

CHAPTER 423

CONSUMER APPROVAL TRANSACTIONS AND ADVERTISING

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SUBCHAPTER I
GENERAL PROVISIONS

423.101 Short title. This chapter shall be known and may be cited as Wisconsin consumer act—consumer approval transactions and advertising.

History: 1971 c. 239.

Note: See the note under s. 421.101 as to the effective date and applicability of the Wisconsin Consumer Act.

423.102 Scope. This chapter applies to consumer transactions.

History: 1971 c. 239.

SUBCHAPTER II
RIGHT TO RESCIND

423.201 Definition. "Consumer approval transaction" means a consumer transaction other than a sale or lease or listing for sale of real property, a sale of goods at auction, the sale or lease of goods for an agricultural purpose or a loan made to finance the sale of goods at auction for an agricultural purpose 1) which is initiated by face-to-face solicitation away from a regular place of business of the merchant or by mail or telephone solicitation directed to the particular customer and 2) which is consummated or in which the customer's offer to contract or other writing evidencing the transaction is received by the merchant away from a regular place of business of the merchant and involves the extension of credit or is a cash transaction in which the amount the customer pays exceeds \$25. "Consumer approval transaction" shall in no event include a catalog sale which is not accompanied by any other solicitation.

History: 1971 c. 239.

423.202 Right to cancel: manner of cancellation. (1) Except as provided in sub. (4), in addition to any right otherwise to revoke an offer, to rescind the transaction or to exercise any remedy for the merchant's breach, a customer has the right to cancel consumer approval transaction until midnight of the 3rd business day after the merchant has given the notice to the customer in accordance with s. 423.203.

(2) Notice of cancellation shall be by mail addressed to the merchant and shall be considered given at the time mailed.

(3) Notice of cancellation by the customer need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the customer not to be bound by the consumer approval transaction.

(4) The customer may not cancel a consumer approval transaction if:

(a) The customer has determined that a delay of 3 business days in performance of the merchant's obligation under the transaction will jeopardize the welfare, health or safety of natural persons or endanger property which the customer owns or for which he is responsible;

(b) The customer furnishes the merchant with a separate dated and signed personal statement describing the situation requiring immediate remedy and modifying or waiving his right of rescission. The use of printed forms for this purpose is prohibited;

(c) The merchant in good faith makes a substantial beginning of performance of the contract before the customer gives notice of cancellation; and

(d) In the case of goods, the goods cannot be returned to the merchant in substantially as good condition as when received by the customer.

History: 1971 c. 239.

423.203 Notice to customer. (1) Whenever a customer has the right to cancel a consumer approval transaction, the merchant shall give 2 copies of a separate typed or printed notice of that fact to the customer. The notice must:

(a) Be printed in capital and lowercase letters of not less than 12-point boldface type;

(b) Appear under the conspicuous caption: "CUSTOMER'S RIGHT TO CANCEL";

(c) Read as follows: You may cancel this agreement or purchase by either mailing a written notice to the seller postmarked not later than the third business day after the date you signed this agreement or purchased the goods or services, or by delivering such written notice to the seller, by 5 p.m. of the third business day after you signed this agreement or purchased the goods or services. If you wish, you may use this page as that notice by writing "I hereby cancel" and adding your name and address. A duplicate of this page is provided by the seller for your records. The notice must be mailed or delivered to: *(insert name and mailing address of seller)*.

(2) A merchant who in the ordinary course of business regularly uses a language other than English in any advertising or other solicitation of customers or in any printed forms for use by customers or in any face-to-face negotiations with his customers shall give the notice described in this section to a customer whose principal language is such other language both in English and in the other language.

(3) The notice required under this section must be delivered either after all the credit cost disclosures have been made to the customer as required by the federal consumer credit protection act and the customer has signed the writing evidencing the transaction, or contemporaneously therewith, but not before.

(4) A violation of this section is subject to s. 425.304.

History: 1971 c. 239.

423.204 Restoration of downpayment; security interest void; return of property.

(1) Within 10 days after a consumer approval transaction has been canceled, the merchant shall cause any money paid by the customer, including a downpayment, to be returned to the customer and shall take any appropriate action to reflect the termination of the transaction including any security interest created as a result.

(2) Upon cancellation, as allowed by this section, the customer is not liable for any finance or other charge and the transaction, including any security interest, is void.

(3) If the merchant has received any property from the customer, he shall return such property in substantially as good condition as it was when it was given within 20 days after the cancellation of the transaction. If such property is not returned within such time, the customer shall have the right to recover the property or the greater of its agreed or fair market value at retail.

History: 1971 c. 239.

423.205 Duty of customer. (1) The customer has the duty to take reasonable care of the goods in his possession before cancellation and for a reasonable time after tender, not to exceed 20 days.

(2) Upon the performance of the merchant's obligations under s. 423.204, the customer shall tender the property to the merchant, except that if the return of the property to the merchant is inequitable the customer shall tender its reasonable value.

(3) Tender shall be made at the location of the property or at the residence of the customer at the option of the customer.

(4) If the merchant does not take possession of the property within 20 days after tender by the customer, ownership of the property vests in the customer without obligation on his part to pay for it.

(5) If the merchant has performed any services pursuant to a consumer approval transaction prior to its cancellation, the merchant is entitled to no compensation.

History: 1971 c. 239.

SUBCHAPTER III
ADVERTISING

423.301 False, misleading or deceptive advertising. No merchant shall advertise, print, display, publish, distribute or broadcast or cause to be advertised, printed, displayed, published, distributed or broadcast, in any manner any statement or representation with regard to the extension of consumer credit including the rates, terms or conditions for the extension of such credit, which is false, misleading, or deceptive, or which omits to state material information with respect to the extension of credit that is necessary to make the statements therein not false, misleading or deceptive. With respect to matters specifically governed by the federal consumer credit protection act, compliance with such act satisfies the requirements of this section.

History: 1971 c. 239.

423.302 Remedies and penalty. In addition to any other remedy provided by law, a customer who has been induced to consummate a consumer credit transaction as a result of ad-

vertising in violation of s. 423.301 shall be entitled to a recovery from the merchant in accordance with s. 425.305.

History: 1971 c. 239.