

SENATE BILL REPORT

ESB 6427

AS PASSED SENATE, FEBRUARY 12, 1992

Brief Description: Declaring when goods mailed without authority become gifts.

SPONSORS: Senators Murray and Skratek

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended.

Signed by Senators Matson, Chairman; Anderson, Vice Chairman; Bluechel, McCaslin, McDonald, McMullen, Moore, Murray, and Skratek.

Staff: Jonathan Seib (786-7427)

Hearing Dates: January 30, 1992; February 5, 1992

BACKGROUND:

"Negative option" selling refers to the practice of providing and charging someone for a product when that person has failed to return a card or taken some other action refusing such delivery.

It is suggested that this type of selling misleads consumers into paying for products they do not want, and is inherently unfair and deceptive.

Current state law provides that unless otherwise agreed, when an unsolicited good is mailed to a person, the person may keep the good without paying for it. "Unsolicited," however, is not specifically defined to include goods received under a negative option plan. The law does not cover unsolicited services.

SUMMARY:

If unsolicited goods or services are provided to a person, the person may accept the goods or services as gifts. A good or service is considered unsolicited unless the person specifically requested, in an affirmative manner, its receipt. Goods or services are not considered to have been requested if the person failed to respond to an invitation to purchase them. A violation of the act is a violation of the Consumer Protection Act.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

Negative option marketing is a growing problem, particularly with regard to services. The practice is deceptive and leads many consumers, particularly from vulnerable populations such as the elderly, to pay for goods they do not want.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Paula Selis, Office of the Attorney General;
Billie Clark; Mary Montgomery