

AUTOMATIC RENEWAL CONTRACT REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses automatic renewal contract requirements.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a person who offers a contract with an automatic renewal provision to disclose certain information to the consumer regarding the renewal and cancellation of the contract;
- ▶ requires a person who offers a trial period offer to disclose certain information to the consumer regarding the expiration of the trial period and purchase obligations upon expiration;
- ▶ authorizes the Division of Consumer Protection (division) to enforce the provisions in this bill;
- ▶ provides fines and civil penalties for a violation of the provisions in this bill;
- ▶ requires fines and civil penalties received by the division for a violation of the provisions in this bill to be placed in the Consumer Protection Education and Training Fund;
- ▶ authorizes the attorney general to represent the division in an action to enforce the provisions in this bill; and
- ▶ allows a person to bring a civil action for injunctive relief, rescission of a contract,



28 or damages for a violation of the provisions in this bill.

29 **Money Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 ENACTS:

35 **13-63-101**, Utah Code Annotated 1953

36 **13-63-201**, Utah Code Annotated 1953

37 **13-63-301**, Utah Code Annotated 1953

38 **13-63-302**, Utah Code Annotated 1953



40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **13-63-101** is enacted to read:

42 **CHAPTER 63. AUTOMATIC RENEWAL CONTRACTS**

43 **Part 1. General Provisions**

44 **13-63-101. Definitions.**

45 As used in this chapter:

46 (1) "Automatic renewal provision" means a provision under a contract that is
47 automatically renewed at the end of a definite term for a subsequent term or on a recurring
48 basis.

49 (2) "Clearly and conspicuously disclose" means to disclose:

50 (a) in print:

51 (i) in larger type than the surrounding text;

52 (ii) in contrasting type, font, or color to the surrounding text of the same size; or

53 (iii) in a manner set off from the surrounding text of the same size by symbols or other
54 marks that clearly call attention to the language; or

55 (b) through audio, in a volume and cadence sufficient to be readily audible and
56 understandable.

57 (3) "Division" means the Division of Consumer Protection established in Section

58 13-2-1.

59 (4) "Trial period offer" means an offer to provide a period of time to sample or use a
60 product or service without payment.

61 Section 2. Section 13-63-201 is enacted to read:

62 **Part 2. Automatic Renewal Contracts**

63 **13-63-201. Automatic renewal provisions -- Trial period offers -- Notice.**

64 (1) A person who provides a consumer a product or service under a contract with an
65 automatic renewal provision shall, at least three but not more than five days before the day on
66 which the automatic renewal provision renews under the contract, provide a notice to the
67 consumer that clearly and conspicuously discloses:

- 68 (a) the renewal date;
- 69 (b) the total renewal cost; and
- 70 (c) options for cancellation of the contract.

71 (2) A person who provides a consumer a trial period offer shall, at least three but not
72 more than five days before the day on which the period of time under the trial period offer
73 expires, provide a notice to the consumer that clearly and conspicuously discloses:

- 74 (a) the trial period offer expiration date; and
- 75 (b) the price to be charged for the product or service or any further purchase
76 obligations to be imposed on the consumer after the expiration date.

77 Section 3. Section 13-63-301 is enacted to read:

78 **Part 3. Enforcement**

79 **13-63-301. Administration and enforcement -- Division powers -- Attorney**
80 **general -- Fees.**

81 (1) (a) The division shall administer and enforce the provisions of this chapter in
82 accordance with Chapter 2, Division of Consumer Protection.

83 (b) The attorney general, upon request, shall act as counsel for the division in the
84 exercise of the division's responsibilities under this chapter.

85 (2) In addition to the division's enforcement powers under Chapter 2, Division of
86 Consumer Protection:

- 87 (a) the division director may impose an administrative fine of up to \$2,500 for each
88 violation of this chapter; and
- 89 (b) the division may bring an action to enforce a provision of this chapter.

90 (3) In an action by the division to enforce a provision of this chapter, the court may:

91 (a) declare that an act or practice violates a provision of this chapter;

92 (b) issue an injunction for a violation of this chapter;

93 (c) order disgorgement of any money received in violation of this chapter;

94 (d) order payment of disgorged money to an injured consumer;

95 (e) impose a fine of up to \$2,500 for each violation of this chapter; or

96 (f) award any other relief that the court deems reasonable and necessary.

97 (4) If a court grants judgment or injunctive relief to the division, the court shall award

98 the division:

99 (a) reasonable attorney fees;

100 (b) court costs; and

101 (c) investigative fees.

102 (5) (a) A person who violates an administrative or court order issued for a violation of
103 this chapter is subject to a civil penalty of no more than \$5,000 for each violation.

104 (b) A civil penalty authorized under this section may be imposed in any civil action
105 brought by the attorney general on behalf of the division.

106 (c) Money received for the payment of a fine or civil penalty imposed under this
107 section shall be deposited into the Consumer Protection Education and Training Fund created
108 in Section [13-2-8](#).

109 Section 4. Section **13-63-302** is enacted to read:

110 **13-63-302. Private right of action.**

111 (1) A consumer may bring an action against a person who:

112 (a) offers a contract with an automatic renewal provision; and

113 (b) does not comply with this chapter.

114 (2) If the court finds that the person violated this chapter, the consumer is entitled to:

115 (a) rescission of the contract;

116 (b) an award of reasonable attorney fees and costs in an action to enforce the right of
117 rescission; and

118 (c) an amount equal to the greater of:

119 (i) actual damages; or

120 (ii) \$2,000.