

CONTRACTS: 3-DAY COOLING OFF PERIOD

The Federal Trade Commission (FTC) has a Cooling-Off Rule that gives you a 3-day right to cancel a sale made at your home, workplace or dormitory, or at a seller's temporary location, like a hotel or motel room, convention center, fairground or restaurant. It also applies when you invite a salesperson to make a presentation in your home. But not all sales are covered.

At the Time of Sale

By law, the seller must tell you about your right to cancel at the time of sale. The seller also must give you two copies of a cancellation form (one to keep and one to send if you decide to cancel your purchase) and a copy of your contract or receipt. The contract or receipt should be dated, show the name and address of the seller, and explain your right to cancel. The contract or receipt must be in the same language that is used in the sales presentation. Your right to cancel for a full refund extends until midnight of the third business day after the sale.

Exceptions to the Rule

Certain types of sales can't be canceled, even if they take place in places normally covered by the Rule. The Cooling-Off Rule does not cover sales that are:

- under \$25 for sales made at your home;
- under \$130 for sales made at temporary locations;
- for goods or services not primarily intended for personal, family or household purposes. (The Rule applies to courses of instruction or training.);
- made entirely online, or by mail or telephone;
- the result of prior negotiations at the seller's permanent place of business where the goods are sold regularly;
- needed to meet an emergency;
- made as part of your request for the seller to do repairs or maintenance on your personal property (purchases made beyond the maintenance or repair request are covered).

Also exempt from the Cooling-Off Rule are sales that involve:

- real estate, insurance, or securities;
- automobiles, vans, trucks, or other motor vehicles sold at temporary locations if the seller has at least one permanent place of business;

-arts or crafts sold at fairs or places like shopping malls, civic centers, and schools.

How to Cancel

You don't have to give a reason for canceling your purchase. You have the right to change your mind.

To cancel a sale, sign and date one copy of the cancellation form. Mail it to the address given for cancellations, making sure the envelope is post-marked before midnight of the third business day after the contract date. Saturday is considered a business day; Sundays and federal holidays are not. Because proof of the mailing date and receipt are important, consider sending the cancellation form by certified mail so you can get a return receipt. Keep the other copy of the cancellation form for your records.

If the seller didn't give you cancellation forms, you can write a cancellation letter. It must be post-marked within three business days of the sale.

If You Cancel

If you cancel your purchase, the seller has 10 days to:

- cancel and return any check you signed;
- refund all your money and tell you whether any product you still have will be picked up; and
- return any trade-in.

Within 20 days, the seller must either pick up the items left with you, or reimburse you for mailing expenses, if you agree to send back the items.

If you received any goods from the seller, you must make them available to the seller in as good condition as when you got them. If you don't make the items available to the seller — or if you agree to return the items but don't — you remain obligated under the contract.

If you wish to consult with a Legal Assistance attorney on this matter, visit our office in Building 358, Presidio of Monterey. Monterey, CA or call (831) 242-5083/5084 to schedule an appointment.