

Senate Study Bill 1286

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to specified types of business solicitations,
2 providing an exception from applicability of certain
3 requirements for sales conducted by mail, the telephone, or
4 the internet.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6 TLSB 2398XC 82

7 rn/es/88

PAG LIN

1 1 Section 1. Section 552A.1, subsection 1, Code 2007, is
1 2 amended to read as follows:

1 3 1. "Buying club" means a corporation, partnership,
1 4 unincorporated association, or other business enterprise which
1 5 sells or offers for sale to the general public ~~generally~~
1 6 memberships or certificates of membership.

1 7 Sec. 2. Section 552A.1, subsection 3, Code 2007, is
1 8 amended to read as follows:

1 9 3. "Membership" means certificates, memberships, shares,
1 10 bonds, contracts, stocks, or agreements of any kind or
1 11 character issued upon any plan offered ~~generally~~ to the
1 12 general public entitling the holder to purchase merchandise,
1 13 materials, equipment, or service, either from the issuer or
1 14 another person designated by the issuer, either under a
1 15 franchise or otherwise, whether it be at a discount, at cost
1 16 plus a percentage, at cost plus a fixed amount, at a fixed
1 17 price, or on any other similar basis.

1 18 Sec. 3. Section 552A.3, Code 2007, is amended to read as
1 19 follows:

1 20 552A.3 RIGHT OF CANCELLATION == REQUIREMENT OF WRITING.

1 21 The requirements of sections 555A.1 through 555A.5,
1 22 relating to door-to-door sales, shall apply to sales of buying
1 23 club memberships, irrespective of the place or manner of sale
1 24 ~~or the purpose for which they are purchased, except those that~~
1 25 ~~are conducted and consummated entirely by mail, the telephone,~~
1 26 ~~or the internet and without any other contact between the~~

1 27 ~~buyer and the seller or its representative prior to delivery~~
1 28 ~~of the goods or performance of the service. In addition to~~
1 29 ~~the requirements of chapter 555A, a contract shall not be~~
1 30 ~~enforceable against a person acquiring resulting from any such~~
1 31 ~~sale of a membership in a buying club shall not be enforceable~~
1 32 ~~against the purchaser unless the contract is in writing and~~
1 33 signed by the purchaser.

1 34 Sec. 4. Section 555A.1, subsection 3, paragraph a,
1 35 subparagraph (4), Code 2007, is amended to read as follows:

2 1 (4) Conducted and consummated entirely by mail, ~~or the~~
2 2 telephone, or the internet and without any other contact
2 3 between the buyer and the seller or its representative prior
2 4 to delivery of the goods or performance of the services.

2 5 EXPLANATION

2 6 This bill relates to sales of buying club memberships that
2 7 are conducted by mail, by telephone, or over the internet
2 8 rather than sold in person directly between the seller and the
2 9 purchaser.

2 10 Code section 552A.3 currently applies the requirements of
2 11 Code sections 555A.1 through 555A.5, dealing primarily with
2 12 notice of cancellation rights and contract rescission in
2 13 door-to-door sales situations, to the sale of buying club
2 14 memberships. The bill restricts the applicability of those
2 15 provisions to sales other than those conducted and consummated
2 16 entirely by mail, the telephone, or the internet and without

2 17 any other contact between the buyer and the seller or its
2 18 representative prior to delivery or performance. This change
2 19 is consistent with Code section 552A.1, subsection 3,
2 20 paragraph "a", subparagraph (4) which exempts such
2 21 transactions from the definition of a door-to-door sale.
2 22 The bill also rephrases a provision in Code section 555A.3
2 23 regarding lack of nonenforceability of a buying club
2 24 membership contract unless the contract is in writing and
2 25 signed by the purchaser, specifying that this provision
2 26 applies to a purchaser, as opposed to a "person acquiring" a
2 27 buying club membership contract.
2 28 The bill adds internet sales to the exemptions from the
2 29 definition of a door-to-door sale, to promote consistency
2 30 between the respective chapters.
2 31 LSB 2398XC 82
2 32 rn:rj/es/88