

## STATE CONTINUOUS SERVICE LAWS

California: Cal. Bus. & Prof. Code §§ 17600-17605

Hawaii: Haw. Stat. § 480-9.5

Illinois: 815 Ill. Stat. 601/10b-5

New York: N.Y. Gen. Bus. Law §§ 527 and 527-a

Oregon: O.R.S. §§ 646A.292-295

Tennessee: Tenn. Code § 47-18-133

Virginia: Va. Code §§ 59.1-207.45-.49

### CALIFORNIA

(2022 version)

#### Section 17600 - Legislative intent

It is the intent of the Legislature to end the practice of ongoing charging of consumer credit or debit cards or third party payment accounts without the consumers' explicit consent for ongoing shipments of a product or ongoing deliveries of service.

**Section 17601 – Definitions** For the purposes of this article, the following definitions shall apply:

(a) "Automatic renewal" means a plan or arrangement in which a paid subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term.

(b) "Automatic renewal offer terms" means the following clear and conspicuous disclosures:

(1) That the subscription or purchasing agreement will continue until the consumer cancels.

(2) The description of the cancellation policy that applies to the offer.

(3) The recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal plan or arrangement, and that the amount of the charge may change, if that is the case, and the amount to which the charge will change, if known.

(4) The length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer.

(5) The minimum purchase obligation, if any.

(c) "Clear and conspicuous" or "clearly and conspicuously" means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. In the case of an audio disclosure, "clear and conspicuous" and "clearly and conspicuously" means in a volume and cadence sufficient to be readily audible and understandable.

(d) "Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money, or credit for personal, family, or household purposes.

(e) "Continuous service" means a plan or arrangement in which a subscription or purchasing agreement continues until the consumer cancels the service.

Ca. Bus. and Prof'l. Code § 17601

Added by Stats 2009 ch 350 (SB 340), s 1, eff. 1/1/2010.

**Section 17602- Unlawful acts by business making automatic renewal or continuous service offer to consumer.**

(a) It is unlawful for any business that makes an automatic renewal offer or continuous service offer to a consumer in this state to do any of the following:

(1) Fail to present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the subscription or purchasing agreement is fulfilled and in visual proximity, or, in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer. If the offer also includes a free gift or trial, the offer shall include a clear and conspicuous explanation of the price that will be charged after the trial ends or the manner in which the subscription or purchasing agreement pricing will change upon conclusion of the trial.

(2) Charge the consumer's credit or debit card, or the consumer's account with a third party, for an automatic renewal or continuous service without first obtaining the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms, including the terms of an automatic renewal offer or continuous service offer that is made at a promotional or discounted price for a limited period of time.

(3) Fail to provide an acknowledgment that includes the automatic renewal offer terms or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the automatic renewal offer or continuous service offer includes a free gift or trial, the business shall also disclose in the acknowledgment how to cancel, and allow the consumer to cancel, the automatic renewal or continuous service before the consumer pays for the goods or services.

(4) Fail to provide a consumer with a notice, as may be required by subdivision (b), that clearly and conspicuously states all of the following:

(A) That the automatic renewal or continuous service will automatically renew unless the consumer cancels.

(B) The length and any additional terms of the renewal period.

(C) One or more methods by which a consumer can cancel the automatic renewal or continuous service.

(D) If the notice is sent electronically, the notice shall include either a link that directs the consumer to the cancellation process, or another reasonably accessible electronic method that directs the consumer to the cancellation process if no link exists.

(E) Contact information for the business.

(b) A business shall provide a consumer with a notice as specified in paragraph (4) of subdivision (a) if either of the following is true, provided that if an automatic renewal offer or a continuous service offer requires a notice under both paragraphs (1) and (2), only the notice specified in paragraph (2) shall be required:

(1) The consumer accepted a free gift or trial, lasting for more than 31 days, that was included in an automatic renewal offer or continuous service offer or the consumer accepted an automatic renewal offer or continuous service offer at a promotional or discounted price, and the applicability of that price was more than 31 days.

(A) The notice shall be provided at least 3 days before and at most 21 days before the expiration of the predetermined period of time for which the free gift or trial, or promotional or discounted price, applies.

(B) An offer shall be exempt from the requirements under this paragraph if the consumer does not enter into the contract electronically and the business has not collected or maintained the consumer's valid email address, phone number, or another means of notifying the consumer electronically.

(C) For purposes of this paragraph, "free gift" does not include a free promotional item or gift given by the business that differs from the subscribed product.

(2) The consumer accepted an automatic renewal offer or continuous service offer with an initial term of one year or longer, that automatically renews unless the consumer cancels the automatic renewal or continuous service. In this case, the notice shall be provided at least 15 days and not more than 45 days before the automatic renewal offer or continuous service offer renews.

(c) A business that makes an automatic renewal offer or continuous service offer shall provide a toll-free telephone number, electronic mail address, a postal address if the seller directly bills the consumer, or it shall provide another cost-effective, timely, and easy-to-use mechanism for cancellation that shall be described in the acknowledgment specified in paragraph (3) of subdivision (a).

(d) (1) In addition to the requirements of subdivision (b), a business that allows a consumer to accept an automatic renewal or continuous service offer online shall allow a consumer to terminate the automatic renewal or continuous service exclusively online, at will, and without engaging any further steps that obstruct or delay the consumer's ability to terminate the automatic renewal or continuous service immediately. The business shall provide a method of termination that is online in the form of either of the following:

(A) A prominently located direct link or button which may be located within either a customer account or profile, or within either device or user settings.

(B) By an immediately accessible termination email formatted and provided by the business that a consumer can send to the business without additional information.

(2) The termination requirements of this subdivision apply to the automatic renewal terms and continuous service terms of the contract and the remaining provisions of the contract continue to be governed by all applicable laws and regulations.

(3) Notwithstanding paragraph (1), a business may require a consumer to enter account information or otherwise authenticate online before termination of the automatic renewal or continuous service online if the consumer has an account with the business. A consumer who is unwilling or unable to enter account information or otherwise authenticate online before termination of the automatic renewal or continuous service online shall not be precluded from authenticating or terminating the automatic renewal or continuous service offline using another method pursuant to subdivision (c).

(e) In the case of a material change in the terms of the automatic renewal or continuous service that has been accepted by a consumer in this state, the business shall provide the consumer with a clear and conspicuous notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer.

(f) The requirements of this article shall apply only prior to the completion of the initial order for the automatic renewal or continuous service, except as follows:

(1) The requirements in paragraphs (3) and (4) of subdivision (a) may be fulfilled after completion of the initial order.

(2) The requirements in subdivision (b) may be fulfilled after completion of the initial order.

(3) The requirement in subdivision (e) shall be fulfilled prior to implementation of the material change.

Ca. Bus. and Prof. Code § 17602

Amended by Stats 2021 ch 450 (AB 390),s 1, eff. 1/1/2022.Added by Stats 2017 ch 356 (SB 313),s 2, eff. 1/1/2018.

### **17603.**

In any case in which a business sends any goods, wares, merchandise, or products to a consumer, under a continuous service agreement or automatic renewal of a purchase, without first obtaining the consumer's affirmative consent as described in Section 17602, the goods, wares, merchandise, or products shall for all purposes be deemed an unconditional gift to the consumer, who may use or dispose of the same in any manner he or she sees fit without any obligation whatsoever on the consumer's part to the business, including, but not limited to, bearing the cost of, or responsibility for, shipping any goods, wares, merchandise, or products to the business.

*(Added by Stats. 2009, Ch. 350, Sec. 1. (SB 340) Effective January 1, 2010. Section operative December 1, 2010, pursuant to Section 17606.)*

### **17604.**

(a) Notwithstanding Section 17534, a violation of this article shall not be a crime. However, all available civil remedies that apply to a violation of this article may be employed.

(b) If a business complies with the provisions of this article in good faith, it shall not be subject to civil remedies.

*(Added by Stats. 2009, Ch. 350, Sec. 1. (SB 340) Effective January 1, 2010. Section operative December 1, 2010, pursuant to Section 17606.)*

### **17605.**

The following are exempt from the requirements of this article:

(a) Any service provided by a business or its affiliate where either the business or its affiliate is doing business pursuant to a franchise issued by a political subdivision of the state or a license,

franchise, certificate, or other authorization issued by the California Public Utilities Commission (CPUC).

(b) Any service provided by a business or its affiliate where either the business or its affiliate is regulated by the CPUC, the Federal Communications Commission, or the Federal Energy Regulatory Commission.

(c) Any entity regulated by the Department of Insurance.

(d) Alarm company operators, as defined in Section 7590.2, and regulated pursuant to Chapter 11.6 (commencing with Section 7590) of Division 3.

(e) A bank, bank holding company, or the subsidiary or affiliate of either, or a credit union or other financial institution, licensed under state or federal law.

(f) Service contract sellers and service contract administrators regulated by the Bureau of Electronic and Appliance Repair pursuant to Article 4.5 (commencing with Section 9855) of Chapter 20 of Division 3.

*(Added by Stats. 2009, Ch. 350, Sec. 1. (SB 340) Effective January 1, 2010. Section operative December 1, 2010, pursuant to Section 17606.)*

## **HAWAII**

### **§481-9.5 Automatic renewal clauses and continuous service clauses.**

(a) Any person who sells or offers to sell any products or services to a consumer pursuant to a consumer contract that has a specified term of more than one month and an automatic renewal clause under which the contract will automatically renew for a specified term of more than one month unless the consumer cancels the contract, shall disclose the automatic renewal clause and the procedure by which the consumer can cancel automatic renewal of the consumer contract clearly and conspicuously in the consumer contract.

(b) Any person who sells or offers to sell any products or services to a consumer pursuant to a consumer contract that has a specified contract term of twelve months or more, under which the contract will automatically renew for a specified term of more than one month unless the consumer cancels the consumer contract, shall notify the consumer clearly and conspicuously:

(1) That the consumer contract will automatically renew unless the consumer cancels the contract;

(2) How to cancel the contract; and

(3) The deadline by which the consumer shall respond to cancel the consumer contract and prevent automatic renewal.

The notice provided to the consumer under this subsection shall be sent to the consumer no less than thirty days and no more than sixty days before the date upon which the consumer shall respond under paragraph (3).

(c) The notice to the consumer required by this section may be provided electronically if the:

(1) Transaction for sale of products or services was conducted electronically at the election of the consumer and in compliance with the requirements of chapter 489E, the uniform electronic transactions act; or

(2) Consumer elects to receive electronic communications and provides a valid electronic-mail address for the purpose of receiving the notice required by this section.

(d) Any person who sells or offers to sell any products or services to a consumer pursuant to a consumer contract that contains a continuous service clause shall clearly and conspicuously disclose the continuous service clause and the procedure by which the consumer can cancel the contract.

(e) No person shall charge the consumer's credit or debit card or the consumer's account with a third party for an automatic renewal or a continuous service without first obtaining the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms.

(f) Any person who sells or offers to sell products or services subject to this section shall provide the consumer with an acknowledgment that the consumer may retain the automatic renewal or continuous service offer terms, cancellation policy, and procedure by which the consumer may cancel the contract. If the offer includes a free trial, the acknowledgment shall also clearly and conspicuously disclose the right of the consumer to cancel before payment is made for the goods or services and the cancellation procedure.

(g) A person making automatic renewal or continuous service offers pursuant to a consumer contract shall include a toll-free telephone number, electronic-mail address, postal address if the seller directly bills the consumer, or a clearly and conspicuously described cost-effective, timely, and easy-to-use alternative means to communicate the cancellation.

(h) In the case of a material change in the terms of the automatic renewal or continuous service offer pursuant to a consumer contract that has been accepted by a consumer in Hawaii, the person shall clearly and conspicuously provide the consumer with a notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer prior to the implementation of the material change.

(i) Any person who knowingly violates this section or who knowingly fails to cancel an automatic renewal contract or a continuous service contract upon consumer request shall be deemed to have engaged in an unfair method of competition and unfair or deceptive act or practice in the conduct of any trade or commerce within the meaning of section 480-2.

(j) This section shall not apply to any:

(1) Financial institution subject to chapter 412 to the extent that the financial institution is engaged in activities regulated pursuant to chapter 412;

(2) Insurer subject to chapter 431, 432, or 432D to the extent that the insurer is engaged in activities regulated pursuant to those chapters;

(3) Telecommunications provider subject to chapter 269; and

(4) Cable operator subject to chapter 440G or 440J to the extent that the provider is engaged in activities regulated pursuant to those chapters or the Federal Communications Commission.

(k) For purposes of this section:

"Automatic renewal" means a plan or arrangement in which a paid subscription or purchasing agreement with a term of more than one month is automatically renewed at the end of a definite term for a specified term of more than one month.

"Clearly and conspicuously" means in larger type than the surrounding text; in contrasting type, font, or color to the surrounding text of the same size; or set off from the surrounding text of the same size by symbols or other marks in a manner that clearly calls attention to the language. In the case of an audio disclosure, "clear and conspicuous" and "clearly and conspicuously" mean in a volume and cadence sufficient to be readily audible and understandable.

"Consumer" shall have the same meaning as in section 480-1.

"Continuous service" means a plan or arrangement in which a paid subscription or purchasing agreement continues until the consumer cancels the service.

[L 2011, c 139, §1; am L 2015, c 200, §1]

## **ILLINOIS**

(815 ILCS 601/) Automatic Contract Renewal Act.

(815 ILCS 601/1)

Sec. 1. Short title. This Act may be cited as the Automatic Contract Renewal Act.

(Source: P.A. 91-674, eff. 6-1-00.)

(815 ILCS 601/5)

Sec. 5. Definitions. In this Act:

"Contract" means a written agreement between 2 or more parties.

"Parties" includes individuals and other legal entities, but does not include the federal government, this State or another state, or a unit of local government.

(Source: P.A. 101-412, eff. 8-16-19; 102-558, eff. 8-20-21.)

(815 ILCS 601/10)

Sec. 10. Automatic renewal; requirements.

(a) Any person, firm, partnership, association, or corporation that sells or offers to sell any products or services to a consumer pursuant to a contract, where such contract automatically renews unless the consumer cancels the contract, shall disclose the automatic renewal clause clearly and conspicuously in the contract, including the cancellation procedure.

(b) Any person, firm, partnership, association, or corporation that sells or offers to sell any products or services to a consumer pursuant to a contract, where such contract term is a specified term of 12 months or more, and where such contract automatically renews for a specified term of more than one month unless the consumer cancels the contract, shall notify the consumer in writing of the automatic renewal. Written notice shall be provided to the consumer no less than 30 days and no more than 60 days before the cancellation deadline pursuant to the automatic renewal clause. Such written notice shall disclose clearly and conspicuously:

- (i) that unless the consumer cancels the contract it will automatically renew; and
- (ii) where the consumer can obtain details of the automatic renewal provision and cancellation procedure (for example, by contacting the business at a specified telephone number or address or by referring to the contract).

(b-5) A person, firm, partnership, association, or corporation that makes an automatic renewal offer or continuous service offer online shall provide a toll-free telephone number, electronic mail address, a postal address if the seller directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation that shall be described in the notice required in subsection (b). A consumer who accepts an automatic renewal or continuous service offer online must be allowed to terminate the automatic renewal or continuous service exclusively online, which may include a termination email formatted and provided by the business that a consumer can send to the business without additional information.

(c) A person, firm, partnership, association, or corporation will not be liable for a violation of this Act or the Consumer Fraud and Deceptive Business Practices Act if such person, firm, partnership, association, or corporation demonstrates that, as part of its routine business practice:

- (i) it has established and implemented written procedures to comply with this Act and enforces compliance with the procedures;
- (ii) any failure to comply with this Act is the result of error; and
- (iii) where an error has caused a failure to comply with this Act, it provides a full refund or credit for all amounts billed to or paid by the consumer from the date of the renewal until the date of the termination of the account, or the date of the subsequent notice of renewal, whichever occurs first.

(Source: P.A. 102-517, eff. 1-1-22.)

(815 ILCS 601/15)

Sec. 15. Violation. A violation of this Act constitutes an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act.

(Source: P.A. 93-950, eff. 1-1-05.)

(815 ILCS 601/20)



Sec. 20. Applicability.

(a) This Act does not apply to a contract entered into before the effective date of this Act.

(b) This amendatory Act of the 93rd General Assembly does not apply to a contract entered into before the effective date of this amendatory Act of the 93rd General Assembly.

(c) This Act does not apply to business-to-business contracts.

(d) This Act does not apply to banks, trust companies, savings and loan associations, savings banks, or credit unions licensed or organized under the laws of any state or the United States, or any foreign bank maintaining a branch or agency licensed or organized under the laws of any state of the United States, or any subsidiary or affiliate thereof.

(e) This Act does not apply to a contract that is extended beyond the original term of the contract as the result of the consumer's initiation of a change in the original contract terms.

(Source: P.A. 93-950, eff. 1-1-05.)

**NEW YORK**

§ 527. Definitions. For the purposes of this article, the following definitions shall apply:

1. "Automatic renewal" means a plan or arrangement in which a paid subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term.

2. "Automatic renewal offer terms" means the following clear and conspicuous disclosures:

a. that the subscription or purchasing agreement will continue until the consumer cancels;

b. the description of the cancellation policy that applies to the offer;

c. the recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal plan or arrangement, and that the amount of the charge may change, if that is the case, and the amount to which the charge will change, if known;

d. the length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer; and

e. the minimum purchase obligation, if any.

3. "Clear and conspicuous" means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. In the case of an audio disclosure, "clear and conspicuous" means in a volume and cadence sufficient to be readily audible and understandable.

4. "Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money, or credit for personal, family, or household purposes.

5. "Continuous service" means a plan or arrangement in which a subscription or purchasing agreement continues until the consumer cancels the service

**§ 527-a. Unlawful practices.** 1. It shall be unlawful for any business making an automatic renewal or continuous service offer to a consumer in this state to do any of the following:

a. fail to present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the subscription or purchasing agreement is fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer. If the offer also includes a free gift or trial, the offer shall include a clear and conspicuous explanation of the price that will be charged after the trial ends or the manner in which the subscription or purchasing agreement pricing will change upon conclusion of the trial;

b. charge the consumer's credit or debit card or the consumer's account with a third party for an automatic renewal or continuous service without first obtaining the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms, including the terms of an automatic renewal offer or continuous service offer that is made at a promotional or discounted price for a limited period of time; or

c. fail to provide an acknowledgment that includes the automatic renewal or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the offer includes a free gift or trial, the business shall also disclose in the acknowledgment how to cancel and allow the consumer to cancel before the consumer pays for the goods or services.

2. A business that makes an automatic renewal offer or continuous service offer shall provide a toll-free telephone number, electronic mail address, a postal address only when the seller directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation that shall be described in the acknowledgment specified in paragraph c of subdivision one of this section.

3. In addition to the requirements of subdivision two of this section, a consumer who accepts an automatic renewal or continuous service offer online shall be allowed to terminate the automatic renewal or continuous service exclusively online, which may include a termination email formatted and provided by the business that a consumer can send to the business without additional information.

4. In the case of a material change in the terms of the automatic renewal or continuous service offer that has been accepted by a consumer in this state, the business shall provide the consumer with a clear and conspicuous notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer.

5. The requirements of this article shall apply only prior to the completion of the initial order for the automatic renewal or continuous service, except as follows:

a. The requirement in paragraph c of subdivision one of this section may be fulfilled after completion of the initial order.

b. The requirement in subdivision four of this section shall be fulfilled prior to implementation of the material change.

6. In any case in which a business sends any goods, wares, merchandise, or products to a consumer, under a continuous service agreement or automatic renewal of a purchase, without first obtaining the consumer's affirmative consent, the goods, wares, merchandise, or products shall for all purposes be deemed an unconditional gift to the consumer, who may use or dispose of the same in any manner he or she sees fit without any obligation whatsoever on the consumer's part to the business, including, but not limited to, bearing the cost of, or responsibility for, shipping any goods, wares, merchandise, or products to the business.

7. Whenever there shall be a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding the court may make allowances to the attorney general as provided in section eighty-three hundred three of the civil practice law and rules, and direct restitution. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not more than one hundred dollars for a single violation and not more than five hundred dollars for multiple violations resulting from a single act or incident. A knowing violation of this section shall be punishable by a civil penalty of not more than five hundred dollars for a single violation and not more than one thousand dollars for multiple violations resulting from a single act or incident. No business shall be deemed to have violated the provisions of this section if such business shows, by a preponderance of the evidence, that the violation was not intentional and resulted from a bona fide error made notwithstanding the maintenance of procedures reasonably adopted to avoid such error.

8. The following are exempt from the requirements of this article:

a. any service provided by a business or its affiliate where either the business or its affiliate is doing business pursuant to a franchise issued by a political subdivision of the state;

b. any entity regulated by the department of financial services;

c. security system alarm operators;

d. banks, bank holding companies, or the subsidiary or affiliate of either, or credit unions or other financial institutions, licensed under state or federal law; and

e. sellers and administrators of a service contract, as defined pursuant to section seven thousand nine hundred two of the insurance law.

## OREGON

**646A.292 Legislative intent.** It is the intent of the Legislative Assembly to end the practice of ongoing charging of consumer credit or debit cards or third party payment accounts without the consumers' explicit consent for ongoing shipments of a product or ongoing deliveries of service. [2011 c.509 §1]

**646A.293 Definitions for ORS 646A.293 and 646A.295.** As used in this section and ORS 646A.295:

(1) "Automatic renewal" means a plan or arrangement in which a paid subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term.

(2) "Clear and conspicuous" means in larger type than the surrounding text, or in contrasting type, font or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. In the case of an audio disclosure, "clear and conspicuous" means in a volume and cadence sufficient to be readily audible and understandable.

(3) "Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money or credit for personal, family or household purposes.

(4) "Continuous service" means a plan or arrangement in which a paid subscription or purchasing agreement continues until the consumer cancels the service.

(5) "Offer terms" means the following clear and conspicuous disclosures:

(a) That the subscription or purchasing agreement will continue until the consumer cancels.

(b) The description of the cancellation policy that applies to the offer.

(c) The recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal or continuous service plan or arrangement, and, if the amount of the charge will change, the amount to which the charge will change, if known.

(d) The length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer.

(e) The minimum purchase obligation, if any.

(6) "Person" has the meaning given that term in ORS 646.605. [2011 c.509 §2]

**646A.295 Prohibited actions; requirements; timing; failure to obtain consent; exceptions.**

(1) It is unlawful for a person that makes an automatic renewal or continuous service offer to a consumer in this state to do any of the following:

(a) Fail to present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before a subscription or purchasing agreement is fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer.

(b) Charge the consumer's credit or debit card or payment account with a third party for an automatic renewal or continuous service without first obtaining the consumer's affirmative

consent to the agreement containing the automatic renewal offer terms or continuous service offer terms.

(c) Fail to provide an acknowledgment that includes the automatic renewal offer terms or continuous service offer terms and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the offer includes a free trial, the person shall also disclose in the acknowledgment how to cancel and allow the consumer to cancel before the consumer pays for the goods or services.

(2) A person making automatic renewal or continuous service offers shall provide a toll-free telephone number, electronic mail address, a post-office address only when the person directly bills the consumer, or another cost-effective, timely and easy-to-use mechanism for cancellation that must be described in the acknowledgment required by subsection (1)(c) of this section.

(3) In the case of a material change in the terms of the automatic renewal or continuous service offer that has been accepted by a consumer, the person shall provide the consumer with a clear and conspicuous notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer.

(4) The requirements of this section must be met prior to the completion of the initial order for the automatic renewal or continuous service, except as follows:

(a) The requirement in subsection (1)(c) of this section may be fulfilled after completion of the initial order.

(b) The requirement in subsection (3) of this section must be fulfilled prior to implementation of the material change.

(c) The requirements in subsection (1)(a) and (c) of this section may be fulfilled in the initial billing statement or invoice provided to the consumer when the person directly bills the consumer.

(5) In the event a person sends goods, wares, merchandise or products to a consumer under a continuous service agreement or pursuant to an automatic renewal of a purchase without first obtaining the consumer's affirmative consent as required in subsection (1) of this section, the goods, wares, merchandise or products shall for all purposes be deemed an unconditional gift to the consumer who may use or dispose of them in any manner the consumer sees fit without any obligation to the person including, but not limited to, requiring the consumer to ship, or bear the cost of shipping, any goods, wares, merchandise or products to the person.

(6) The following are exempt from the requirements of this section:

(a) A person that provides a service pursuant to a franchise issued by a political subdivision of the state or a license, franchise, certificate or other authorization issued by the Public Utility Commission of Oregon.

(b) A person that provides a service regulated by the Public Utility Commission of Oregon, the Federal Communications Commission or the Federal Energy Regulatory Commission.

(c) A person regulated by the Department of Consumer and Business Services under the Insurance Code.

(d) A bank, bank holding company, or the subsidiary or affiliate of either, or a credit union or other financial institution or trust company as those terms are defined in ORS 706.008, that is licensed under state or federal law.

(e) A person that is regulated as a service contract seller under ORS 646A.150 to 646A.172.

(f) A consumer finance company licensed under ORS chapter 725.

(g) A person that provides direct-to-home satellite services subject to regulation by the Federal Communications Commission. [2011 c.509 §3]

## TENNESSEE

### § 47-18-103

( )<sup>1</sup> "Automatic renewal" means a plan or arrangement in which a paid subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term;

( ) "Automatic renewal offer terms" means the following clear and conspicuous disclosures: **(A)** That the subscription or purchasing agreement will continue until the consumer cancels; **(B)** The description of the cancellation policy that applies to the offer; **(C)** The recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal plan or arrangement, and that the amount of the charge may change, if that is the case, and the amount to which the charge will change, if known; **(D)** The length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer; and **(E)** The minimum purchase obligation, if any; **(2)** "Bait and switch" or "switch" means advertising items to lure consumers, then inducing the consumers to buy different and more expensive items by failing to make available the goods or services advertised, or by disparaging the less expensive product. Provision of accurate factual information shall not be considered disparagement;

( ) "Clear and conspicuous" means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. In the case of an audio disclosure, "clear and conspicuous" and "clearly and conspicuously" means in a volume and cadence sufficient to be readily audible and understandable;

**(3)** "Consumer" means any natural person who seeks or acquires by purchase, rent, lease, assignment, award by chance, or other disposition, any goods, services, or property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated or any person who purchases or to whom is offered for sale a franchise or distributorship agreement or any similar type of business opportunity;

( ) "Continuous service" means a plan or arrangement in which a subscription or purchasing agreement continues until the consumer cancels the service;

### § 47-18-133

(a) A business that makes an automatic renewal offer or continuous service offer to a consumer in this state shall:

- (1) Present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the subscription or purchasing agreement is fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer. If the offer also includes a free gift or trial, the offer must include a clear and conspicuous explanation of the price that will be charged after the trial ends or the manner in which the subscription or purchasing agreement pricing will change upon conclusion of the trial;
- (2) Obtain the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms, including the terms of an automatic renewal offer

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<sup>1</sup> Tennessee has not yet assigned subpart designations for defined terms adopted in its continuous service law that will be effective in 2023.

or continuous service offer that is made at a promotional or discounted price for a limited period of time, before charging the consumer's credit or debit card, or the consumer's account with a third party, for an automatic renewal offer or continuous service offer; and

(3) Provide an acknowledgment that includes the automatic renewal offer terms or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the automatic renewal offer or continuous service offer includes a free gift or trial, the business shall also disclose in the acknowledgment how to cancel, and allow the consumer to cancel, the automatic renewal or continuous service before the consumer pays for the goods or services.

(b) A business that makes an automatic renewal offer or continuous service offer shall provide a toll-free telephone number, electronic mail address, a postal address if the seller directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation that must be described in the acknowledgment specified in subdivision (a)(3).

(c) A business that allows a consumer to accept an automatic renewal or continuous service offer online shall allow the consumer to terminate the automatic renewal or continuous service exclusively online, which may include a termination email formatted and provided by the business that a consumer can send to the business without additional information.

(d) In the event of a material change in the terms of the automatic renewal or continuous service that has been accepted by a consumer in this state, the business shall provide the consumer with a clear and conspicuous notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer.

(e) This section does not apply to the following:

(1) A state or national bank or trust company insured by the federal deposit insurance corporation or an operating subsidiary of that bank or trust company;

(2) A state or federal credit union insured by the national credit union administration;

(3) An individual or entity licensed by the department of financial institutions;

(4) A service provided by a business, or its affiliate, pursuant to:

(A) A franchise issued by a political subdivision of this state; or

(B) A license, franchise, certificate, or other authorization issued by the Tennessee public utility commission;

(5) An individual or business, or an affiliate of the individual or business, regulated by the Tennessee public utilities commission, the federal communications commission, or the federal energy regulatory commission; or

(6) A business licensed under title 56.

(f) As used in this section, "consumer" means an individual who acquires goods or services for personal, family, or household purposes.

Approved this 8th day of April, 2022

Eff 1/1/23

**VIRGINIA**

#### **§ 59.1-207.45. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Automatic renewal" means a plan or arrangement in which a paid subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term.

"Automatic renewal offer terms" means the following clear and conspicuous disclosures:

1. That the subscription or purchasing agreement will continue until the consumer cancels;
2. The description of the cancellation policy that applies to the offer;
3. The recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal plan or arrangement and that the amount of the charge may change, if that is the case, and the amount to which the charge will change, if known;
4. The length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer; and
5. The minimum purchase obligation, if any.

"Clear and conspicuous" or "clearly and conspicuously" means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. In the case of an audio disclosure, "clear and conspicuous" or "clearly and conspicuously" means in a volume and cadence sufficient to be readily audible and understandable.

"Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money, or credit for personal, family, or household purposes.

"Continuous service" means a plan or arrangement in which a subscription or purchasing agreement continues until the consumer cancels the service.

"Supplier" has the same meaning ascribed thereto in § 59.1-198.

2018, c. 704.

#### **§ 59.1-207.46. Making automatic renewal or continuous service offer to consumer; affirmative consent required; disclosures; prohibited conduct.**

A. No supplier making an automatic renewal or continuous service offer to a consumer in the Commonwealth shall do any of the following:

1. Fail to present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the consumer becomes obligated on the automatic renewal or continuous service offer and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer.
2. Charge the consumer's credit or debit card or the consumer's account with a third party for an automatic renewal or continuous service without first obtaining the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms.
3. Fail to provide an acknowledgment that includes the automatic renewal or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the offer includes a free trial, the supplier shall also disclose in the acknowledgment how to cancel the free trial before the consumer pays or becomes obligated to pay for the goods or services.



B. A supplier making automatic renewal or continuous service offers shall provide a toll-free telephone number, an electronic mail address, a postal address only when the supplier directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation that shall be described in the acknowledgment specified in subdivision A 3. Each supplier making automatic renewal or continuous service offers through an online website shall make available a conspicuous online option to cancel a recurring purchase of a good or service.

C. In the case of a material change in the terms of the automatic renewal or continuous service offer that has been accepted by a consumer in the Commonwealth, the supplier shall provide the consumer with a clear and conspicuous notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer.

D. The requirements of this section shall apply only prior to the completion of the initial order for the automatic renewal or continuous service, except:

1. The requirement in subdivision A 3 may be fulfilled after completion of the initial order; and
2. The requirement in subsection C shall be fulfilled prior to implementation of the material change.

2018, c. 704; 2022, c. 557.

#### **§ 59.1-207.47. When goods, wares, merchandise, or products deemed a gift.**

In any case in which a supplier sends any goods, wares, merchandise, or products to a consumer under a continuous service agreement or automatic renewal of a purchase without first obtaining the consumer's affirmative consent as described in § 59.1-207.46, the goods, wares, merchandise, or products shall for all purposes be deemed an unconditional gift to the consumer, who may use or dispose of the same in any manner he sees fit without any obligation whatsoever on the consumer's part to the supplier, including any obligation or responsibility for shipping any goods, wares, merchandise, or products to the supplier.

2018, c. 704.

#### **§ 59.1-207.48. Exemptions.**

This chapter shall not apply to:

1. Any service provided by a supplier or its affiliate where either the supplier or its affiliate is doing business pursuant to a franchise issued by a political subdivision of the Commonwealth or a license, franchise, certificate, or other authorization issued by the State Corporation Commission to a public service company or public utility pursuant to Title 56;
2. Any service provided by a supplier or its affiliate where either the supplier or its affiliate is regulated by the State Corporation Commission, the Federal Communications Commission, or the Federal Energy Regulatory Commission;
3. Alarm company operators that are regulated pursuant to § 15.2-911;
4. A bank, bank holding company, or the subsidiary or affiliate of either, or a credit union or other financial institution, licensed under federal or state law;
5. Any home protection company regulated by the State Corporation Commission pursuant to Chapter 26 (§ 38.2-2600 et seq.) of Title 38.2;
6. Any home service contract provider regulated by the Department of Agriculture and Consumer Services pursuant to Chapter 33.1 (§ 59.1-434.1 et seq.); or
7. Any health club registered pursuant to the Virginia Health Club Act (59.1-294 et seq.).

2018, c. 704.

**§ 59.1-207.49. Enforcement; penalties.**

Any violation of this chapter shall constitute a prohibited practice under the provisions of § 59.1-200 and shall be subject to the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.). However, if a supplier makes a good faith effort to comply with the requirements of this chapter, the supplier shall not be subject to either a civil penalty under § 59.1-206 or damages under § 59.1-204.

2018, c. 704.