

Right to Cancel: Door-To-Door and Telephone Sales

Cooperative Extension Service
College of Agriculture and
Home Economics



Guide G-204

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This publication is scheduled to be updated and reissued 7/01.

Hundreds of items are sold by door-to-door and telephone salesmen. Hundreds of dollars can be wasted when consumers buy over-priced or unplanned and unnecessary items by phone or door-to-door.

Door-to-Door Sales

Consumer complaints regarding door-to-door sales fall into five basic categories, the Federal Trade Commission says: 1) deceptions by salesmen in getting inside the house; 2) high-pressure sales tactics; 3) misrepresentation of the product, price and quality; 4) high prices for low quality; and 5) nuisance of salesmen.

Here are some examples of deceptive means used to get inside the house. They may say they are taking a survey and want your opinion. Some say they are conducting advertising research. Some use the pitch that they are testing a pilot educational plan or new product, and want you to participate by trying out the product. Others may offer you a free gift to let them demonstrate their product.

Once they have your attention, high pressure sales techniques are often used to get you to buy. Some gimmicks that may be used are: The guilt complex - "You wouldn't want to deprive your children of this opportunity, would you?" The sympathy approach - "I'm working my way through school." Extra free items - "And with this purchase, you also receive free this coffeepot and a set of steak knives." Limited time or quantity - "If you don't take advantage of the special low price today, the price will go up."

The idea is to get you to buy immediately, before you have a chance to think it over or compare prices at the stores in your community.

Telephone Sales

Telephone solicitations range from local sellers to nationwide telemarketing operations where squads of people use high-tech telephone equipment to place thousands of calls per day. Just about anything can be

sold by phone. Magazine sales that used to be a big door-to-door item are now commonly sold by phone. Even gold stocks and light bulbs are now marketed by phone.

What to Do

Learn to say no. Don't be pressured into making a quick decision. Make it a firm rule to think the situation out, and don't buy immediately. Tell the salesman that is your rule. With a telephone sale, ask the caller to send the information in writing, and don't promise to buy until you receive the written facts.

Remember it is your money and you are under no obligation to spend it unless you want or need the product. Be courteous but firm. Tell him you want to discuss it with your spouse, you are not interested, you hate to waste his time, or that you don't appreciate pressure tactics. The salesman has received special training to sell you the product. It is up to you to train yourself to resist.

A psychoanalyst who once supported himself as a door-to-door salesman says, "During in-home encounters, the buyer is under a tremendous disadvantage because of his social conditioning to treat the seller as a guest."

If you are trying to outwit a salesman's strong sales pitch, don't argue with him. An article in *Money Magazine* describing door-to-door sales techniques says sophisticated sellers welcome challenges because this indicates he has you involved. "The hardest person to sell is 'the clam' who shows no interest.

Your Right to Cancel

What happens if you buy, and then have second thoughts and want to change your mind? You have three days to act.

A Federal Trade Commission ruling allows you a three-day cooling-off period to cancel a door-to-door sale if the purchase is \$25 or more.

The 1987 New Mexico Legislature has gone beyond this ruling by including telephone sales. A new section was added to the Unfair Practices Act that spells out the buyer's right to cancel a sale over \$25, made either door-to-door or by a seller initiated telephone sale.

The salesman must provide a fully completed contract, including the date of sale, name and address of the seller, and a statement in large type explaining the right to cancel within three business days by written notice.

Look for this statement. "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."

The salesman must also provide two copies of a separate notice of cancellation form. Send one copy to the company and keep the second for your records.

If the sale was made by telephone, the cancellation period shall not begin until the buyer has been informed of his right to cancel, and has been provided with copies of the notice of cancellation.

If any payment has been made, the seller must refund the money within 10 business days of receiving the cancellation notice.

After cancelling a sale, you must have the merchandise available at your home for the salesman to pick up in the same condition you received it. If you agree to ship the item back, the seller must pay the shipping costs. If the merchandise is not picked up within 20 days, the consumer may keep the goods without obligation. If you do not make the goods available or fail to ship them back as agreed, you can be held to the terms of the contract.

Notifying the Seller

When cancelling a sale, send the notice by certified mail if possible, with a return receipt requested so you can prove you cancelled the sale. New Mexico law provides that you can send either the notice of cancellation provided by the seller, a telegram, or

write your own notice of cancellation. Include seller's name and address. It can be stated simply, such as, "I hereby cancel the transaction of..." along with the date of cancellation and your signature.

The term *business day* means any calendar day except Sunday or the following business holidays: New Year's Day, Washington's birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, Martin Luther King, Jr.'s birthday and any other legal public holiday of the state of New Mexico or the United States. The right to cancel also applies to sales made anywhere other than the seller's normal place of business, including consumer-product parties held in private homes and sales in restaurants and hotels.

Sales Not Included

Sales that are not covered by this rule include:

- total sales under \$25;
- sales of insurance;
- sales of real property (land);
- sales of securities or commodities by a broker-dealer who is registered with the Securities and Exchange Commission;
- sales initiated by the buyer because of an emergency, and which the buyer waives the right to cancel; and
- sales made during repair or maintenance in the home when items other than replacement parts are bought.

Enforcement

The New Mexico Attorney General's office is responsible for enforcing the door-to-door/telephone sales act.

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