

2018 Kansas Statutes

50-640. Door-to-door sales; cancellation; required disclosures; notice of cancellation; definition.

(a) Except as provided in subsection (c)(1)(C), in addition to any right otherwise to revoke, a consumer has the right to cancel a door-to-door sale made within this state until midnight of the third business day after the day on which the consumer signs an agreement or offer to purchase which includes the disclosures required by this section.

(b) In connection with any door-to-door sale made within this state, it constitutes an unfair and deceptive act or practice within the meaning of K.S.A. 50-626, and amendments thereto, for any supplier to:

(1) Fail to furnish the consumer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, Spanish for example, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the supplier, and in immediate proximity to the space reserved in the contract for the signature of the consumer or on the front page of the receipt if a contract is not used and in boldface type of a minimum size of 10 points, a statement in substantially the following form:

"YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT." For purposes of the required notices under this section, the term "buyer" shall have the same meaning as the term "consumer."

(2) Fail to furnish each consumer, at the time the consumer signs the door-to-door sales contract or otherwise agrees to buy consumer property or services from the supplier, a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and be easily detachable, and which shall contain in 10-point boldface type the following information and statements in the same language, Spanish for example, as that used in the contract:

NOTICE OF CANCELLATION

(Enter date of transaction)

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY PROPERTY DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY, IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE PROPERTY AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE PROPERTY AVAILABLE TO THE SELLER, AND IF THE SELLER DOES NOT PICK SUCH PROPERTY UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE PROPERTY WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE PROPERTY AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE PROPERTY TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM,

TO

(Name of Seller)

AT

(Address of Seller's Place of Business)

NOT LATER THAN MIDNIGHT OF _____.

(Date)

I HEREBY CANCEL THIS TRANSACTION.

(Date) (Buyer's Signature)

(3) Fail, before furnishing copies of the "notice of cancellation" to the consumer, to complete both copies by entering the name of the supplier, the address of the supplier's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the consumer may give notice of cancellation.

(4) Include in any door-to-door sale contract or receipt any confession of judgment or any waiver of any of the rights to which the consumer is entitled under this section including specifically such consumer's right to cancel the sale in accordance with the provisions of this section.

(5) Fail to inform each consumer orally, at the time such consumer signs the contract or purchases the property or services, of such consumer's right to cancel.

(6) Misrepresent in any manner the consumer's right to cancel.

(7) Fail or refuse to honor any valid notice of cancellation by a consumer and within 10 business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any property traded in, in substantially as good condition as when received by the supplier; (iii) cancel and return any negotiable instrument executed by the consumer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

(8) Negotiate, transfer, sell, or assign any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the property or services were purchased.

(9) Fail, within 10 business days of receipt of the consumer's notice of cancellation, to notify the consumer whether the supplier intends to repossess or to abandon any shipped or delivered property.

(c) For the purposes of this section the following definitions shall apply:

(1) "Door-to-door sale" means a sale, lease or rental of consumer property or services with a purchase price of \$25 or more, whether under single or multiple consumer transactions, in which the supplier or the supplier's representative personally solicits the sale, including those in response to or following an invitation by the consumer, and the consumer's agreement or offer to purchase is made at a place other than the place of business of the supplier. The term "door-to-door sale" does not include a transaction:

(A) Made pursuant to prior negotiations in the course of a visit by the consumer to a retail business establishment having a fixed permanent location where the property is exhibited or the services are offered for sale on a continuing basis; or

(B) in which the consumer is accorded the right of rescission by the provisions of the consumer credit

protection act (15 USCS 1635) or regulations issued pursuant thereto; or

(C) in which the consumer has initiated the consumer transaction and the property or services are needed to meet a bona fide immediate personal emergency of the consumer, and the consumer furnishes the supplier with a separate dated and signed personal statement in the consumer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three business days; or

(D) conducted and consummated entirely by mail or telephone; and without any other contact between the consumer and the supplier or its representative prior to delivery of the property or performance of the services; or

(E) in which the consumer has initiated the transaction and specifically requested the supplier to visit the consumer's home for the purpose of repairing or performing maintenance upon the consumer's real or personal property. If in the course of such a visit, the supplier sells the consumer the right to receive additional services or property other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of the additional property or services would not fall within this exclusion; or

(F) pertaining 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

(G) that occurs on the state fairgrounds during the annual Kansas state fair between a consumer and a vendor who has been authorized by the state fair management to do business on the state fairgrounds.

(2) "Place of business" means the main or permanent branch office of a supplier.

(3) "Purchase price" means the total price paid or to be paid for the consumer property or services, including all interest and service charges.

(4) "Business day" means any calendar day except Sunday, or any legal holiday as defined by K.S.A. 60-206 and amendments thereto.

History: L. 1973, ch. 217, § 18; L. 1974, ch. 230, § 6; L. 1976, ch. 236, § 9; L. 1991, ch. 159, § 12; L. 1998, ch. 156, § 1; July 1.