

**37-24-5.1 "Door to door sale" defined.**

37-24-5.1. "Door to door sale" defined. In this chapter, unless the context otherwise requires, "door to door sale" means, except as provided by § 37-24-5.2, any sale, lease, or rental of goods or services with a purchase price of twenty-five dollars or more, whether under single or multiple contracts, in which the seller or his representative personally solicits the sale, including those in response to or following an invitation by the buyer, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller.

Source:(1)

**37-24-5.2 Transactions not considered door to door sales.**

37-24-5.2. Transactions not considered door to door sales. The term "door to door sale" shall not include any transaction:

(1) Made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis; or

(2) In which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act (15 U.S.C. 1635); or

(3) In which the buyer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three business days; or

(4) Conducted and consummated entirely by mail or telephone, and without any other contact between the buyer and the seller or its representative prior to delivery of the goods or performance of the services; or

(5) In which the buyer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the buyer's personal property. If in the course of such a visit, the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion; or

(6) Pertaining to the sale or rental of real property, to the sale of insurance or to the sale of securities or commodities by a broker-dealer registered with the division of securities, Department of Labor and Regulation; or

(7) Pertaining to the sale, lease or repair of motor vehicles, metal buildings, farm machinery or implements, or mobile homes, by a dealer having a fixed permanent location and place of business in South Dakota where such goods and services are offered on a continuing basis.

Source:(2)

**37-24-5.3 Door to door seller's failure to inform buyer of right to cancel.**

37-24-5.3. Door to door seller's failure to inform buyer of right to cancel. It is a deceptive act or practice, within the meaning of § 37-24-6, for any seller, in connection with any door to door sale, to:

(1) Fail to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of ten points, a statement in substantially the following form:

"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.";

(2) Fail to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel;

(3) Misrepresent in any manner the buyer's right to cancel.

Source:(3)

**37-24-5.4 Cancellation notice form to be furnished and filled in by door to door seller.**

37-24-5.4. Cancellation notice form to be furnished and filled in by door to door seller. It is a deceptive act or practice, within the meaning of § 37-24-6, for any seller, in connection with any door to door sale, to:

(1) Fail to furnish each buyer, at the time he signs the door to door sales contract or otherwise agrees to buy goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and easily detachable, and which shall contain in ten point bold face type the following information:

NOTICE OF CANCELLATION

(enter date of transaction)

(Date)

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN TEN BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELED. IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOU RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN TWENTY DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL, OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO (Name of seller) AT (address of seller's place of business) NOT LATER THAN MIDNIGHT OF

\_\_\_\_\_  
(Date)

I HEREBY CANCEL THIS TRANSACTION.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Buyer's signature)

(2) Fail, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of transaction, by which the buyer may give notice of cancellation.

Source:(4)

**37-24-5.5 Deceptive to include confession of judgment or waiver of rights in door to door sale.**

37-24-5.5. Deceptive to include confession of judgment or waiver of rights in door to door sale. It is a

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deceptive act or practice, within the meaning of § 37-24-6, for any seller to include in any door to door contract or receipt any confession of judgment or any waiver of any of the rights to which the buyer is entitled under this chapter including specifically his right to cancel the sale in accordance with the provisions of this chapter.

**Source:(5)**

**37-24-5.6 Deceptive to fail to honor notice of cancellation of door to door sale--Notice of intent to repossess or abandon delivered goods.**

37-24-5.6. Deceptive to fail to honor notice of cancellation of door to door sale--Notice of intent to repossess or abandon delivered goods. It is a deceptive act or practice within the meaning of § 37-24-6, for any seller, in connection with any door to door sale, to:

(1) Fail or refuse to honor any valid notice of cancellation by a buyer and within ten business days after the receipt of such notice, to refund all payments made under the contract or sale; return any goods or property traded in, in substantially as good condition as when received by the seller; cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction;

(2) Fail, within ten business days of receipt of the buyer's notice of cancellation, to notify him whether the seller intends to repossess or to abandon any shipped or delivered goods.

**Source:(6)**

**37-24-5.7 Criteria for compliance of door to door sales with notice requirements.**

37-24-5.7. Criteria for compliance of door to door sales with notice requirements. A door to door sale shall be deemed to be in compliance with the notice requirements of this chapter if:

(1) The buyer may at any time:

(a) Cancel the sale; or

(b) Refuse to accept delivery of the goods without incurring any obligation to pay for them; or

(c) Return the goods to the seller and receive a full refund for any amount the buyer has paid; and

(2) The buyer's right to cancel the sale, refuse delivery, or return the goods without obligation or charge at any time is clearly and unmistakably set forth on the face or reverse side of the receipt or contract.

**Source:(7)**

**Endnotes**

**1 (Popup - Source)**

**Source:**

SDCL, § 37-24-1 as added by SL 1975, ch 244, § 1; SL 1984, ch 258, § 2.

**2 (Popup - Source)**

**Source:**

SDCL § 37-24-1 as added by SL 1975, ch 244, § 1; SL 1976, ch 238; SL 1979, ch 260; SL 2003, ch 272 (Ex. Ord. 03-1), § 26; SL 2011, ch 1 (Ex. Ord. 11-1), § 162, eff. Apr. 12, 2011.

**3 (Popup - Source)**

**Source:**

SDCL, § 37-24-6 as added by SL 1975, ch 244, § 7 (a), (e), (f).

**4 (Popup - Source)**

**Source:**

SDCL, § 37-24-6 as added by SL 1975, ch 244, § 7 (b), (c); SL 1984, ch 258, § 3.

**5 (Popup - Source)**

**Source:**

SDCL, § 37-24-6 as added by SL 1975, ch 244, § 7 (d).

**6 (Popup - Source)**

**Source:**

SDCL, § 37-24-6 as added by SL 1975, ch 244, § 7 (g), (h).

**7 (Popup - Source)**

**Source:**

SL 1975, ch 244, § 8.