

Cooling-off period in a sales contract

Business



Protection of consumer's interest against unethical and fraudulent business practices of some direct marketers is now plays an important role. This research papers dwells deep into 'cooling-off' statutes and their efficacy in safeguarding the interest of consumers with emphasis to low income group consumers. Cooling-Off Period There is an increased emphasis both at state and federal levels on safeguarding the interests of consumers on the purchases made by them from salesmen on door-to-door canvassing.

One of the reliefs provided in such scenario is cooling-off period during which the buyer may cancel his contract to buy a product or services when the sale is accomplished at a place other than the seller's address. Both under federal and state laws, a customer can annul sale within 3 business days from the date of the sales. This rescinding provision offers a special privilege to the consumer who feels that he has been deceived or pressured into deciding an unnecessary purchase. [Walker et al 52].

It is to be noted that most of state 'cooling-off' statutes cover only sale of durable goods that involve installment contracts and usually exempt sales with value less than \$25. Further, cool-off provisions in majority state laws will be applicable only where sales contracts are signed in place other than seller's business place. Further, in many state laws, there is a provision enlightening the buyer of his privilege to cancel the sales contract and the formalities to adhere in doing so.

Some state law require seller to provide the buyer with a format to deploy when he makes a cancellation decision. However, in many states, no printed notice format is prescribed about how a buyer should intimate his desire to cancel the sales contract and as such, the buyer may use his own style if he

elects to cancel a purchase and however, such decision should be in writing. Most of states and federal law does not recognize contracts made through mail or through phone. Many state laws prescribe a penalty on the buyer if he elects to cancel a sales contract.

This facilitates the seller to recoup a portion of sale price which usually ranges from \$ 4 to \$ 14 and this reimburses the seller a part of expenses incurred and also discourages buyers from entering into sales contract when they do actually have no intention of honoring such contracts. Cooling-off provision is essential as it prevents ‘ hit-and-run’ sellers. Though , there are other remedies are available to gullible consumers like fraud and misrepresentation under contract laws , cooling-off offers some instant and immediate relief to consumers.

‘ Cooling-off ‘ provision is safeguarding mainly the low-income consumers as they may become an easy prey to high-pressure sellers as they always lack knowledge of other alternative products , about sources of supplies and other available legal recourses . Thus, ‘ cooling-off ‘ offers the consumers a chance to cancel their purchase thereby escaping from purchase commitments on fraudulently induced contracts. [Walker et al 53]. Some argue that cancellation of purchase contract should be limited to sales made by direct sellers.

In case of installment contracts , there is a facility to discount the same with finance companies and in such cases , the ‘ holder-in-due-course’ doctrine safeguards these finance companies from legal action which may be pursued by the seller’s customers. This safeguard measure to finance companies has encouraged the fraudulent sellers to indulge in fraud and

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misrepresentation since the seller can rapidly discount the installment contracts without concerning about their realization.

However, opponents argue that cooling-off provisions dilute the sanctity of the contract and offers unlimited privileges to consumers to cancel a sales contract even if there is no involvement of fraud and misrepresentation and it results in infringement of a legal contract without cause. Critics also argue that cooling-off provision is meant to single out the direct selling industry. Majority of the direct selling industry members argue that cooling-off provision is unleashing more adverse economic consequences on their industry.

Further, Ghetto merchants vehemently argue that they sell to low-income consumers with high margins to cover up losses that may arise due to bad debts, theft etc. It isto be rememberedthat direct selling industry is actively engaged in high pressure and fraudulent devices. Cooling-off provision is essential to protect the low-income, unwary consumers. [Walker et al 54]. Lack of knowledge about ‘ cooling-off’ provision among low-income group consumers also facilitates the fraudulent sellers to dupe them.

It is known fact that ‘ cooling-off’ legislation has no strong impact as many deceptive sellers can still avoid the provision of the law. Since, cooling-off coverage is restricted to sales agreements signed at places other than the seller’s usual address, meticulous seller can still circumvent the law by establishing ‘ temporary stores’. In such cases, customers are visited on door-to-door basis and then taken to local ‘ store’ to sign a sales contract.

Excepting in certain states like Illinois and Vermont, signing the sales contract at the seller's address negates the rights under 'cooling-off' legislation. One another mean to circumvent cooling-off provision is to operate exclusively on verbal agreements and rely on informal social controls to guarantee payments from customers through peddlers. Further, some states have provision where delivery of extensive part of product or service denies the buyer's privilege to cancel within the statutory timeframe. [Walker et al 55].