Chapter Ag 127

HOME SOLICITATION SELLING

Ag 127.01 Definitions
Ag 127.02 Disclosure obligations; contract requirements
Ag 127.03 Prohibited practices
Ag 127.04 Unfair employment offers

Ag 127.01 Definitions. (1) "Home solicitation selling" means the selling or leasing, or the offering for sale or lease, of goods or services primarily for personal, family, or household purposes, including courses of instruction or training, where the sale, lease, or offer thereof is either personally solicited or consummated by a seller at the residence or place of business or employment of the buyer, at a seller's transient quarters, or away from seller's regular place of business. Personal solicitation includes solicitation made directly or indirectly by telephone, person-to-person contact, or by written or printed communication other than general advertising indicating a clear intent to sell goods or services at a regular place of business, and other than catalog or mail solicitation not accompanied by any other solicitation. Transient quarters includes hotel or motel rooms, or any other place utilized as a temporary business location.

(2) "Buyer" means both actual and prospective purchasers or lessees of any goods or services offered through home solicitation selling.

(3) "Seller" means a person or organization engaged in home solicitation selling or the making of home solicitation sales, or advertising, offering or dealing in goods or services for the purpose of home solicitation selling, or providing or exercising supervision, direction, or control over sales practices used in home solicitation sales, but does not include banks, savings and loan associations, insurance companies and public utilities to the extent exempt from department regulation under section 93.01(13), Wis. Stats., or licensed real estate brokers or salesmen with respect to real estate listings or the sale or leasing of real estate, or incidental sales made by persons not regularly engaged in the business of selling goods or services. The term includes sales representatives, employes, or agents of a seller, however designated by the seller. It also includes a supplier or distributor of goods and services to a seller if:

(a) The seller is a subsidiary or affiliate of the supplier or distributor.

(b) The seller interchanges personnel or maintains common or overlapping officers or directors with the supplier or distributor; or

(c) The supplier or distributor provides or exercises supervision, direction or control over the selling practices of the seller.

(4) "Home solicitation sale" or "sale" means a sale or lease resulting from home solicitation selling as defined in subsection (1)

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; emerg. am. (1) eff. 10-2-72; am. (1) and (3) intro. par., Register, January, 1973, No. 205, eff. 2-1-73; am. (3) (intro.), Register, March, 1976, No. 243, eff. 4-1-76.

Ag 127.02 Disclosure obligations; contract requirements. (1) In a home solicitation sale every seller shall, at the time of initial contact or communication with the buyer, clearly and expressly disclose: the seller's individual name, the name of the business firm or organization he represents, and the identity or kind of goods or services he offers to sell. When the initial contact is made person-to-person or through other oral communications, such disclosure shall be made before asking any questions or making any statements other than an initial greeting.

(2) In a home solicitation sale, before any sale is consummated or any contract signed, the seller shall fully disclose to the buyer the total price to be paid, less trade-ins or allowances, for any goods or services sold or to be sold, including credit or finance charges other than those made pursuant to prior existing open-end credit arrangements, and all other terms and conditions of sale affecting the buyer's obligation for payment. In credit transactions other than those made pursuant to prior existing open-end credit plans, the seller shall furnish to the buyer prior to the time first payment is due, a true copy of any agreement signed by the buyer evidencing the transaction showing the individual name of the person making the sale, and the name, mailing address and telephone number of the person or firm whom the seller represents. In cash transactions, the seller shall furnish the buyer, at or prior to the time payment is made, a sales slip or other document evidencing the transaction showing the date of sale, a description of the property or services sold, the total price paid or to be paid less trade-ins or allowances, the individual name of the person making the sale, and the name, mailing address and telephone number of the person or firm whom the seller represents. If a language other than English is principally used in making the sale, all sales documents or agreements must be both in English and in the language principally used.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; emerg. r. (3) eff. 10-2-72; am. (1), (2) and r. (3), Register, January, 1973, No. 205, eff. 2-1-73.

Ag 127.03 Prohibited practices. (1) No seller engaged in making a home solicitation sale shall represent directly or by implication that the seller:

(a) Is making an offer to specially selected persons or that the buyer or prospective buyer has been specially selected, unless such representations are true and the specific basis on which such representations are made is concurrently disclosed to the prospective buyer.

(b) Is conducting a survey, test or research project, or engaged in a contest or other venture to win a cash award, scholarship, vacation or similar prize, when in fact the principal objective is to make a sale or lease or to obtain information to help identify sales prospects.

(c) Is conducting a special sales promotion campaign or making a special offer limited to a few persons only or for a limited period of time, or is authorized to place the product or service in a few homes, unless the representations are true and the specific basis on which such representations are made is concurrently disclosed to the prospective buyer.

(d) Will give any product or service free or as a gift or without cost or charge, or at a nominal cost or charge, if the furnishing of such product or service is contingent on the making of any payment or purchase of any other product or service. Other terms, conditions and obligations upon which receipt and retention of any gift or free item are contingent shall be fully and clearly disclosed in connection with the offer of any gift or free item. This does not prohibit the making of combination offers where the purchase of one item at a reduced price is contingent upon the purchase of other items at a regular price, provided the terms and conditions of the offer are fully disclosed to the buyer, the buyer is informed of the total price he must pay and the price of items included in the offer are based on the price at which such items are regularly sold by the seller.

(e) Will provide any service purchased for a longer period than the seller is obligated to provide under the contract.

(f) Will in any way reduce the regular price for the goods or services to the buyer for the use of the buyer's name or a written expression of his opinion.

(2) No seller engaged in making a home solicitation sale shall misrepresent, directly or by implication:

(a) The identity of the seller, the business firm or organization he represents, or his affiliation or association with other firms, businesses or governmental entities, or the identity of the goods or services he offers to sell.

(b) The savings which will be accorded or made available to the buyer.

(c) The length of the sales presentation.

(d) The delivery or performance date.

(e) The nature of any document the buyer is requested or required to execute in connection with the purchase or lease of any goods or services.

(f) Any limitations and restrictions on the guarantee or warranty made by the seller, including any duty which the buyer must perform as a condition precedent to the guarantee or warranty becoming effective.

(g) Finance or interest charges or installments to be paid in connection with sales made on credit, or any other terms or conditions under which credit will be extended.

(3) No seller engaged in making a home solicitation sale shall use any false, deceptive or misleading representations to induce a sale, or use any plan, scheme or ruse which misrepresents the true status or mission of the person making the call, or fails to promptly leave the premises at which a sales presentation is made when requested to do so.

(4) No seller engaged in making a home solicitation sale shall make any material representations with respect to the warranty or guarantee of the product or services he sells unless such representations are true and are furnished to the buyer in writing as part of any sales document or agreement, or in a separate statement of warranty

or guarantee. Separate statements of warranty or guarantee shall be furnished to the buyer prior to the time first payment is due.

(5) No seller engaged in making a home solicitation sale shall make any statement or representations inconsistent with or contradictory to any contract document or instrument in writing evidencing the transaction.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; emerg. am. (1) (d) and (e), eff. 10-2-72; am. (1) (a), (c), (d) and r. (e); renum. (1) (f) and (g) to be (e) and (f); cr. (2) (g); am. (4) and cr. (5), Register, January, 1973, No. 205, eff. 2-1-73; am. (1) (intro.) and (b), (2) (intro.), (3), (4) and (5), Register, March, 1976, No. 243, eff. 4-1-76.

Ag 127.04 History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; emerg. r. eff. 10-2-72; r. Register, January, 1973, No. 205, eff. 2-1-73.

Ag 127.04 Unfair employment offers. No seller shall represent in any offer of employment, including offers made in training sessions or advertisements, that prospective representatives, agents or salesmen will be paid on a salary basis if they accept employment when, in fact, they will be paid on a commission basis.

History: Cr. Register, September, 1972, No. 201, eff. 10-1-72; emerg. renum. Ag 127.05 to be Ag 127.04, eff. 10-2-72; renum. Ag 127.05 to be Ag 127.04, Register, January, 1973, No. 205, eff. 2-1-73.