

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 2267

4
5 By: Representative Davenport
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For An Act To Be Entitled

8
9 AN ACT TO MAKE CABLE TELEVISION CONTRACTOR
10 SERVICE CONTRACTS VOIDABLE FOR ONE HUNDRED TWENTY
11 (120) DAYS; AND FOR OTHER PURPOSES.
12

Subtitle

13
14 TO MAKE CABLE TELEVISION CONTRACTOR
15 SERVICE CONTRACTS VOIDABLE FOR ONE
16 HUNDRED TWENTY (120) DAYS.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 4-89-102 is amended to read as follows:
22 4-89-102. Definitions.

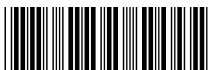
23 As used in this chapter, unless the context otherwise requires:

24 (1) "Appropriate trade premises" means premises at which either
25 the owner or seller normally carries on a business or where goods are
26 normally offered or exposed for sale in the course of business carried on at
27 those premises;

28 (2) "Cable television contractor" means an individual or entity
29 that provides cable or video services, including without limitation, services
30 for:

- 31 (1) The Internet;
32 (2) Telephone; and
33 (3) Television;

34 ~~(2)~~(3) "Deceptive trade practices" means the following acts of a
35 seller in connection with any home solicitation sale, and the following acts
36 constitute a violation of this chapter:



1 (A) Failure to comply with any requirement of §§ 4-89-107
2 and 4-89-109; or

3 (B) Misrepresenting in any manner the consumer's right to
4 cancel; or

5 (C) Representing directly or indirectly that the seller is
6 primarily conducting or participating in any survey, quiz, or contest or is
7 primarily engaged in any activity other than soliciting business or
8 misrepresenting in any manner the purpose of the call or solicitation; or

9 (D) Representing directly or indirectly that any offer to
10 sell goods or services is being made only to specially selected persons or
11 misrepresenting in any manner the persons or class of persons afforded the
12 opportunity of purchasing the seller's goods or services; or

13 (E) Representing directly or indirectly that any sale or
14 service is being offered for any organization, individual, or firm other than
15 the one engaged in soliciting business or misrepresenting in any manner the
16 identity of the solicitor or his or her firm and of the business in which he
17 or she is engaged; or

18 (F) Representing directly or indirectly that any
19 merchandise or service is free or is provided as a gift or without cost or
20 charge in connection with the purchase of goods or services, unless the price
21 of the goods or services required to be purchased in order to obtain the free
22 merchandise or gift is disclosed; or

23 (G) Representing directly or indirectly that any price is
24 a special or reduced price, unless it constitutes a significant reduction
25 from the seller's established selling price at which the goods or services
26 have been sold in substantial quantities in the recent and regular course of
27 trade or misrepresenting in any manner the savings which the consumer will
28 receive; or

29 (H) Failing to disclose clearly and unqualifiedly at the
30 initial contact or solicitation and at all subsequent contacts or
31 solicitations, whether by telephone, written communication, or person-to-
32 person, that the purpose of the contact or solicitation is to sell goods or
33 services; or

34 (I) Failing to disclose clearly and conspicuously, both
35 orally and in writing in the contract:

36 (i) The total cash price;

- 1 (ii) The down payment;
- 2 (iii) The unpaid balance of the cash price;
- 3 (iv) The number, amount, and due dates of payments
- 4 necessary to pay the unpaid balance in full; and
- 5 (v) An accurate description of the goods or services
- 6 purchased;

7 ~~(3)~~(4) "Goods" means tangible chattels bought for use primarily
 8 for personal, family, or household purposes, including certificates or
 9 coupons exchangeable for such goods, and including goods which, at the time
 10 of the sale or subsequently, are to be so affixed to real property as to
 11 become a part of such real property whether or not severable therefrom;

12 ~~(4)(A)~~(5)(A) "Home solicitation sale" means a cash sale or a
 13 consumer credit sale of goods, other than insurance, or services in which the
 14 seller or a person acting for him or her engages in a personal solicitation
 15 of the sale at other than appropriate trade premises in an amount more than
 16 twenty-five dollars (\$25.00).

17 (B) This definition also includes all telephone sales in
 18 which the seller has initiated contact, regardless of his or her location,
 19 and the consumer's agreement to purchase is made at the consumer's home.

20 (C) It does not include a sale made pursuant to prior
 21 negotiations between the parties at a business establishment, at a fixed
 22 location, where goods or services are offered or exhibited for sale, or a
 23 sale in which the buyer has initiated the contact and specifically requested
 24 the seller to visit his or her home for the purpose of repairing or
 25 performing maintenance upon the buyer's personal property. If, in the course
 26 of such a visit, the seller sells the buyer the right to receive additional
 27 services or goods other than replacement parts necessarily used in performing
 28 the maintenance or in making the repairs, the sale of those additional goods
 29 or services would not fall within this exclusion.

30 (D) The term "home solicitation sale" does not include a
 31 transaction involving an order for goods to be delivered at one (1) time if:

- 32 (i) The order is evidenced only by a sales ticket or
- 33 invoice which the buyer is not required to sign;
- 34 (ii) The buyer makes no payment prior to delivery of
- 35 the goods;
- 36 (iii) The goods are not delivered within three (3)

1 business days of the date of the order;

2 (iv) The buyer may refuse to accept the goods when
3 they are delivered without incurring any obligation to pay for them or the
4 expenses associated with the transaction, including mailing or shipping
5 charges, or the buyer may, upon inspecting the goods after delivery, return
6 them within three (3) business days to the seller and receive a full refund
7 for any amounts the buyer has paid, including mailing and shipping charges;
8 and

9 (v) The buyer's right to cancel the order, refuse
10 delivery, or return the goods without obligation or charge is clearly and
11 unmistakably set forth on the face or reverse side of the sales ticket or
12 invoice;

13 ~~(5)~~(6) "Seller" means any person, partnership, corporation, or
14 association engaged in the door-to-door or telephone sale of consumer goods
15 or services; and

16 ~~(6)~~(7) "Services" means work, labor, or other services furnished
17 primarily for personal, family, or household purposes, including, but not
18 limited to, services in connection with the repair, alteration, or
19 improvement of residential premises, courses of instruction or training
20 regardless of the purpose for which they are taken, and services furnished in
21 connection with the sale or repair of goods, but does not include the
22 services of attorneys, real estate brokers and salesmen, securities dealers
23 or investment counselors, physicians, optometrists, or dentists.

24
25 SECTION 2. Arkansas Code Title, 4, Chapter 89 is amended to add an
26 additional section to read as follows:

27 4-89-111. Cable television contractor -- Voidable.

28 An individual or entity that enters into a written contract with a
29 cable television contractor has the absolute right to cancel the contract for
30 one hundred (120) days after the services have been established.

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