

REFERENCE TITLE: home solicitation sales

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2228

Introduced by
Representative Gress

AN ACT

AMENDING SECTIONS 44-5001 AND 44-5007, ARIZONA REVISED STATUTES; RELATING
TO HOME SOLICITATIONS AND REFERRAL SALES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-5001, Arizona Revised Statutes, is amended to
3 read:

4 44-5001. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Home solicitation sale":

7 (a) Means a sale of goods or services in which the seller or the
8 seller's representative personally solicits the sale **WITHOUT PRIOR**
9 **INVITATION, APPOINTMENT OR CONSENT** and the buyer's agreement or offer to
10 purchase is made at a home other than that of the person soliciting the
11 same and that agreement or offer to purchase is there given to the seller
12 or the seller's representative.

13 (b) Includes a cash sale that otherwise meets the definition of a
14 home solicitation sale if the seller makes or provides a loan to the buyer
15 or obtains or assists in obtaining a loan for the buyer to pay the
16 purchase price.

17 (c) Does not include a sale that is **ANY OF THE FOLLOWING:**

18 (i) Pursuant to a preexisting account with a seller whose primary
19 business is selling goods or services at a fixed location. ~~or~~

20 (ii) ~~that is~~ Made pursuant to prior negotiations between the
21 parties at a business establishment at a fixed location where goods or
22 services are offered or exhibited for sale.

23 (iii) **MADE BY AN ENTITY THAT IS REGULATED BY THE DEPARTMENT OF**
24 **INSURANCE AND FINANCIAL INSTITUTIONS OR ITS AFFILIATES.**

25 2. "Person":

26 (a) Includes a corporation, company, partnership, firm,
27 association, society or natural person.

28 (b) When used to designate the party whose property may be the
29 subject of a criminal or public offense, includes the United States, this
30 state or any territory, state or country, any political subdivision of
31 this state that may lawfully own any property, or a public or private
32 corporation, partnership or association.

33 (c) When used to designate the violator or offender of any law,
34 includes a corporation, a partnership or any association of persons.

35 Sec. 2. Section 44-5007, Arizona Revised Statutes, is amended to
36 read:

37 44-5007. Buyer responsibility; services

38 A. Except as provided in subsection C of section 44-5006, within
39 twenty days after a home solicitation sale has been canceled, the buyer
40 upon demand shall tender to the seller any goods delivered by the seller
41 pursuant to the sale, but ~~he~~ **THE BUYER** is not obligated to tender at any
42 place other than ~~his~~ **THE BUYER'S** own address. If the seller fails to take
43 possession of such goods within twenty days after **THE** cancellation, the
44 goods ~~shall~~ become the property of the buyer without **THE** obligation to pay
45 for them.

1 B. The buyer shall take reasonable care of the goods in ~~his~~ THE
2 BUYER'S possession both prior to cancellation and during the following
3 twenty-day period. During the twenty-day period after cancellation,
4 except for the buyer's duty of care, the goods are at the seller's risk.

5 C. If the seller has performed any services pursuant to a home
6 solicitation sale ~~prior to~~ BEFORE its cancellation, the seller is entitled
7 to a cancellation fee of five ~~percent~~ PERCENT of the cash price, ~~fifteen~~
8 ~~dollars~~ \$15, or the amount of the cash down payment, whichever is less.
9 If the seller's services result in the alteration of property of the
10 buyer, the seller shall restore the property to substantially as good
11 condition as it was in at the time the services were rendered.

12 D. The buyer may not cancel a home solicitation sale if ~~he~~ THE
13 BUYER requests the seller to provide goods or services without delay
14 because of an emergency and the seller in good faith makes a substantial
15 beginning of performance before notice of cancellation, and the goods
16 cannot be returned to the seller in substantially as good condition as
17 when the buyer received them.

18 E. THE BUYER MAY NOT CANCEL THE HOME SOLICITATION SALE DURING THE
19 PERIOD OF TIME PRESCRIBED UNDER SECTION 44-5002 IF THE SELLER IN GOOD
20 FAITH MAKES A SUBSTANTIAL BEGINNING OF PERFORMANCE OF THE CONTRACT AT THE
21 BUYER'S REQUEST BEFORE THE BUYER GIVES NOTICE OF CANCELLATION.