

ANALYST

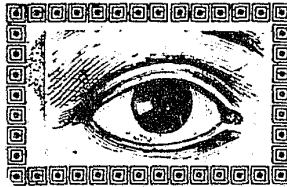
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A GUIDE TO CONSUMER RIGHTS IN SOUTH DAKOTA

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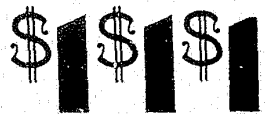
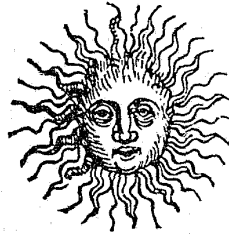
ACQUISITIONS

SOUTH DAKOTA DEPARTMENT OF
COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER PROTECTION



It's
unfair

46047





Consumer Bill of Rights

announced by
President John F. Kennedy
in a message to Congress
March 15, 1962

The Right to Safety

To be protected against the marketing of goods which are hazardous to health or to life.

The Right to be Informed


To be protected against fraudulent, deceitful, or grossly misleading information, advertising, labeling, or other practices, and to be given the facts he needs to make informed choices.

The Right to Choose

To be assured, wherever possible, access to a variety of products and services at competitive prices; and in those industries in which competition is not workable and government regulation is substituted, an assurance of satisfactory quality and service at fair prices.

The Right to be Heard

To be assured that consumer interests will receive full and sympathetic consideration in the formulation of government policy, and fair and expeditious treatment in its administrative tribunals.





Department of Commerce & Consumer Affairs

DIVISION OF CONSUMER PROTECTION

State Capitol, Pierre, South Dakota 57501

Phone 605/224-3242

Dear Fellow Consumer:

I am pleased to provide you with this handy reference for consumer action in South Dakota.

The Division of Consumer Protection, within the Department of Commerce and Consumer Affairs, protects you from a variety of illegal practices which can be perpetrated upon the unwary consumer. We make every effort to be fair to you, the consumer, and to the legitimate businessman. Everyone benefits from the exposure of practices which are in violation of the law. It is incumbent upon you to inform us if you suspect that you have been treated unfairly. You will benefit as will future victims.

Please feel free to contact us at anytime with questions or complaints concerning unscrupulous business activities. Our ability to react to your problems is limited to what is provided to us by the law. However, we do try to deal with all problems which are brought to our attention. Many complaints do not involve a violation of the law and it is heartening to me to know that we can arbitrate legitimate disagreements. That fact speaks well for South Dakota's consumers and businessmen.

Max A. Gors
Secretary
Department of Commerce
And Consumer Affairs

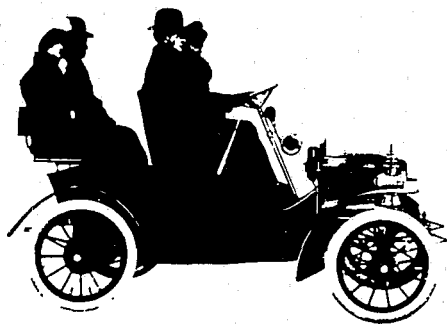
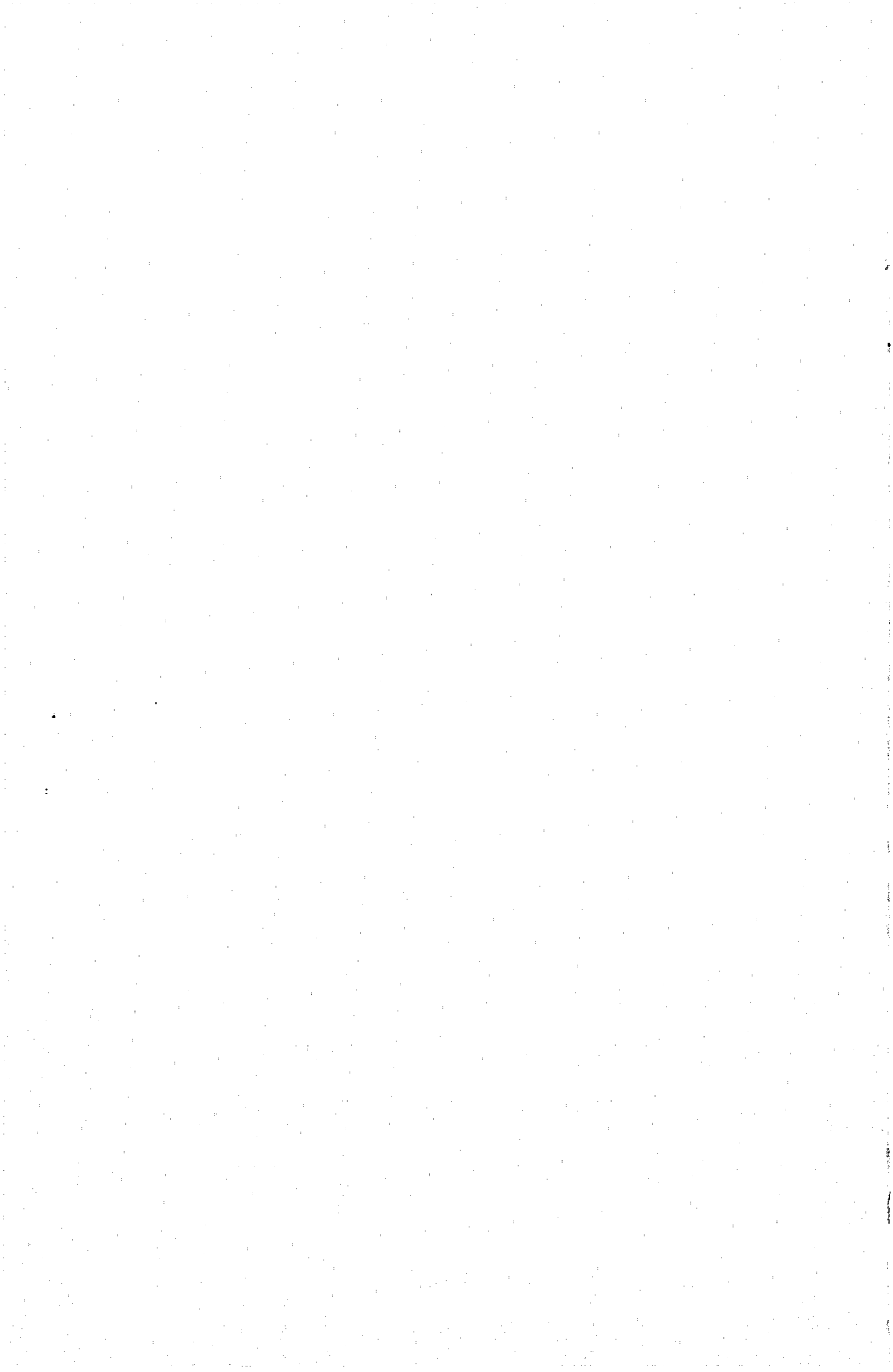


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FOR YOUR INFORMATION

 State Tie-line number (Toll free) 1-800-592-1865

DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS 224-3177


 Division of Consumer Protection
State Capitol Building
Pierre, SD 57501 224-3696


 Division of Consumer Protection
408 West 34th Street
Sioux Falls, SD 57105 339-6691

 Division of Securities
State Capitol Building
Pierre, SD 57501 224-3241


 Division of Human Rights
State Capitol Building
Pierre, SD 57501 224-3692


 Division of Banking & Finance
Insurance Building
Pierre, SD 57501 224-3421

 Division of Profession and Occupational Licensing
State Capitol Building
Pierre, SD 57501 224-3177

 Division of Insurance
Insurance Building
Pierre, SD 57501 224-3563

FEDERAL CONSUMER OFFICES

 Office of Consumer Affairs
Washington, D.C. 20201 (202) 245-6164

 Food & Drug Administration
Room 208, 32 S. Dakota
Sioux Falls, SD 57101 336-3980 (ext. 383)



Consumer Product Safety Commission

Denver Area Office

Suite 938, Guaranty Building

817 Seventeenth Street 1-800-638-2666

Denver, CO 80202 (303) 837-2904



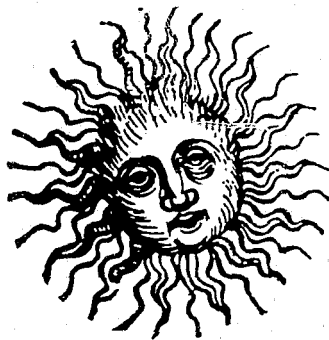
Federal Trade Commission

Denver Regional Office

Suite 2900

1405 Curtis Street

Denver, CO 80202 (303) 837-2271



THE DIVISION OF CONSUMER PROTECTION

The Division of Consumer Protection consists of four separate programs: Retail Inspection, Heavy Scales, Mobile Homes, and Consumer Protection. The Retail Inspection program was transferred to the Division from the Department of Agriculture in 1973. This program is responsible for enforcement of the weights and measures law and the misbranded and adulterated food law in South Dakota. The employees of this program are stationed across the state of South Dakota and inspect retail outlets on an unscheduled basis. These persons ensure that consumers of South Dakota get the weight and quantity for which they pay.

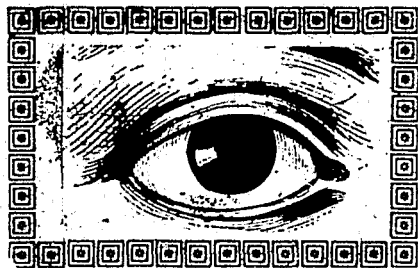
The Heavy Scales program was transferred to the Division from the Public Utilities Commission in 1973. The Heavy Scales program is responsible for the accuracy of the heavy commercial scales used for grain and livestock sales in South Dakota.

The Mobile Home Program also began in 1973 with the passage of the South Dakota Mobile Home Safety Act. The program is specifically discussed later in this handbook.

The fourth program within the Division of Consumer Protection is the Consumer Protection program. Much of the activity concerning the Deceptive Trade Practices Act, peddlers and solicitors law, and other consumer laws is conducted directly by the personnel in the Consumer Protection program.

The Division has two office locations. The main office is located on the first floor of the State Capitol building in Pierre. The telephone number is 224-3696. A branch office is located at 408 West 34th Street in Sioux Falls, South Dakota, telephone 339-6691. The offices are open Monday through Friday from 8 - 12 and 1 - 5 central time. South Dakotans may also reach the Consumer Protection offices by calling the toll free Tie-Line number 1-800-592-1865.

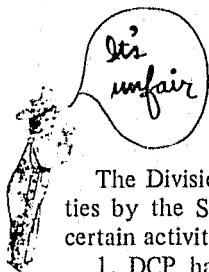




WHAT THE DIVISION OF CONSUMER PROTECTION [DCP] DOES

The following are among the many activities the Division of Consumer Protection undertakes on behalf of the consumer:

1. DCP investigates and mediates consumer complaints.
2. DCP may recommend legal action to States Attorneys and the Attorney General against companies alleged to be engaged in unfair business practices.
3. DCP engages in a consumer education program and distributes consumer education materials.
4. DCP assists in the preparation of consumer protection legislation.
5. DCP cooperates with Federal and consumer protection agencies in other states.



WHAT THE DIVISION OF CONSUMER PROTECTION (DCP) IS UNABLE TO DO

The Division of Consumer Protection has been given specific responsibilities by the South Dakota Legislature. While its powers are broad, there are certain activities the Division cannot undertake.

1. DCP has the power to act only in cases where the deceptive act or practices occurred in trade and commerce.
2. DCP can act only in the name of the State of South Dakota. It cannot act as a consumer's private attorney in legal action against merchants.
3. DCP cannot make recommendations on individual businesses. As a matter of policy the DCP will inform the consumer if the Division has received consumer complaints against a business and whether the complaint has been resolved.



HOW TO BE AN EFFECTIVE CONSUMER

Many problems commonly encountered by consumers can be avoided if the consumer will make it a habit to do the following when purchasing items or services:

- ... Take the name of the salesperson and put it on your receipt.
- ... Keep all receipts until the product has proven satisfactory.
- ... Deal only with established, reputable firms.
- ... Ask for old and/or damaged parts when they are replaced.
- ... Read and thoroughly understand everything before you sign.
- ... Check guarantees to ensure what is guaranteed for a lifetime.
- ... Don't be pressured. Ask questions.



HOW TO COMPLAIN EFFECTIVELY

To resolve consumer frustration, we recommend when a problem arises:

- ... Take your complaint to the company from which you purchased the product or service. Most often they can solve your problem. Many consumers with complaints fail to contact the company before seeking outside help. Save copies of all correspondence.
- ... If you don't achieve satisfaction from the first person you see, ask to see the supervisor or manager.
- ... Allow the company a few days or a week. Some complaints take time to resolve.

WHERE TO GO FOR HELP

1. If after a reasonable length of time, you still have not received satisfaction from the company, gather your facts together and call for help. Try to have copies of bills, contracts, cancelled checks, warranties, and any correspondence you have sent or received regarding the problem.

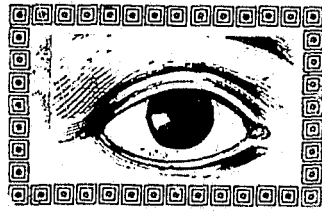
2. Call the Division of Consumer Protection office in Pierre at (605) 224-3696 or Sioux Falls (605) 339-6691 or use the toll free Tie-Line number, 1-800-592-1865 and ask for the Division of Consumer Protection.



3. Visit the Pierre office located on the first floor of the Capitol building or the Sioux Falls office at 408 West 34th Street.

Wise buying can prevent consumer problems. Remember the best consumer protection against fraud is an alert, informed consumer. No matter what your age - - - money is important.

Businessmen generally want to serve you. Their success, particularly in a sparsely populated state like South Dakota, depends upon your satisfaction with goods and services. You must protect your interest by shopping wisely, knowing your rights, and reporting violations of law or deceptive practices you encounter.



WHAT YOU SHOULD BRING TO OUR ATTENTION:

Consumers who encounter deceptive ads or practices should be able to recognize them as deceptive ads and report them to the Division of Consumer Protection. The South Dakota Deceptive Trade Practices Act has broad applications. It is generally used to prevent false advertising and deceptive practices.



YOU SHOULD REPORT:

- ... Statements which misrepresent the source, origin, sponsorship, approval, or certification of a product.
- ... Statements which misrepresent a product endorsed by a governmental agency, a testing agency, and possibly by a celebrity. If a product has such an endorsement, it is wise to check if you have any doubts. A similar misrepresentation is a merchant who represents he is approved or sponsored by a particular group when he actually is not. If you see any merchandise that is supposedly sponsored by a group, you may want to check on such sponsorships.
- ... Misrepresentation of a standard is also a deceptive act. In today's market place, many consumers shop for a particular grade or standard of goods. Merchants are prohibited from labeling their goods "national brands" when they are not.
- ... Selling used merchandise as new is also a deceptive act. This law prohibits a merchant from selling seconds or blemes as new merchandise.
- ... Advertising merchandise and not intending to sell it as advertised is a deceptive act. It is recommended you take your ad when you shop for a particular special, ask to see the display and if one is not available, request a rain check. If you are refused a rain check, contact the Division of Consumer Protection so that a determination can be made as to adequate supply.
- ... Advertising for sales personnel as an investment. In some cases, consumers looking for a part-time or second job will respond to a merchant advertising for sales personnel. It may be a scheme to obtain an investment from the consumer.

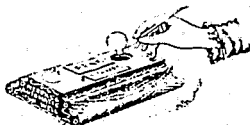




... It is also a deceptive act to use false or misleading price statements. If a product has been previously advertised at \$300 and an ad is used stating "was \$450, now \$325," it is a deceptive ad. If the merchant has previously advertised a used item at \$600 and changes it to a "was \$800, now \$650," a deceptive act is occurring unless the merchant can prove that he has invested money to improve the quality of the item or can show that the actual value has increased.



... It is a deceptive act to engage in bait and switch advertising. Consumers have often heard of bait and switch, but probably have not realized they have experienced such a situation. A common example is when a merchant offers a name brand item at an unbelievably low price. When you come to the store, you are switched to another product at a higher price, the original product is downgraded and/or shoddy merchandise is shown. The disadvantages of the special are emphasized and the advantages of the second item are expressed. You may also be told that the original product is unavailable. If you go to a store planning to purchase a fantastic special; if you are talked out of your purchase by a merchant; and if you are sold a higher priced item, you may be a victim of bait and switch. It should be reported.



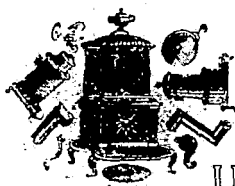
We need you to be alert and informed consumers. Don't be afraid to complain. The Division of Consumer Protection serves you by:

Investigation

Conciliation

Education

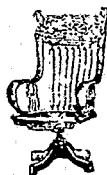
And the enforcement of the Deceptive Trade Practices Act.



UNSOLICITED MERCHANDISE

Many consumers receive merchandise through the mail, by common carrier, or personal delivery which they have not ordered. This merchandise is often accepted by the consumer and, in many instances, the consumer actually pays. South Dakota law provides that the consumer may refuse the merchandise, throw it away or convert it to his personal use. The unsolicited merchandise is deemed an unconditional gift to the consumer. You may use it in any manner without any obligation to the sender. This law does not apply, however, if there is evidence of obvious misdelivery of the merchandise, or if the merchandise is offered in good faith as a substitute for merchandise solicited.

If you receive merchandise which is not ordered, it is recommended that you contact the sender and indicate that you do not want the merchandise. If you have ever done business with the merchant, it is possible there has been a mistake. You probably have an unconditional right to keep the merchandise, but it may not be worthwhile to keep it if a legal action is commenced. It is recommended you keep a copy of any letter you send to the merchant. Send the letter by certified mail. You should document every effort to correct any mistake and always realize you may have to defend your rights in the future.





THREE DAY AVOIDANCE PERIOD

South Dakota has a law which permits you to reconsider purchases made under certain circumstances for a three day period. The seller must provide you with a copy of the contract showing his phone number and address before the avoidance period begins.

The sale must be:

1. A cash price of \$25.00 or more;
2. The result of a personal contact solicitation (away from established place of business).

To cancel a sale you should:

1. Cancel before three (3) business days have elapsed.
2. Write to the seller by certified mail. Keep a copy for your records.
3. Offer to return the merchandise to the seller in its original condition.

The three day avoidance period does not apply:

- ... When a transaction is made pursuant to prior negotiations at a retail establishment.
- ... If you initiate the contract to meet a personal emergency.
- ... If you furnish the seller with a separate personal statement waiving the three day avoidance period.
- ... If the transaction is conducted and consummated entirely by phone or mail.
- ... If you initiate the contact and specifically request the business to visit your home to repair goods.
- ... If the sale involves insurance or securities by a licensed agent.

The three day avoidance period gives consumers a method to offset high pressure sales tactics in the home. Many people are unable to convince or force a door-to-door salesman to leave their home. People buy out of desperation to get the person to leave. When such tactics are used, the three day avoidance period is necessary to provide the consumer with a remedy and an opportunity to cancel a contract made under these circumstances.



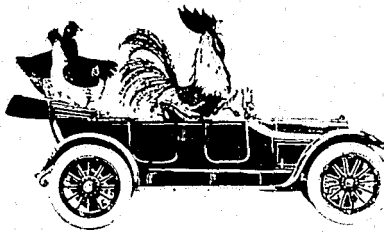


DOOR TO DOOR SALES

Did you know that...

- ... Peddlers and solicitors must be licensed by the Division of Consumer Protection?
- ... Peddlers and solicitors must be bonded for faithful performance?
- ... Solicitors must provide you with a signed copy of the order and notice of the three day avoidance period?
- ... Unlicensed peddlers and solicitors must cancel the sale and/or contract within one year if the consumer demands that they do so and offers to return the merchandise?
- ... It is against the law for peddlers and solicitors to offer you a discount or gift if you refer a customer to him or her?

If you are approached by a peddler or solicitor who cannot produce a license, you should contact your local States Attorney and request that he contact the Division of Consumer Protection.



MOBILE HOMES



The 1973 South Dakota Legislature passed the state's Mobile Home Safety Act. Prior to this time, South Dakota mobile homes were largely unregulated. This law was intended to upgrade the quality of the mobile homes in the state by providing a minimum building code for mobile homes. The law has been successful and has accomplished an upgrading in the quality of mobile homes sold in South Dakota. The mobile home program is scheduled to undergo substantial changes due to a new federal mobile home law. The Division of Consumer Protection is coordinating and enforcing the federal law. Consumers who purchased mobile homes manufactured after July 1, 1973, should contact the Division. If any difficulty exists, the consumer will be assisted or will be referred to the proper person for assistance.

WHEN BUYING A MOBILE HOME, always deal with a reputable firm. This is of utmost importance! It is best to speak to people who are mobile home owners. If you don't know any, contact some residents of the various mobile home parks in town.

As with any major purchase, you will probably have to choose between what you would like to have and what you can afford. Consider quality and floor plan, as well as where you will be putting your mobile home.

A WORD OF CAUTION: Most mobile home dealers and manufacturers try to give their customers full value for their money; but unfortunately, irregularities in mobile home sales sometimes occur. Here are a few common sense rules that will protect you:

*Understand what you sign: The contract that you and the mobile home dealer sign should contain a clear and complete description of the mobile home, the furnishings, appliances, accessory items, etc. Before you sign, be sure to ask the dealer to spell out the following:

—How much the complete home will cost.

—How much interest or finance charge you will pay over the life of the loan.

—How many payments you must make to pay off the loan.

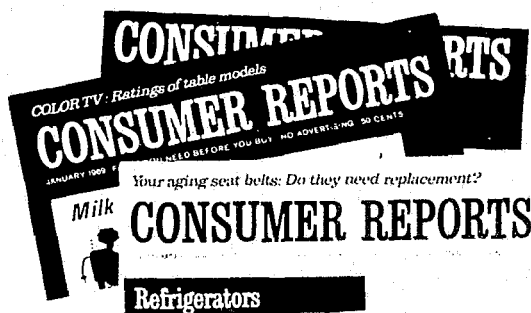
—How much each payment will be.

Read and understand thoroughly. NEVER sign a sales agreement with anyone who makes fantastic promises. Reputable dealers are not running give-away businesses. Always reduce verbal agreements to writing. Be certain to have the business owner sign this agreement.

*Avoid wild bargains. The best bargain is a well built mobile home.

*Avoid being pressured. High-pressure tactics are often the mark of a poor deal.





- *Avoid signing a certificate of placement until the home is set up to your satisfaction.
- *Avoid signing a contract that has any blank spaces. Find out what they are before signing.
- *Make sure you get a copy of everything you sign. Insist that it be given to you personally — do not let it be mailed to you.





TRUTH-IN-LENDING

Most of us use credit in one form or another. Usually a service charge has to be paid for the use of credit. The purpose of the truth-in-lending law is to let you know exactly what the finance charge is so you may make comparisons more readily. The law requires creditors to state such charges in a uniform way. The truth-in-lending law makes it easier for you to know two of the most important things about the cost of credit: One is the **finance charge** — the amount of money you pay to obtain credit. The other is the **annual percentage rate** — which provides a way of comparing credit costs regardless of the amount of those costs or the length of time in which payments are made. Thus, the **finance charge** and the **annual percentage rate** must be displayed (prominently) on the forms and statements used by your creditor to make the required disclosures to you.

Some creditors utilize a service or carrying charge or some other term instead of interest. Under the truth-in-lending law they must total all such charges, including the interest and service charge on the finance charge. Then they must list the annual percentage rate of the total credit charge. To find out more about truth-in-lending you may contact the Division of Consumer Protection in Pierre. Be sure to identify the name and location of the company extending credit so that your letter can be brought to the attention of the appropriate business extending the credit.



FAIR CREDIT REPORTING ACT



If you have a charge account or a mortgage on your home, life insurance, or have applied for a personal loan or job, it is almost certain that there is a file on you somewhere. That file will show how you pay your bills, if you have been sued, arrested, or if you have filed for bankruptcy. The companies which gather and sell such information are called credit reporting agencies. The Fair Credit Reporting Act was passed by the U.S. Congress to protect consumers against the circulation of inaccurate and obsolete information. Under this law, you may take steps to protect yourself if you are denied insurance, employment, or credit.

Here are the steps you can take:

You have the right:

1. To be told the name and address of the credit reporting agency responsible for preparing a credit report that was used to deny you credit, insurance, or employment.
2. To be told by a credit reporting agency the nature, substance, and sources of the information collected about you.
3. To take anyone of your choice with you when you visit the credit reporting agency.
4. To be told who has received a credit report on you within the preceding six months.
5. To have incomplete or incorrect information reinvestigated, and if the information is found to be inaccurate, to have such information removed from your file.
6. To have the agency notify those who have previously received the incorrect or incomplete information that this information has been deleted from your file.
7. To have your version of a credit report placed in your file and included in future credit reports.
8. To request the reporting agency to send your version of the dispute to certain businesses for a reasonable fee.

The Fair Credit Reporting Act does not give you the right to request a report on yourself from the credit reporting agency. It does not give you the right when you visit the agency to receive a copy of your file or allow you to physically handle it. The Act does not compel anyone to do business with an individual consumer. It does not apply when you request commercial credit or business insurance.

If you want to know about information the credit reporting agency has collected on you, either arrange for a personal interview at the agency's office during regular business hours or call in advance for an interview by telephone. The credit reporting agency in your community can be located by consulting the yellow pages of your telephone book under such headings as credit, or credit ratings and reporting agencies.



HOLDER IN DUE COURSE

Many consumer purchases are financed by consumers executing an installment sales contract with the merchant for payments over a period of months. This is known as a closed end account. The merchant who sells the merchandise is usually not in the business of lending money and will sell your "paper" to a financial institution which would in most circumstances be considered a holder in due course.

Financial institutions which have become holders in due course enjoy a special status. The consumer has to pay the financial institution regardless of the condition or usefulness of the merchandise or services. Defenses which the consumer may have against the seller are not effective against a holder in due course. A consumer's only recourse is to recover damages from the merchant.

Under South Dakota law, the financial institution cannot obtain the status of a holder in due course for certain consumer purchases and contracts until it gives a consumer a 60 day notice. During the 60 day notice, the consumer may notify the institution of any legal defenses he may have against the merchant if the consumer has notified the financial institution.

On May 14, 1976, the Federal Trade Commission's Holders in Due Course Trade Regulation Rule became effective. This rule is designed to end the practice of separating the consumer's duty to pay from the seller's reciprocal duty to keep his promises. If a merchant sells or assigns a consumer credit contract to a third party or accepts the proceeds of a purchase money loan from a third party, the holder of the consumer credit contract or one who provides a purchase money loan is subject to all claims and defenses the buyer may have against the original seller.

The rule applies only if the holder has an agreement with the seller or the seller referred the buyer to the holder for a purchase money loans. Purchases with credit cards, pursuant to a continuing line of credit and purchase money loans made between the buyer and a third party independent of the seller are excluded from operation of the rule.



INTEREST

Have you ever wondered if you are being charged the proper rate of interest? Interest is compensation for the use of money. Any non-itemized charge should be considered as interest. It is assumed that whenever a loan of money is made, that loan is made with interest. South Dakota law specifies what rate of interest can be charged on certain transaction:

Unless the rate is specified in writing the legal annual rate is 6%.

... If the rate is expressed in writing, the maximum that can be charged is 10%.

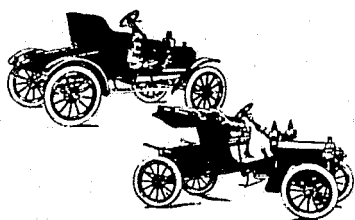
... Revolving charge accounts can be 12%. A revolving charge account is a credit transaction that has been previously arranged and the consumer continues to charge goods over a period of time.

The latter transactions are called open accounts. This means that there is not a specified limit as to the amount that has been or will be purchased. Open accounts can not be "compounded". Compounding interest is simply interest on interest. If you have an account balance of \$100 and the annual rate is 12%, your interest charge for the first month would be \$1. If compounding interest were permitted, the interest on the second month would be 1% times an account balance of \$101. You cannot be charged interest for the failure to pay interest.

Closed accounts are commonly referred to as retail installment contracts. These accounts are for a specified amount that is known to both parties in a signed agreement. Charges of interest are usually computed in agreement with X number of payments and Y number of months to satisfy the agreement. The permissible rate of interest for closed accounts is considerably more complex than for open accounts.

There are other areas for which higher rates of interest can be charged. These are bank cards, auto loans, and various other limited types of financial arrangements, which are also complex. For the consumer, however, you should remember that in a simple account arrangement, the minimum amount of interest is 6% unless there is a written agreement permitting 10% or unless there is a revolving charge account agreement. Interest rates are a complex area and each situation will have to be determined on its own merits and facts. There are no easy answers. If you have any questions on credit transactions, it is suggested that you contact the Division of Consumer Protection. You should remember that excessive interest is usury and unlawful.





WARRANTIES & GUARANTEES

Warranties and guarantees are a seller's or manufacturer's written promise to stand behind his merchandise and services. In evaluating warranties and guarantees, consumers need to know what product, part of a product, or performance is guaranteed. . .for how long. . .what will be done in case of failure and what the buyer must do to make the guarantees good. In 1976, a federal warranty law was implemented making almost all warranties, including those for cars and mobile homes, easier to understand. Products costing \$15 or more must be labeled full or limited. To have a full warranty, the product must meet minimum federal standards regarding repair, refunds, and replacements. Under this new law, if you incur damages of \$25 or more that are the result of deceptive warranties or violations of the law, you can sue the manufacturer for those damages. A "lemon" clause is a part of full warranties. If you can't get a product or part repaired after a "reasonable" number of attempts, this provision requires the manufacturer to give you a refund, less depreciation, or to replace the product or part without charge.





LANDLORD TENANT

Landlord and tenant rights and responsibilities are vague under South Dakota law. Therefore, you should know how to avoid disputes with your landlord. Here are some hints for renting and leasing property to protect yourself from future problems.

Signing the Lease

1. It is always best to obtain a written lease. Your rights and responsibilities are spelled out clearly. Avoid oral contracts.
2. Learn the penalties if you leave before the lease expires.
3. Find out how much notice you must give before leaving.
4. Avoid signing a lease with your roommate(s) if possible. You could be responsible for his or her share of the rent or damages. Request a separate lease covering your amount of the rent only.
5. Keep a copy of the lease for your records.
6. Find out what the landlord considers damage to the residence and how it will affect your security deposit.

Living in Your Apartment or Home

1. The first thing to do before you move in is to make a list, in duplicate, of all damages in the residence. If possible, ask the landlord to be there. Sign and date the copy and have the landlord or manager sign it. If the manager of landlord is not there, make the list anyway (with a witness) and send a copy to the landlord by registered mail.
2. If repairs are needed, see that they are made as soon as possible.
3. If you wish to make alterations, get written consent from the owner first and find out if you must pay for the materials such as paint, carpeting and lumber.
4. If your rent is increased, your landlord must give you at least fifteen days notice before the next payment period.

When You Move

1. Be sure to give written notice, according to your lease, of your intention to move and be sure that you move on that date. South Dakota law gives the landlord the right to charge you double your rent if you fail to move.
2. Request that the landlord go over the property with you to determine damages beyond normal wear and tear. Find out then if he intends to keep part of the security deposit for damages.
3. Be sure to leave your forwarding address or send it to your landlord promptly so that he may return your deposit within a reasonable time.
4. You should leave the dwelling in a reasonably clean condition.

**LANDLORD-TENANT ACT OF 1976 SETS THE FOLLOWING RIGHTS
AND RESPONSIBILITIES FOR LANDLORD-TENANT RELATIONSHIPS.**



RIGHTS

LANDLORD :

1. May withhold deposit to pay for rent or damages.
2. May claim tenant's property, if under \$100 and not removed from premises 10 days after tenant vacates.
3. May charge tenant storage if over \$100. He may claim after 30 days.

TENANT :

1. May sue for damages, injunctive relief, recover properties, or terminate the agreement, if landlord unlawfully evicts or cuts utilities.
2. May request itemized list of damages if landlord withholds deposit.
3. May make repairs and deduct from rent if tenant notifies landlord and landlord refuses to make repairs after reasonable length of time.
4. If repairs exceed one month's rent, tenant may deposit check in savings account until enough money has accumulated to pay for repairs.



RESPONSIBILITIES

LANDLORD :

1. May not demand deposit in excess of one month's rent.
2. Must return deposit within two weeks after tenant vacates.
3. Must furnish in writing, within two weeks, reasons why not returning deposit.
4. Must keep premises in repair except when damage is the result of negligence by the tenant.

TENANT :

1. Tenant is responsible for all leased property.
2. Must remove all property from premises within 10 days or relinquish ownership.





HOME IMPROVEMENTS

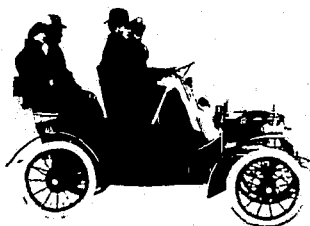
There are so many things to do around the house and the price just quoted to you by the repairman seems so reasonable. He also checked the roof and said it needed some work. How can you find out if he is a reputable businessman? There are several ways to check on him:

1. Check his place of business.
2. Check on some jobs he has completed.
3. Always get more than one estimate for a job. Make sure that each bid is based on the same amount of work and quality of material (if bids vary widely, find out why).

It is also very important, as in all things, to fully understand the contract you sign. It should clearly state the type and extent of repairs and/or improvements and the materials to be used. Avoid any verbal agreements; get it in writing. Avoid advance payments, pay after the work has been completed. A deposit should be sufficient to engage the contractor. If a company does not have enough money to start the job, it is not worth employing.



NEW CAR USED CAR



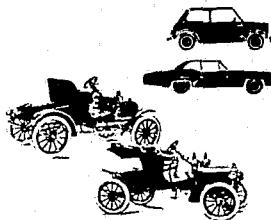
HOW TO GET THE BEST DEAL ON A NEW CAR

Automobile agencies are under pressure from the manufacturer to sell in large volume. This means that the buyer should be prepared for pressure from the salesman. It is the buyer who is responsible for getting a good deal for himself.

It is very important to have made several decisions before you buy.

You should analyze your transportation needs. Do you need a large car? How will you use your car? Would a small car really be more economical if it is necessary to have two vehicles for the entire family to travel?

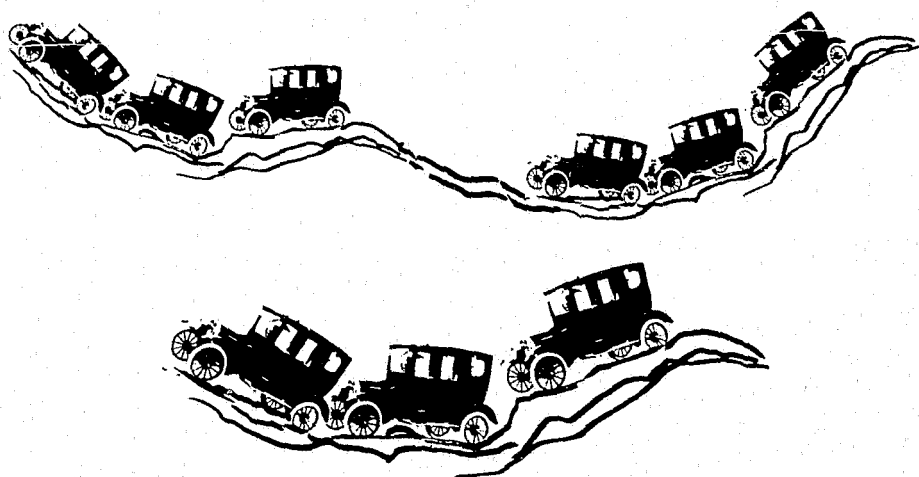
A new car is one of the largest financial investments most people make. Take your time in making your decisions. And, as always, deal through a reputable company.



HOW TO SAVE YOURSELF TROUBLE WHEN YOU BUY A USED CAR

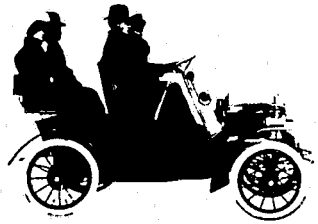
1. Plan your purchase ahead of time. Decide what kind of car you want, how much you can afford to spend, not in monthly payments but in total costs; principal (price of the car), interest, taxes, insurance, and immediate repairs.
2. What are your transportation requirements from a practical standpoint?
3. Try to arrange for financing with a bank, credit union, or someone else before you buy.
4. **NEVER GO ALONE TO BUY A CAR.** Always take someone along for moral support. Preferably, a mechanic friend.
5. **ALWAYS** check the prices of three or four dealers before you buy.
6. Avoid letting a salesman "HIGH PRESSURE" you into buying. Let him know that you will make your own decision.
7. **AVOID** buying anything unless you have road tested it and are satisfied with it. **IF THE DEALER WON'T LET YOU ROAD**
8. **TEST IT, DON'T BUY IT.**
AVOID buying anything in a hurry. "SLEEP ON IT" and think it over for a day or two before you buy.
9. Have a mechanic check the car and make a list of the things that need to be fixed.

11. Buy from a dealer with a good reputation. You usually get better service, and they can't afford to have bad advertising if they don't treat you right.
12. NEVER let a dealer talk you into borrowing extra money for the down payment. You are the boss, not the dealer.
13. NEVER sign a contract that has any blank spaces in it. Make sure that all spaces are filled in with words, numbers or with a line through the space.
14. Make sure that ALL PROMISES the dealer makes to you are IN WRITING and in the contract. If he is afraid to put them in writing, don't buy from him.
15. A good way to find out about the car you want is to talk to the previous owner. The dealer knows who the owner is; ask for his name and phone number. Most car dealers will give you the name of the previous owner, and most previous owners will be glad to tell you about the car.
16. Be sure you read and understand ALL PARTS of your contract. If you don't understand parts of your contract, have it explained until you do.
17. AVOID signing anything until you are absolutely sure of what you are obligating yourself to do.

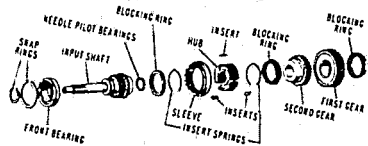


THE AUTO

WHAT A CAR DEALER MUST DO FOR YOU WHEN YOU BUY A USED CAR



1. The DEALER MUST LIST in the contract the price of the car, all finance charges and any other charges you are being charged.
2. The DEALER MUST EXPLAIN ALL charges to you.
3. The DEALER MUST make sure that the car is in safe mechanical condition.
4. The DEALER MUST SIGN the contract when you sign it.
5. ANY GUARANTEES or promises the dealer makes to you MUST BE given to you IN WRITING in order for them to be provable as being legal and binding on either of you.
6. By federal law the seller is required to disclose the true mileage of the vehicle to you. If the true mileage is unknown he is required to tell you so. The seller complies with the law by giving you an "odometer statement" before any serious bargaining takes place. If the seller refuses to let you have an odometer statement buy your car elsewhere and inform the Division of Consumer Protection.



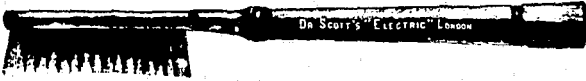
AUTOMOBILE REPAIR SHOPS

Always deal with a shop that has a good recommendation from your friends and acquaintances. Explain as simply and fully as possible what the problem is and what condition you expect the vehicle to be in when it is returned to you.

These are several terms and conditions which will assist you in dealing with a mechanic:

1. Ask for and have signed a written estimate of parts, labor and whatever other charges there might be.
2. Write across the estimate, with your own and the mechanic's signature, the fact that you will not pay for anything over the estimated costs unless you have agreed to them.
3. A rebuilt engine means that all external and internal parts of the engine have been cleaned and made free of all rust and corrosion and all impaired parts and such other operations are done as are necessary to put the industry product in sound working condition.
4. Reconditioned means repaired, adjusted, or refinished.
5. Repaired means fixed to working condition.
6. Ask for old or used parts. This will eliminate the possibility that you are being charged for parts which were never actually installed.

Apply the same rules as you do in being a careful shopper and you should be satisfied with the mechanic you have selected.



SHOPPING BY MAIL

Shopping by mail can be both convenient and fun. However, there are problems that arise because you rarely see the merchandise and delays can occur due to lost orders, computer mix-ups, or slow mail. There are several ways to protect yourself when shopping by mail:

1. Never send cash. Always pay by check or money order.
2. Keep a copy of your order and a copy of the acknowledgement.
3. Check locally to see if you can actually save money.

A new Federal Trade Commission rule protects consumers who order by mail. It provides consumers:

1. The right to cancel orders when not received within 30 days.
2. The right to receive the refund within 7 days after the order is cancelled.

This rule does not apply to C.O.D. orders, or services associated with merchandise such as: mail-order photo finishing, magazine subscriptions, seeds and growing plants, or book or record clubs where you agree to buy on a regular basis.

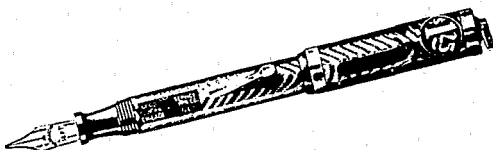
If you are dissatisfied with services received by a mail order company, you should contact the Division of Consumer Protection.



MAGAZINE SUBSCRIPTION SALES

If you are offered a free magazine subscription for which you must pay only postage and handling, compute the total cost. The postage and handling may be very high when compared to usual rates.

Phone solicitors may try to convince you to buy a subscription for a small monthly payment. Because you pay only a little at a time, you may not realize that you have eventually paid more than the regular subscription price.



PREVENTIVE CONSUMERISM

1. Avoid being pressured into buying a higher priced item than the item you intended to buy.
2. Investigate carefully offers made to you as a "winner" of a contest—offers of this sort are usually only a gimmick to persuade you to buy expensive items or services.
3. Make certain a receipt for delivered merchandise is not a credit contract.
4. Beware of membership wholesale clubs. The entrance fee may be high and the savings low.
5. Avoid a salesman who asks you to refer him to your friends at a savings to you. Report him to the Division of Consumer Protection.
6. Investigate magazine sales since you may save little or lose much on subscription prices.
7. Do not believe that you are making a good investment on an expensive product because the salesman says you have been chosen for an advertising campaign.
8. No offer is "once-in-a-lifetime." If it is a genuine offer, it will be available again.



CHARITY

South Dakotans are very charitable people. Too often the honest charity suffers because you have been taken advantage of by those who solicit for phony charities.

There are several ways you can protect yourself:

1. Don't be impressed by impressive titles or familiar sounding names.
2. Avoid letting anyone pressure you into making a contribution.
3. Ask for proper identification of the solicitor and his relationship to the charity.
4. Never contribute to an unknown charity.
5. Find out who the charity benefits.

5. Find out what percent of your contribution goes to charity and what percent goes for administrative costs.
6. NEVER mail your donation in answer to a telephone solicitation.
7. Check with the Division of Consumer Protection since some charities which collect more than \$2,000.00 per year in South Dakota must register with the state.



SELF IMPROVEMENT SCHEMES

Many promoters of figure developers, correspondence courses, dance studios, health spas, beauty kits, etc., appeal to your wildest dreams and vanity. The truth is these practices are directed especially against the lonely, elderly, widowed, and shut-ins (to mention only a few). The promoters of these schemes are determined to make money from your desire to improve yourself.

High School Diplomas/Trade Schools/Correspondence Courses

Before you deal with organizations that offer education at home, a fast job-training, or an easy education, check their accreditation. In other words, will the diploma or certificate you earn from this organization be accepted by recognized schools in the same fields? Will you be able to find a job upon leaving the trade school? How valuable is the correspondence course? These questions are very important and should be adequately answered before you enroll or pay tuition.

Very often tuition is rather expensive and the "degree" worth little. You may pay tuition and never hear from a correspondence school again. You may attend classes for three months and never find the "high-paying job" the trade school guaranteed upon completion of the course.

South Dakota colleges offer extension and correspondence courses at the college level. Write to the college of your choice for more information.

If you have not received your high school diploma, you may obtain information about a high school equivalency certificate (G.E.D.) by writing to:

G.E.D. Program Administrator
Department of Education and Cultural Affairs
Division of Elementary and Secondary Education
New Office Building
Pierre, SD 57501

If you are thinking about taking a correspondence course from an organization that you know nothing about, contact the Department of Education and Cultural Affairs (address above or below) for information concerning the school's reputation and whether or not the course will give you the training you need. Persons who solicit school membership must be licensed and bonded by the Department of Education and Cultural Affairs. For trade schools, check with your local Board of Education or:

Department of Education and Cultural Affairs
Division of Vocation-Technical Education
New Office Building
Pierre, SD 57501

Under South Dakota law, when you sign an agreement for a correspondence course, trade school, or self-improvement course, you may have a fifteen-day "cooling off" or avoidance period. You may notify the organization in writing of your intention to cancel your enrollment without any obligation.



MISCELLANEOUS SCHEMES

"Make-Money-in-your-Spare-Time" Schemes

The scheme to make money at home affects both young and old, and especially the shut-ins or disabled. For simply providing services for a company such as making calls, assembling articles, mailing advertisements, among other, you are promised a fee. The only condition involves a "small entry fee" for the privilege of participating in this offer.

Distributorships

Multi-level distributorships (pyramid sales) have been a serious source of problems in the past years.

To purchase a distributorship is to purchase a sales territory for a product. In a legitimate distributorship the sales territory has outlets for the products. In an illegal distributorship products may never be sold. Suppose a representative from the Cutie Cosmetic Company approaches you with the "offer of a lifetime." He tells you that you can "make it big" by investing in a distributorship. As he explains it, you must invest \$5,000 for a sales territory. But, if you sell a distributorship to five of your friends at \$5,000 each and split the money with him, you will have made \$12,500. Unfortunately, the scheme builds up into a pyramid and soon everyone is a distributor and no one actually distributes the product; there may be five distributors within your own town. The investors at the bottom of the pyramid are the losers since they have no one to buy the distributorship or the product.

Franchise

Illegal franchises may be similar to illegal distributorships in that they also operate in a pyramid manner.

When you buy a legal franchise you usually buy a nationally-known business with property, such as a drive-in restaurant.

A franchise gives you an exclusive right to sell a product and use the company trademark, but there can be more than one dealer in your locality.

There are many people who have made profits from franchises, but there are also those who have lost their life's savings by jumping into something that they didn't understand on a hope that they would make money. The parent company that heads the chain sometimes misrepresents the possibilities for profit, the services that it will provide, and even the quality and/or success of the product.

Under South Dakota law a franchisor must register with the Division of Securities and make full disclosure of its business operations. The company must state the franchise fee, terms for selling the franchise, the required purchases from the parent company, a copy of estimated earnings of the parent company, plus any other information that the Division may request. This new law will help combat the abuse that sometimes occurs with franchises.



SMALL CLAIMS COURT

Do you feel that a local merchant has cheated you by failing to repair goods sold to you? Have you ever had property damaged and the person has refused to pay? You may need to be your own attorney and sue the person in small claims court.

Small claims courts have been designed to be a simple, quick and inexpensive court for the determination of legal disputes. An attorney is not only unnecessary, but could feel out of place in small claims court.

HOW DO YOU START A SUIT?

The steps in bringing a small claims case are as follows:

1. Determine who you wish to sue, for what amount, and why.
2. Go to the Clerk of Magistrate Court. His office is normally located in the county courthouse.
3. Give the Clerk the name and address of the person or company and for how much money you intend to sue for.
4. Pay minimal amount (under \$10) and the Clerk will fill out the necessary papers, set date for hearing and will send a notice by certified mail to the person or company you are suing to inform the opposing party that the suit is being brought. This notice will give your opposing party until 2 days prior to the date set for the hearing to answer.
 - a. If the opposing party does not answer, the court will order the party to pay you the money demanded.
 - b. If the opposing party answers, either orally or in writing, and denies the claim you made, the hearing will be held.

THE HEARING: WHAT DO YOU DO?

1. The Clerk will tell you when the judge will hear your case.
2. It is most important that you appear for this hearing, and be on time, or your case may be dismissed.

3. At the hearing, the judge will explain in very simple terms how the case will be handled. He will ask you to explain your claim. You should tell the judge why you think the opposing party should be forced to pay you the amount of money you ask for.

It will be helpful if you bring witnesses and other evidence to support your claim. **The best evidence is witnesses.** The judge will usually allow you to present repair bills and estimates to prove damage (for instance, damage to your automobile arising out of an accident). If you have a witness who is not willing to appear in court, you may ask the Clerk of Court to issue a subpoena (an order to appear) which the Clerk will do free of charge. You must deliver the subpoena to the witness. Once you have delivered the subpoena, the witness is required to appear.

4. The judge, after hearing your complete story and the story of your witnesses will allow the person you are suing to tell his side of the story and to present whatever witnesses and other evidence he may have.

THE DECISION

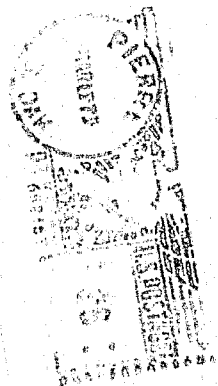
1. After the judge has heard all of the evidence, he normally will make a decision at that time.
 - a. If the judge rules in your favor and you are awarded a sum of money, the Clerk will prepare the necessary papers ordering the opposing party to pay you.
 - b. If you are unable to obtain payment, you can ask the Clerk to send the papers to the sheriff, who will attempt to collect the money.

WORDS USED IN COURT

Plaintiff:	The person bringing the suit.
Defendant:	The person or company being sued.
Claim:	What you are suing for and why.
Counterclaim:	A claim brought by the Defendant against the Plaintiff.
Judgment:	The court's decision ordering a party to pay or determining that a party does not have to pay.

REMEMBER TO APPEAR IN COURT AT THE DATE AND TIME SET BY THE CLERK!

SOUTH DAKOTA DEPARTMENT OF
COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER PROTECTION
State Capitol Building
Pierre, South Dakota 57501



George H. Sewick
NEJRS
NILEEJ
LEAA
Dept. of Justice
Washington, DC 20531

A total of 5,000 copies were printed at a cost of nineteen cents each. The purpose of this booklet is to acquaint consumers with his or her legal rights and protection.

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