

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 839
Judiciary II Committee Substitute Adopted 5/12/93

Short Title: Exempt MVs from 3-Day Sale Rule.

(Public)

Sponsors:

Referred to:

April 13, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE EXEMPTION OF MOTOR VEHICLES FROM THE
3 THREE-DAY RIGHT TO CANCEL PROVISIONS OF OFF-PREMISES SALES
4 TO THE EXISTING EXEMPTION UNDER THE RETAIL INSTALLMENT
5 SALES ACT.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 14-401.13(c) reads as rewritten:

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

9 (1) Off-Premises Sale. – A sale, lease, or rental of consumer goods or
10 services with a purchase price of twenty-five dollars (\$25.00) or more,
11 whether under single or multiple contracts, in which the seller or his
12 representative personally solicits the sale, including those in response
13 to or following an invitation by the buyer, and the buyer's agreement
14 or offer to purchase is made at a place other than the place of business
15 of the seller. The term 'off-premises sale' does not include a
16 transaction:

- 17 a. Made pursuant to prior negotiations in the course of a visit by
18 the buyer to a retail business establishment having a fixed
19 permanent location where the goods are exhibited or the
20 services are offered for sale on a continuing basis; or
21 b. In which the consumer is accorded the right of rescission by the
22 provisions of the Consumer Credit Protection Act (15 U.S.C.
23 1635) or regulations issued pursuant thereto; or

- 1 c. In which the buyer has initiated the contact and the goods or
2 services are needed to meet a bona fide immediate personal
3 emergency of the buyer, and the buyer furnishes the seller with
4 a separate dated and signed personal statement in the buyer's
5 handwriting describing the situation requiring immediate
6 remedy and expressly acknowledging and waiving the right to
7 cancel the sale within three business days; or
8 d. Conducted and consummated entirely by mail or telephone; and
9 without any other contact between the buyer and the seller or its
10 representative prior to delivery of the goods or performance of
11 the services; or
12 e. In which the buyer has initiated the contact and specifically
13 requested the seller to visit his home for the purpose of
14 repairing or performing maintenance upon the buyer's property.
15 If in the course of such a visit, the seller sells the buyer the right
16 to receive additional services or goods other than replacement
17 parts necessarily used in performing the maintenance or in
18 making the repairs, the sale of those additional goods or
19 services would not fall within this exclusion; or
20 f. Pertaining to the sale or rental of real property, to the sale of
21 insurance or to the sale of securities or commodities by a
22 broker-dealer registered with the Securities and Exchange
23 Commission; or
24 g. Executed at an ~~auetion~~-auetion; or
25 h. Sales of motor vehicles defined in G.S. 20-286(10) by motor
26 vehicle sales representatives licensed pursuant to G.S. 20-287 et
27 seq.
28 (2) Consumer Goods or Services. – Goods or services purchased, leased,
29 or rented primarily for personal, family, or household purposes,
30 including courses of instruction or training regardless of the purpose
31 for which they are taken.
32 (3) Seller. – Any person, partnership, corporation, or association engaged
33 in the off-premises sale of consumer goods or services. However, a
34 nonprofit corporation or association, or member or employee thereof
35 acting on behalf of such an association or corporation, shall not be a
36 seller within the meaning of this section.
37 (4) Place of Business. – The main or permanent branch office or local
38 address of a seller.
39 (5) Purchase Price. – The total price paid or to be paid for the consumer
40 goods or services, including all interest and service charges.
41 (6) Business Day. – Any calendar day except Sunday, or the following
42 business holidays: New Year's Day, Washington's Birthday, Memorial
43 Day, Independence Day, Labor Day, Columbus Day, Veterans' Day,
44 Thanksgiving Day, Christmas Day, and Easter Monday."

1 Sec. 2. This act becomes effective December 1, 1993, and applies to acts
2 committed on or after that date.