



**House  
Legislative  
Analysis  
Section**

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**TIME LIMIT FOR DELIVERIES OR SERVICES**

House Bill 5867  
Sponsor: Rep. Nick Ciaramitaro  
Committee: Consumers

**RECEIVED**

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Complete to 9-5-90

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**A SUMMARY OF HOUSE BILL 5867 AS INTRODUCED 6-7-90**

The bill would create an act to require utilities (defined under the bill as public utilities or cable television companies) and merchants with 25 or more employees to deliver goods or services within a specific four-hour time period when the consumer's presence is required.

Delivery or Service Period. Under the bill, a retailer would have to specify the delivery period at the time of the sale of merchandise -- or at least one week before delivery -- and would have to deliver the merchandise within that period. A utility would be required to inform a consumer of his or her right to have a service connection or repair begun within a four-hour service period when a consumer requested a service connection or repair that required the consumer's presence, to specify a service period if the consumer requested it, and to begin the service connection or repair within that period.

Action for Damages. If the merchandise were not delivered on time, or if a utility did not begin the service connection or repair within the service period, then a consumer would be entitled to file an action in the small claims division of the district court against the utility for lost wages, actual expenses, or other actual damages of up to \$500.

Exceptions. An action could not be brought by the consumer if the delay were caused by unforeseen or unavoidable occurrences beyond the control of the provider of the merchandise or services, or if the consumer was not present during the delivery or service period when the retailer or utility either attempted to deliver the merchandise or service or diligently attempted to notify the consumer of its inability to deliver because of unforeseen or unavoidable delays. The former exception would be considered a defense to an action for damages.

If a consumer pursued a remedy for delay in beginning a service connection or repair provided by local ordinance or the utility's franchise or tariffs, then the consumer could not file an action for damages. Should a consumer pursue a remedy against the utility, then the franchising or state or local regulating authority could not impose any additional sanction against the utility for the same incident.

Evidence. The logs and other business records kept by the retailer, or its agent, or by the utility in the ordinary course of business would be considered prima facie evidence of the following:

- The delivery or service period.
- The time when delivery of the merchandise or beginning the service connection or repair was attempted.

-- A diligent attempt to notify the consumer of delays caused by unforeseen or unavoidable occurrences beyond the retailer's or utility's control.