

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1000

H. P. 833

House of Representatives, February 25, 1981

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Brannigan of Portland.

Cosponsor: Senator Charette of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Prevent Certain Abuses in Door-to-Door Sales.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 9-A MRSA § 3-502, sub-§ 5 is enacted to read:

5. If the agreement or offer to purchase requires the seller to affix goods permanently to real estate or its appurtenances, then the seller may not begin performance as long as the buyer has the right to cancel.

Sec. 2. 9-A MRSA § 3-503, sub-§ 2, ¶ B, last sentence, as enacted by PL 1973, c. 762, § 1, is amended to read:

If you cancel by this date, the seller may not keep any of your cash down payment. If this agreement requires the seller to affix goods to real estate, then the seller may not begin the work until _____ when cancellation on right lapses.”

(Stated date)

Sec. 3. 32 MRSA § 4662, first sentence, as repealed and replaced by PL 1977, c. 331, is amended to read:

Where merchandise is sold or contracted to be sold, whether under a single contract or under multiple contracts, to a consumer as a result of or in connection with a salesman's direct contact accomplished by means of and including, but not limited to, a personal visit or a telephone call upon the consumer, other than at the

seller's place of business, without the consumer soliciting the initial contact, the contract shall be in writing, bear the signature of the seller and the consumer, contain the date of the transaction, the terms of the sale or offer, the name and mailing address of the seller, and a statement of the consumer's right to avoid as provided in this subchapter and a statement of the limitation contained in section 4664-A.

Sec. 4. 32 MRSA § 4664-A is enacted to read:

§ 4664-A. Time of seller's performance

If the contract requires the seller to affix merchandise permanently to real estate or its appurtenances, then the seller may not begin performance as long as the consumer has the right to cancel.

STATEMENT OF FACT

Consumers who buy goods or services from door-to-door salespersons have a legal right to cancel within 3 days of signing the contract. If a consumer reconsiders a purchase and decides to cancel, he must return any goods already delivered, and the seller must return any down payments or trade-in. The law works well under most circumstances. Practically speaking, however, the consumer's right to cancel is seriously impaired where the seller usually begins performing his obligations under the contract immediately and where the goods delivered by the seller cannot easily be returned if the consumer decides to cancel. This is true particularly when the contract calls for installation of a fixture to real estate. For example, driveway pavers often complete paving jobs within a few hours of the initial contact with the consumer and well before the 3-day cancellation period expires. As a practical matter, the cancellation period is shortened to the brief period of time between the initial contact and the beginning of the work, because most consumers wishing to cancel are extremely reluctant to do so once their driveway has been graded and the paving has begun; the few who do actually cancel are frequently faced with trying to recover their money from a paver who lives far away and who has not filed a transient seller's bond with the State to cover such claims. Similar problems occur with insulation and siding contractors. This bill will ensure that all consumers have the right to cancel, in fact as well as theory, by requiring pavers, insulation contractors, siding contractors and the like to begin work only after the 3-day cancellation period has expired.