

**Superseded 5/4/2022**

**13-26-2 Definitions.**

As used in this chapter, unless the context otherwise requires:

- (1) "Continuity plan" means a shipment, with the prior express consent of the buyer, at regular intervals of similar special-interest products. A continuity plan is distinguished from a subscription arrangement by no binding commitment period or purchase amount.
- (2) "Division" means the Division of Consumer Protection.
- (3) "Fictitious personal name" means a name other than an individual's true name. An "individual's true name" is the name taken at birth unless changed by operation of law or by civil action.
- (4) "Material statement" or "material fact" means information that a person of ordinary intelligence or prudence would consider important in deciding whether or not to accept an offer extended through a telephone solicitation.
- (5) "Premium" means a gift, bonus, prize, award, certificate, or other document by which a prospective purchaser is given a right, chance, or privilege to purchase or receive goods or services with a stated or represented value of \$25 or more as an inducement to a prospective purchaser to purchase other goods or services.
- (6) "Subscription arrangements," "standing order arrangements," "supplements," and "series arrangements" mean products or services provided, with the prior express request or consent of the buyer, for a specified period of time at a price dependent on the duration of service and to complement an initial purchase.
- (7)
  - (a) "Telephone solicitation," "sale," "selling," or "solicitation of sale" means:
    - (i) a sale or solicitation of goods or services in which:
      - (A)
        - (I) the seller solicits the sale over the telephone;
        - (II) the purchaser's agreement to purchase is made over the telephone; and
        - (III) the purchaser, over the telephone, pays for or agrees to commit to payment for goods or services prior to or upon receipt by the purchaser of the goods or services;
      - (B) the solicitor, not exempt under Section 13-26-4, induces a prospective purchaser over the telephone, to make and keep an appointment that directly results in the purchase of goods or services by the purchaser that would not have occurred without the telephone solicitation and inducement by the solicitor;
      - (C) the seller offers or promises a premium to a prospective purchaser if:
        - (I) the seller induces the prospective purchaser to initiate a telephone contact with the telephone soliciting business; and
        - (II) the resulting solicitation meets the requirements of Subsection (7)(a); or
      - (D) the solicitor solicits a charitable donation involving the exchange of any premium, prize, gift, ticket, subscription, or other benefit in connection with any appeal made for a charitable purpose by an organization that is not otherwise exempt under Subsection 13-26-4(2)(b)(iv); or
    - (ii) a telephone solicitation as defined in Section 13-25a-102.
  - (b) "Telephone solicitation," "sale," "selling," or "solicitation of sale" does not include a sale or solicitation that occurs solely through an Internet website without the use of a telephone call.
  - (c) A solicitation of sale or telephone solicitation is considered complete when made, whether or not the person receiving the solicitation agrees to the sale or to make a charitable donation.
- (8) "Telephone soliciting business" means a sole proprietorship, partnership, limited liability company, corporation, or other association of individuals engaged in a common effort to conduct telephone solicitations.

- (9) "Telephone solicitor" or "solicitor" means a person, partnership, limited liability company, corporation, or other entity that:
- (a) makes a telephone solicitation; or
  - (b) causes a telephone solicitation to be made.