BILL 0088

HB0088FT03

AN ACT to amend W.S. 40-12-104(a), 40-12-105(a) by creating a new paragraph (xv) and 40-12-106 relating to consumer protection; defining types of misleading conduct as deceptive trade practice; authorizing the attorney general to file suit to restrain violations of the statute regarding home solicitation sales; defining home solicitation sales to include telephone solicitations; providing exceptions; and providing for an effective date.

Bill McShain Terry L. Huie
Introduced by:

DATE	ACTION	DATE	ACTION
JAN 15 1987	READ FIRST TIME	FEB 20 1987	READ SECOND TIME
	REFERRED TO COM. NO. <u>7</u>		AMENDED AS FOLLOWS <u>HB 0088S21/A</u>
	DELIVERED TO COM. NO. <u>7</u>		DO PASS
JAN 28 1987	RETURNED	FEB 23 1987	READ THIRD TIME <u>Cont. Lst</u>
	<u>Recommended Amend and Do Pass</u> <u>11 ays</u>		<u>29</u> <u>0</u> PASSED <u>1</u> <u>0</u>
FEB 4 1987	CONSIDERED IN COM. OF WHOLE		AYES.....NOES.....EXCUSED.....ABSENT.....
	Standing Com. Amendment <u>HB 88 H51/A</u>	FEB 23 1987	SENT TO HOUSE
	Adopted		Received Amended
	Recommended do pass		<u>House did not concur on Senate Amendments</u>
FEB 5 1987	READ SECOND TIME		Ayes <u>57</u> Noes <u>6</u> Excused <u>1</u> Absent <u>0</u>
FEB 6 1987	READ THIRD TIME		Joint Conf. Comm. appointed
	PASSED		Hold pending House and Senate action
	Ayes <u>59</u> Noes <u>4</u> Excused <u>1</u> Absent <u>0</u>		<u>House TCC #1</u>
	Sent to Senate		<u>1. Rep. McShain</u> <u>1. Sen. Larson</u>
	ENGROSSED		<u>2. Rep. Huie</u> <u>2. Sen. Shinn</u>
2-7-87	Sent to Senate		<u>3. Rep. Enzi</u> <u>3. Sen. Harris</u>
FEB 7 1987	Received from House		<u>HB 88 JCI/AA</u>
	Read first time	FEB 27 1987	House did.....adopt Joint Conf. Comm. Rep.
	Referred to Com. No. <u>7</u>		Ayes <u>27</u> Noes <u>2</u> Excused <u>2</u> Absent <u>0</u>
	Delivered to Com. No. <u>7</u>		Senate did.....adopt Joint Conf. Comm. Rep.
FEB 18 1987	STANDING COMM. REPORT		Ayes <u>24</u> Noes <u>0</u> Excused <u>1</u> Absent <u>0</u>
	RECOMMENDED DO PASS AS AMENDED		RECEIVED FROM SENATE
FEB 19 1987	CONSIDERED IN COM. OF WHOLE		SENT TO LSO FOR ENROLLING
	STANDING COM. AMDT. ADOPTED <u>HB 0088S51/AE</u>		RECEIVED FROM LSO ENROLLED
	DO PASS		REX NO. <u>111</u>
			SIGNED BY SPEAKER <u>2-28-87</u>
			SIGNED BY PRESIDENT <u>2-28-87</u>
			APPROVED BY GOVERNOR <u>3-6-87</u>
			NO. <u>168</u> SESSION LAWS OF WYOMING

Consent List

HB 88 3rd Date 2/23/87

SENATE ROLL CALL FORTY-NINTH WYOMING LEGISLATURE

	Excused	Absent	Ayes	Noes
ARNEY				
BURNETT				
CUNDALL				
DIXON				
DUSL				
EDDINS				
FANOS				
FRISBY				
GRIEVE				
HEALY				
HERBST				
HICKEY				
HINCHLEY <i>W. Hinchley</i>				
KINNEY				
LARSON				
MADER				
NORRIS				
PERRY				
PREVEDEL	✓			
REESE				
SCHMIDT				
SCOTT				
STROOCK				
SULLIVAN				
TRUE				
TURNER				
TWIFORD				
VINICH				
WIEDERSPAHN				
ZIMMER				
MR. PRESIDENT				

PRESENT _____ AYES 29
 NOES 1
 EXCUSED 1
 ABSENT 0
 TOTAL 30

VB 88 JCR #1 ADPT Date 2-26-87

SENATE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Excused	Absent	Ayes	Noes
ARNEY			✓	
BURNETT			✓	
CUNDALL			✓	
DIXON			✓	
DUSL			✓	
EDDINS			✓	
FANOS			✓	
FRISBY			✓	
GRIEVE			✓	
HEALY			✓	
HERBST			✓	
HICKEY			✓	
WHICKLEY WHALEY			✓	
KINNEY			✓	
LARSON			✓	
MADER			✓	
NORRIS			✓	
PERRY	✓			
PREVEDEL			✓	
REESE			✓	
SCHMIDT			✓	
SCOTT			✓	
STROOCK			✓	
SULLIVAN			✓	
TRUE			✓	
TURNER				
TWIFORD			✓	
VINICH			✓	
WIEDERSPAHN			✓	
ZIMMER			✓	
MR. PRESIDENT			✓	

PRESENT _____

AYES	29
NOES	0
EXCUSED	1
ABSENT	0
TOTAL	30

912888 e1/A for the Veterans' home Date 3/25/84

HOUSE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
ARNOLD	✓				ODDE		✓		
BEBOUT	✓				O'TOOLE	✓			
BEHRENS	✓				PARKER	✓			
BIRLEFFI	✓				PERKINS, D.	✓			
BLACKWELL	✓				PERKINS, J.	✓			
BUDD	✓				PLANT	✓			
BURTON	✓				RANKINE	✓			
BYRD	✓				RATLIFF	✓			
CAMERON	✓				ROBERTSON	✓			
CHAMBERLAIN	✓				ROHRBACH	✓			
CROSS	✓				RYCKMAN	✓			
CROWLEY	✓				SCHWOPE	✓			
CUBIN	✓				SHREVE	✓			
DICKEY	✓				SIMONS	✓			
ENZI	✓				STAUFFER	✓			
FREUDENTHAL	✓				TATE	✓			
GERINGER	✓				TEMPEST	✓			
GRANT	✓				THOMAS	✓			
GUICE	✓				TIBBS	✓			
HAGEMAN	✓				TIPPETS	✓			
HANSEN	✓				TIPTON	✓			
HARRISON	✓				TYSDAL	✓			
HINES	✓				WALLIS	✓			
HONAKER	✓				WEAVER	✓			
HOWARD	✓				WILLFORD	✓			
HUMPHREY	✓				WOLFLEY	✓			
JENSEN	✓				ZIMMERMAN	✓			
LUMMIS	✓				ZUMBRUNNEN	✓			
MACMILLAN	✓				MR. SPEAKER	✓			
MALDONADO	✓				PRESENT				
MARTON	✓								
MILVAIN	✓								
MILLER	✓								
MURPHY	✓								

AYES 62
 NOES 2
 EXCUSED _____
 ABSENT _____
 TOTAL 64
 LESS _____

HOUSE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
ARNOLD	✓				ODDE	✓	✓		
BEBOUT	✓				O'TOOLE	✓			
BEHRENS	✓				PARKER	✓			
BIRLEFFI	✓				PERKINS, D.	✓			
BLACKWELL	✓				PERKINS, J.	✓			
BUDD	✓				PLANT	✓			
BURTON	✓				RANKINE	✓			
BYRD	✓				RATLIFF	✓			
CAMERON	✓				ROBERTSON	✓			
CHAMBERLAIN	✓				ROHRBACH	✓			
CROSS	✓				RYCKMAN	✓			
CROWLEY	✓				SCHWOPE	✓			
CUBIN	✓				SHREVE	✓			
DICKEY	✓				SIMONS	✓			
ENZI	✓	✓			STAUFFER	✓			
FREUDENTHAL	✓				TATE	✓			
GERINGER	✓				TEMPEST	✓	✓		
GRANT	✓				THOMAS	✓	✓		
GUICE	✓				TIBBS	✓	✓		
HAGEMAN	✓				TIPPETS	✓			
HANSEN	✓				TIPTON	✓			
HARRISON	✓				TYSDAL	✓			
HINES	✓				WALLIS	✓			
HONAKER	✓				WEAVER	✓			
HOWARD	✓				WILLFORD	✓			
HUMPHREY	✓	✓			WOLFLEY	✓		✓	
JENSEN	✓				ZIMMERMAN	✓			
LUMMIS	✓				ZUMBRUNNEN	✓			
MACMILLAN	✓				MR. SPEAKER	✓			
MALDONADO	✓				PRESENT				
MARTON	✓								
MILVAIN	✓								
MEENAN	✓								
MICHEL	✓								
MILLER	✓								
MURPHY	✓								

AYES 57
 NOES 6
 EXCUSED 1
 ABSENT _____
 TOTAL 64
 LESS 7

91388 Frank Reading Date 2/6/97

cf

HOUSE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
ARNOLD	✓				ODDE		✓		
BEBOUT	✓				O'TOOLE	✓			
BEHRENS	✓				PARKER	✓			
BIRLEFFI	✓				PERKINS, D.	✓			
BLACKWELL	✓				PERKINS, J.	✓			
BUDD	✓				PLANT	✓			
BURTON	✓				RANKINE	✓			
BYRD	✓				RATLIFF	✓			
CAMERON	✓				ROBERTSON	✓			
CHAMBERLAIN	✓				ROHRBACH	✓			
CROSS	✓				RYCKMAN	✓			
CROWLEY	✓				SCHWOPE	✓			
CUBIN	✓				SHREVE	✓			
DICKEY	✓				SIMONS		✓		
ENZI	✓				STAUFFER	✓			
FREUDENTHAL	✓				TATE	✓			
GERINGER	✓				TEMPEST	✓			
GRANT	✓				THOMAS	✓			
GUICE	✓				TIBBS		✓		
HAGEMAN	✓				TIPPETS		✓		
HANSEN	✓				TIPTON	✓			
HARRISON	✓				TYSDAL	✓			
HINES	✓				WALLIS	✓			
HONAKER	✓				WEAVER	✓			
HOWARD	✓				WILLFORD	✓			
HUMPHREY	✓				WOLFLEY	✓			
JENSEN	✓				ZIMMERMAN	✓			
LUMMIS	✓				ZUMBRUNNEN <i>cf</i>			✓	
MACMILLAN	✓				MR. SPEAKER	✓			
MALDONADO	✓				PRESENT				
MARTON	✓								
MCILVAIN	✓								
MEDMAN									
MICHEL	✓								
MILLER	✓								
MURPHY	✓								

AYES 59
 NOES 4
 EXCUSED 1
 ABSENT _____
 TOTAL 64
 LESS 5

House of Intro				Second House					
_____	To Com. No.	_____		_____	To Com No.	_____			
_____	Stand Report	Do	Amd	Not	_____	Stand Report	Do	Amd	Not
_____	Com Whole	Do	Amd	Not	_____	Com Whole	Do	Amd	Not
_____	2nd Reading	Amd			_____	2nd Reading	Amd		
_____	3rd Reading	Amd	Pass	Fail	_____	3rd Reading	Amd	Pass	Fail

1987

STATE OF WYOMING

87LSO-0361/eng

HOUSE BILL NO. 0088

ENGROSSED

Consumer protection amendments.

Sponsored by: Representative(s) MCILVAIN and GUICE
and Senator(s) BURNETT

A BILL

for

1 AN ACT to amend W.S. 40-12-104(a), 40-12-105(a) by creat-
2 ing a new paragraph (xv) and 40-12-106 relating to con-
3 sumer protection; defining types of misleading conduct as
4 deceptive trade practice; authorizing the attorney general
5 to file suit to restrain violations of the statute regard-
6 ing home solicitation sales; defining home solicitation
7 sales to include telephone solicitations; and providing
8 for an effective date.

9 Be It Enacted by the Legislature of the State of Wyoming:

10 Section 1. W.S. 40-12-104(a), 40-12-105(a) by creat-

1 ing a new paragraph (xv) and 40-12-106 are amended to
2 read:

3 40-12-104. Home solicitation sales.

4 (a) For purposes of this section, "home solicitation
5 sale" means the sale or lease of merchandise, other than
6 farm equipment, for cash when the cash sales price,
7 whether under a single sale or multiple sales, exceeds
8 twenty-five dollars (\$25.00) and in which the seller or a
9 person acting for him engages in a personal solicitation
10 of the sale at the residence of the buyer and the buyer's
11 agreement or offer to purchase is there given to the
12 seller or a person acting for him. A PERSONAL SOLICITATION
13 OF A SALE AT THE RESIDENCE OF THE BUYER INCLUDES CONTACT
14 WITH THE BUYER IN PERSON OR BY TELEPHONE. It does not
15 include a sale made pursuant to a preexisting revolving
16 charge account, or a sale made SUBSEQUENT TO THE TELEPHONE
17 CONTACT BUT pursuant to ~~prior~~ negotiations between the
18 parties at a business establishment at a fixed location
19 where goods or services are offered or exhibited for sale.

20 40-12-105. Unlawful practices.

21 (a) A person engages in a deceptive trade practice
22 unlawful under this act when, in the course of his busi-

1 ness and in connection with a consumer transaction, he
2 knowingly:

3 (xv) ENGAGES IN ANY FALSE, MISLEADING OR
4 DECEPTIVE TRADE PRACTICE.

5 40-12-106. Restraining unlawful practices. Whenever
6 the enforcing authority has reasonable cause to believe
7 that any person has engaged in, is engaging in, or is
8 about to engage in any practice which is unlawful under
9 ~~section---40-106----~~of--the--statutes W.S. 40-12-104 OR
10 40-12-105, and that proceedings would be in the public
11 interest, he may bring an action in the name of this state
12 against such person to restrain by temporary restraining
13 order or preliminary or permanent injunction the use of
14 such practice, upon the giving of appropriate notice to
15 that person. The notice must state generally the relief
16 sought and must be served in accordance with the Wyoming
17 Rules of Civil Procedure. Before commencing any action,
18 the enforcing authority shall give the person against whom
19 proceedings are contemplated a reasonable opportunity to
20 show why proceedings should not be instituted. The action
21 may be brought in the district court of the county in
22 which the person resides or has his principal place of
23 business or in the district court of Laramie county,
24 Wyoming. The district court ~~is--authorized--to~~ MAY issue

1 temporary restraining orders or preliminary or permanent
2 injunctions, in accordance with the principles of equity,
3 to restrain and prevent violations of this act. THE COURT
4 MAY MAKE SUCH ADDITIONAL ORDERS OR JUDGMENTS AS ARE NECES-
5 SARY TO COMPENSATE IDENTIFIABLE PERSONS FOR ACTUAL DAMAGES
6 OR RESTORATION OF MONEY OR PROPERTY, REAL OR PERSONAL,
7 WHICH MAY HAVE BEEN ACQUIRED BY MEANS OR ANY ACT OR PRAC-
8 TICE RESTRAINED. The remedies provided by this section,
9 ~~sections--40-109-and-40-112-of-the-statutes~~ W.S. 40-12-108
10 AND 40-12-111 shall be the exclusive remedies for viola-
11 tions of this act.

12 Section 2. This act is effective May 22, 1987.

13 (END)

House of Intro
To Com. No. _____
Stand Report Do Amd Not _____
Com Whole Do Amd Not _____
2nd Reading Amd _____
3rd Reading Amd Pass Fail _____

Second House
To Com No. _____
Stand Report Do Amd Not _____
Com Whole Do Amd Not _____
2nd Reading Amd _____
3rd Reading Amd Pass Fail _____

INTRODUCED

1987

STATE OF WYOMING

87LSO-0361.01

HOUSE BILL NO. 0088

Consumer protection amendments.

Sponsored by: Representative(s) MCILVAIN and Senator(s) BURNETT

A BILL

for

1 AN ACT to amend W.S. 40-12-104(a), 40-12-105(a) by creat-
2 ing a new paragraph (xv) and 40-12-106 relating to con-
3 sumer protection; defining types of misleading conduct as
4 deceptive trade practice; authorizing the attorney general
5 to file suit to restrain violations of the statute regard-
6 ing home solicitation sales; defining home solicitation
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9 Be It Enacted by the Legislature of the State of Wyoming:

10 Section 1. W.S. 40-12-104(a), 40-12-105(a) by creat-

1 ing a new paragraph (xv) and 40-12-106 are amended to
2 read:

3 40-12-104. Home solicitation sales.

4 (a) For purposes of this section, "home solicitation
5 sale" means the sale or lease of merchandise, other than
6 farm equipment, for cash when the cash sales price,
7 whether under a single sale or multiple sales, exceeds
8 twenty-five dollars (\$25.00) and in which the seller or a
9 person acting for him engages in a personal solicitation
10 of the sale at the residence of the buyer and the buyer's
11 agreement or offer to purchase is there given to the
12 seller or a person acting for him. A PERSONAL SOLICITATION
13 OF A SALE AT THE RESIDENCE OF THE BUYER INCLUDES CONTACT
14 WITH THE BUYER IN PERSON OR BY TELEPHONE. It does not
15 include a sale made pursuant to a preexisting revolving
16 charge account, or a sale made pursuant to prior negotia-
17 tions between the parties at a business establishment at a
18 fixed location where goods or services are offered or
19 exhibited for sale.

20 40-12-105. Unlawful practices.

21 (a) A person engages in a deceptive trade practice
22 unlawful under this act when, in the course of his busi-

1 ness and in connection with a consumer transaction, he
2 knowingly:

3 (xv) ENGAGES IN ANY OTHER CONDUCT WHICH SIMI-
4 LARLY CREATES A LIKELIHOOD OF CONFUSION OR OF MISUNDER-
5 STANDING.

6 40-12-106. Restraining unlawful practices. Whenever
7 the enforcing authority has reasonable cause to believe
8 that any person has engaged in, is engaging in, or is
9 about to engage in any practice which is unlawful under
10 ~~section--40-106---of--the--statutes~~ W.S. 40-12-104 OR
11 40-12-105, and that proceedings would be in the public
12 interest, he may bring an action in the name of this state
13 against such person to restrain by temporary restraining
14 order or preliminary or permanent injunction the use of
15 such practice, upon the giving of appropriate notice to
16 that person. The notice must state generally the relief
17 sought and must be served in accordance with the Wyoming
18 Rules of Civil Procedure. Before commencing any action,
19 the enforcing authority shall give the person against whom
20 proceedings are contemplated a reasonable opportunity to
21 show why proceedings should not be instituted. The action
22 may be brought in the district court of the county in
23 which the person resides or has his principal place of
24 business or in the district court of Laramie county,

1 Wyoming. The district court ~~is-authorized-to~~ MAY issue
2 temporary restraining orders or preliminary or permanent
3 injunctions, in accordance with the principles of equity,
4 to restrain and prevent violations of this act. THE COURT
5 MAY MAKE SUCH ADDITIONAL ORDERS OR JUDGMENTS AS ARE NECES-
6 SARY TO COMPENSATE IDENTIFIABLE PERSONS FOR ACTUAL DAMAGES
7 OR RESTORATION OF MONEY OR PROPERTY, REAL OR PERSONAL,
8 WHICH MAY HAVE BEEN ACQUIRED BY MEANS OR ANY ACT OR PRAC-
9 TICE RESTRAINED. The remedies provided by this section,
10 ~~sections-40-109-and-40-112-of-the-statutes~~ W.S. 40-12-108
11 AND 40-12-111 shall be the exclusive remedies for viola-
12 tions of this act.

13 Section 2. This act is effective May 22, 1987.

14 (END)

FISCAL NOTE

<u>Anticipated REVENUE to:</u>	<u>FY 19</u>	<u>FY 19</u>	<u>FY 19</u>
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL ESTIMATED REVENUE	_____	_____	_____
=====			
<u>Anticipated COST to:</u>	<u>FY 19</u>	<u>FY 19</u>	<u>FY 19</u>
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL ESTIMATED COST	_____	_____	_____
=====			

According to a spokesman for the Attorney General, passage of this measure will have little or no fiscal or personnel impact.

THE LEGISLATURE OF THE STATE OF WYOMING

House of Representatives

Cheyenne, January 26, 1987

HB0088HS/

Mr. Speaker:

Your Committee No. 7 on CORPORATIONS, ELECTIONS & POL. SUBDIV.
to whom was referred H.B. No. 0088

respectfully reports same back to the House with the recommendation that it DO PASS
with the following amendments:

Page 2 - line 16 After "made" insert "SUBSEQUENT TO THE TELEPHONE
CONTACT BUT". ~~STRIKE~~

Page 2 - line 16 Delete "prior".

Page 3 - line 3 After "(xv)" delete balance of line.

Page 3 - lines 4 and 5 - Delete entirely ^{and} insert "ENGAGES IN ANY
FALSE, MISLEADING OR DECEPTIVE TRADE PRACTICE.".

AYES

Rep. Bebout
" Enzi
" Freudenthal
" Honaker
" Howard
" Maldonado
" McIlvain
" Perkins, D.
" Tempest
" Zimmerman
" MacMillan

Patti MacMillan
PATTI MacMILLAN

Chairman
DW

7613 9, 88, 314, *Constitution* Date 2/6/87
 #290, 292, *322, 323*

HOUSE ROLL CALL

FORTY-NINTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
ARNOLD	✓				ODDE	✓			
BEBOUT	✓				O'TOOLE	✓			
BEHRENS	✓				PARKER	✓			
BIRLEFFI	✓				PERKINS, D.	✓			
BLACKWELL	✓				PERKINS, J.	✓			
BUDD	✓				PLANT	✓			
BURTON	✓				RANKINE	✓			
BYRD	✓				RATLIFF	✓			
CAMERON	✓				ROBERTSON	✓			
CHAMBERLAIN	✓				ROHRBACH	✓			
CROSS	✓				RYCKMAN	✓			
CROWLEY	✓				SCHWOPE	✓			
CUBIN	✓				SHREVE	✓			
DICKEY	✓				SIMONS	✓			
ENZI	✓				STAUFFER	✓			
FREUDENTHAL	✓				TATE	✓			
GERINGER	✓				TEMPEST	✓			
GRANT	✓				THOMAS	✓			
GUICE	✓				TIBBS	✓			
HAGEMAN	✓				TIPPETS	✓			
HANSEN	✓				TIPTON	✓			
HARRISON	✓				TYSDAL	✓			
HINES	✓				WALLIS	✓			
HONAKER	✓				WEAVER	✓			
HOWARD	✓				WILLFORD	✓			
HUMPHREY	✓				WOLFLEY	✓			
JENSEN	✓				ZIMMERMAN	✓			
LUMMIS	✓				ZUMBRUNNEN <i>OK</i>			✓	
MACMILLAN	✓				MR. SPEAKER	✓			
MALDONADO	✓				PRESENT _____ AYES <u>63</u> NOES _____ EXCUSED <u>1</u> ABSENT _____ TOTAL <u>64</u> LESS _____				
MARTON	✓								
MCILVAIN	✓								
MEENAN									
MICHEL	✓								
MILLER	✓								
MURPHY	✓								

SENATE
WYOMING STATE LEGISLATURE

M. I. Ivain

Message No. 168

Mr. Speaker:

February 23, 1987

The House Bill(s) listed below passed on third reading in an amended form by the vote indicated.

H.B. No. 0088 Consumer protection amendments.

HB0088SS1/AE TO ENGROSSED COPY

Page 3-line 3 Delete "ANY FALSE, MISLEADING" insert "UNFAIR".

Page 3-line 4 Delete "TRADE PRACTICE" insert "ACTS OR PRACTICES". -SCOTT

HB0088S21/AE TO ENGROSSED COPY

Page 2-line 16 Delete ",."

Page 2-line 19 After "sale" insert "OR A SALE WHEN THE SELLER OFFERS A FULL REFUND AND RIGHT OF CANCELLATION FOR AT LEAST TEN (10) DAYS AFTER RECEIPT OF THE MERCHANDISE AND THE RIGHT OF REFUND AND CANCELLATION IS COMMUNICATED DURING THE INITIAL SOLICITATION AND IS CONSPICUOUSLY DISPLAYED WITH THE MERCHANDISE." -SULLIVAN

Ayes 29 Noes 0 Excused 1 Absent 0

The Senate respectfully asks the House to concur by adopting the listed amendments.

Sincerely,

Nelson E. Wren, Jr.

Signed: Nelson E. Wren, Jr.
Senate Chief Clerk

- 1 HB0088HS1/A
- 2 ✓ Page 2-line 16 ✓ After "made" insert "SUBSEQUENT TO THE
- 3 TELEPHONE CONTACT BUT"; strike "prior".
- 4 ✓ Page 3-line 3 ✓ After "(xv)" delete balance of line.
- 5 ✓ Page 3-lines 4 and 5 ✓ Delete entirely and insert "ENGAGES IN
- 6 ANY FALSE, MISLEADING OR DECEPTIVE TRADE
- 7 PRACTICE.". MACMILLAN, CHAIRMAN

DM

- 1 HB0088JC1/AA (TO ENGROSSED COPY)
- 2 Adopt the following Senate amendment:
- 3 HB0088SS1/AE
- 4 Delete the following Senate amendment:
- 5 HB0088S21/AE
- 6 Further amend the ENGROSSED COPY as follows:
- 7 Page 1-line 7 After ";" insert "providing exceptions;".
- 8 Page 2-lines 3 through 19 Delete entirely and insert:
- 9 "40-12-104. Home solicitation sales. (a) For purposes
- 10 of this section, "home solicitation sale" means the sale or
- 11 lease of merchandise, other than farm equipment, for cash
- 12 when the cash sales price, whether under a single sale or
- 13 multiple sales, exceeds twenty-five dollars (\$25.00) and in
- 14 which the seller or a person acting for him engages in a
- 15 personal solicitation of the sale at the residence of the
- 16 buyer and the buyer's agreement or offer to purchase is
- 17 there given to the seller or a person acting for him. ~~It~~ A
- 18 PERSONAL SOLICITATION OF A SALE AT THE RESIDENCE OF THE
- 19 BUYER INCLUDES CONTACT WITH THE BUYER IN PERSON OR BY
- 20 TELEPHONE. "HOME SOLICITATION SALE" does not include:
- 21 (i) A sale made pursuant to a preexisting
- 22 revolving charge account; ~~7-02~~
- 23 (ii) A sale made SUBSEQUENT TO A PERSONAL CON-
- 24 TACT OR A TELEPHONE CONTACT AT THE RESIDENCE OF THE BUYER
- 25 BUT pursuant to ~~prior~~ negotiations between the parties at a
- 26 business establishment at a fixed location where goods or
- 27 services are offered or exhibited for sale; OR
- 28 (iii) A SALE MADE PURSUANT TO A TELEPHONE SOLIC-
- 29 ITATION WHEN THE SELLER OFFERS A FULL REFUND AND RIGHT OF
- 30 CANCELLATION FOR AT LEAST TEN (10) DAYS AFTER RECEIPT OF THE
- 31 MERCHANDISE AND THE RIGHT OF REFUND AND CANCELLATION IS COM-
- 32 MUNICATED DURING THE INITIAL TELEPHONE SOLICITATION AND IS
- 33 CONSPICUOUSLY DISPLAYED WITH THE MERCHANDISE."
- 34 MCILVAIN, GUICE, ENZI, LARSON, GRIEVE, NORRIS

DM

Adopt the following Senate amendment:

✓ HB0088SS1/AE

Delete the following Senate amendment:

✓ HB0088S21/AE

Further amend the ENGROSSED COPY as follows:

✓ Page 1-line 7 After ";" insert "providing exceptions;".

✓ Page 2-lines 3 through 19 Delete entirely and insert:

"40-12-104. Home solicitation sales. (a) For purposes of this section, "home solicitation sale" means the sale or lease of merchandise, other than farm equipment, for cash when the cash sales price, whether under a single sale or multiple sales, exceeds twenty-five dollars (\$25.00) and in which the seller or a person acting for him engages in a personal solicitation of the sale at the residence of the buyer and the buyer's agreement or offer to purchase is there given to the seller or a person acting for him. ~~It~~ A PERSONAL SOLICITATION OF A SALE AT THE RESIDENCE OF THE BUYER INCLUDES CONTACT WITH THE BUYER IN PERSON OR BY TELEPHONE. "HOME SOLICITATION SALE" does not include:

(i) A sale made pursuant to a preexisting revolving charge account; ~~7-er~~

(ii) A sale made SUBSEQUENT TO A PERSONAL CONTACT OR A TELEPHONE CONTACT AT THE RESIDENCE OF THE BUYER BUT pursuant to ~~prior~~ negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale; OR

(iii) A SALE MADE PURSUANT TO A TELEPHONE SOLICITATION WHEN THE SELLER OFFERS A FULL REFUND AND RIGHT OF CANCELLATION FOR AT LEAST TEN (10) DAYS AFTER RECEIPT OF THE MERCHANDISE AND THE RIGHT OF REFUND AND CANCELLATION IS COMMUNICATED DURING THE INITIAL TELEPHONE SOLICITATION AND IS CONSPICUOUSLY DISPLAYED WITH THE MERCHANDISE."

MCILVAIN, GUICE, ENZI, LARSON, GRIEVE, NORRIS

HB0088SS1/AE

TO ENGROSSED COPY

*deleted
key
JCI/AA*
Page 3-line 3

Delete "ANY FALSE, MISLEADING" insert
"UNFAIR".

Page 3-line 4

Delete "TRADE PRACTICE" insert "ACTS OR
PRACTICES". -SCOTT

HB0088S21/AE

TO ENGROSSED COPY

*deleted
key
JCI/AA*
Page 2-line 16

Delete ",,".

Page 2-line 19

After "sale" insert "OR A SALE WHEN THE
SELLER OFFERS A FULL REFUND AND RIGHT OF
CANCELLATION FOR AT LEAST TEN (10) DAYS
AFTER RECEIPT OF THE MERCHANDISE AND THE
RIGHT OF REFUND AND CANCELLATION IS COMMU-
NICATED DURING THE INITIAL SOLICITATION AND
IS CONSPICUOUSLY DISPLAYED WITH THE MER-
CHANDISE." -SULLIVAN