

AMENDED IN ASSEMBLY APRIL 21, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1304

Introduced by Assembly Member Maddox

February 26, 1999

An act to amend Section 1689.5 of the Civil Code, relating to home solicitation contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1304, as amended, Maddox. Home solicitation contracts.

Existing law regulates the content and effect of home solicitation contracts, as defined. Existing law excludes *services performed by various businesses and professions* from the definition of “services” for purposes of these provisions; ~~the services of attorneys.~~

This bill would revise this definition to also exclude services of ~~an attorney's agent~~ *licensed private investigators*.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1689.5 of the Civil Code is
2 amended to read:
3 1689.5. As used in Sections 1689.6 to 1689.11, inclusive,
4 and in Section 1689.14:

1 (a) “Home solicitation contract or offer” means any
2 contract, whether single or multiple, or any offer which
3 is subject to approval, for the sale, lease, or rental of goods
4 or services or both, made at other than appropriate trade
5 premises in an amount of twenty-five dollars (\$25) or
6 more, including any interest or service charges. “Home
7 solicitation contract” does not include any contract under
8 which the buyer has the right to rescind pursuant to Title
9 1, Chapter 2, Section 125 of the Federal Consumer Credit
10 Protection Act (P.L. 90-321) and the regulations
11 promulgated pursuant thereto, or any contract for repair
12 services with a contractor who is duly licensed pursuant
13 to Chapter 9 (commencing with Section 7000) of Division
14 3 of the Business and Professions Code, if (1) the contract
15 price is less than one hundred dollars (\$100), (2) the
16 negotiation between the parties was initiated by the
17 prospective buyer, and (3) the contract contains a
18 written and dated statement signed by the prospective
19 buyer stating that the negotiation between the parties
20 was initiated by the prospective buyer.

21 (b) “Appropriate trade premises,” means premises
22 where either the owner or seller normally carries on a
23 business, or where goods are normally offered or exposed
24 for sale in the course of a business carried on at those
25 premises.

26 (c) “Goods” means tangible chattels bought for use
27 primarily for personal, family, or household purposes,
28 including certificates or coupons exchangeable for these
29 goods, and including goods that, at the time of the sale or
30 subsequently, are to be so affixed to real property as to
31 become a part of the real property whether or not
32 severable therefrom, but does not include any vehicle
33 required to be registered under the Vehicle Code, nor
34 any goods sold with this vehicle if sold under a contract
35 governed by Section 2982, and does not include any
36 mobilehome, as defined in Section 18008 of the Health
37 and Safety Code, nor any goods sold with this
38 mobilehome if either are sold under a contract subject to
39 Section 18036.5 of the Health and Safety Code.



1 (d) “Services” means work, labor and services,
2 including, but not limited to, services furnished in
3 connection with the repair, restoration, alteration, or
4 improvement of residential premises, or services
5 furnished in connection with the sale or repair of goods
6 as defined in Section 1802.1, and courses of instruction,
7 regardless of the purpose for which they are taken, but
8 does not include the services of attorneys ~~or their agents~~,
9 *licensed private investigators*, real estate brokers and
10 salesmen, securities dealers or investment counselors,
11 physicians, optometrists, or dentists, nor financial services
12 offered by banks, savings institutions, credit unions,
13 industrial loan companies, personal property brokers,
14 consumer finance lenders, or commercial finance
15 lenders, organized pursuant to state or federal law, that
16 are not connected with the sale of goods or services, as
17 defined herein, nor the sale of insurance that is not
18 connected with the sale of goods or services as defined
19 herein, nor services in connection with the sale or
20 installation of mobilehomes or of goods sold with a
21 mobilehome if either are sold or installed under a
22 contract subject to Section 18036.5 of the Health and
23 Safety Code, nor services for which the tariffs, rates,
24 charges, costs, or expenses, including in each instance the
25 time sale price, is required by law to be filed with and
26 approved by the federal government or any official,
27 department, division, commission, or agency of the
28 United States or of the state.

29 (e) “Business day” means any calendar day except
30 Sunday, or the following business holidays: New Year’s
31 Day, Washington’s Birthday, Memorial Day,
32 Independence Day, Labor Day, Columbus Day,
33 Veterans’ Day, Thanksgiving Day, and Christmas Day.

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