

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 116 Session of 2023

INTRODUCED BY CIRESI, DELLOSO, JAMES, GREEN, PROBST, HILL-EVANS, McNEILL, GUENST, SCHLEGEL CULVER, HOHENSTEIN, SCOTT, HARKINS, KINSEY, SANCHEZ, MADDEN, BURGOS, PIELLI, WARREN, HOWARD, FIEDLER, D. WILLIAMS, B. MILLER, OTTEN, CERRATO, O'MARA, TAKAC AND PISCIOTTANO, MARCH 7, 2023

AS REPORTED FROM COMMITTEE ON CONSUMER PROTECTION, TECHNOLOGY AND UTILITIES, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 30, 2024

AN ACT

1 Amending the act of December 17, 1968 (P.L.1224, No.387),
2 entitled "An act prohibiting unfair methods of competition
3 and unfair or deceptive acts or practices in the conduct of
4 any trade or commerce, giving the Attorney General and
5 District Attorneys certain powers and duties and providing
6 penalties," providing for unlawful retention policy.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of December 17, 1968 (P.L.1224, No.387),
10 known as the Unfair Trade Practices and Consumer Protection Law,
11 is amended by adding a section to read:

12 Section 3.2. Unlawful Retention Policy.--(a) A business
13 entity that makes automatic renewal offers or continuous service
14 offers for goods or services to consumers shall do all of the
15 following:

16 (1) Provide an acknowledgment to a consumer. The
17 acknowledgment shall disclose the automatic renewal offer terms

1 or continuous service offer terms, the cancellation policy and
2 information regarding how to cancel the goods or services in a
3 manner that is capable of being retained by the consumer. If the
4 automatic renewal offer or continuous service offer includes a
5 free gift or trial, the acknowledgment shall INCLUDE A CLEAR AND <--
6 CONSPICUOUS EXPLANATION OF THE PRICE THAT WILL BE CHARGED AFTER
7 THE TRIAL ENDS OR THE MANNER IN WHICH THE PRICING WILL CHANGE
8 UPON CONCLUSION OF THE TRIAL, disclose how to cancel the goods
9 or services, PROVIDE THE DEADLINE BY WHICH THE CONSUMER MUST ACT <--
10 TO STOP OR PREVENT CHARGES and allow the consumer to cancel the
11 goods or services before the consumer pays for the goods or
12 services.

13 (2) Disclose the automatic renewal offer or continuous
14 service offer to a consumer in a contract or a contract offer in
15 bold face with a font size equal to the font size of the <--
16 surrounding text, or a font size of ten points, whichever is
17 greater. A CLEAR AND CONSPICUOUS MANNER, WITH A FONT SIZE AT <--
18 LEAST EQUAL TO THE FONT SIZE OF THE SURROUNDING TEXT AND IN BOLD
19 FACE TYPE.

20 (3) Allow a consumer who accepts the automatic renewal offer
21 or a continuous service offer over the Internet to terminate the
22 acceptance of the goods or services exclusively over the
23 Internet. A business entity may allow a consumer to terminate
24 the automatic renewal offer or continuous service offer under
25 this clause by electronic mail formatted and provided by the
26 business entity without requiring the consumer to provide
27 additional information.

28 (4) In the case of a material change in the terms of the
29 automatic renewal offer or continuous service offer, provide a
30 consumer with a clear and conspicuous notice of the material

1 change and information regarding how to cancel the goods or
2 services in a manner that is capable of being retained by the
3 consumer.

4 (5) NOT INTENTIONALLY MISREPRESENT THE TERMS OF THE <--
5 AUTOMATIC RENEWAL OFFER OR CONTINUOUS SERVICE OFFER OR ANY
6 MATERIAL FACT RELATED TO THE UNDERLYING GOOD OR SERVICE.

7 (b) This section shall not apply to a business entity that <--
8 is subject to the act of December 21, 1989 (P.L.672, No.87),
9 known as the "Health Club Act." ANY OF THE FOLLOWING: <--

10 (1) A BUSINESS ENTITY THAT IS SUBJECT TO THE ACT OF DECEMBER
11 21, 1989 (P.L.672, NO.87), KNOWN AS THE "HEALTH CLUB ACT."

12 (2) A SERVICE PROVIDED BY A BUSINESS ENTITY OR ITS AFFILIATE
13 FOR WHICH THE BUSINESS ENTITY OR ITS AFFILIATE IS REGULATED BY
14 THE FEDERAL COMMUNICATIONS COMMISSION, FEDERAL ENERGY REGULATORY
15 COMMISSION OR PENNSYLVANIA PUBLIC UTILITY COMMISSION.

16 (3) A CONTRACT SUBJECT TO 66 PA.C.S. CH. 22 (RELATING TO
17 NATURAL GAS COMPETITION) OR 28 (RELATING TO RESTRUCTURING OF
18 ELECTRIC UTILITY INDUSTRY).

19 (c) A violation of this section shall constitute unfair
20 methods of competition and unfair or deceptive acts or practices
21 and shall be subject to the enforcement provisions and private
22 rights of action specified in this act.

23 (D) AS USED IN THIS SECTION, THE TERM "CONSUMER" MEANS AN <--
24 INDIVIDUAL WHO OBTAINS OR HAS OBTAINED GOODS OR SERVICES FOR USE
25 PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

26 Section 2. This act shall take effect in 60 days.