

Representative Cheryl K. Acton proposes the following substitute bill:

AUTOMATIC RENEWAL CONTRACT REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: Daniel W. Thatcher

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;
- ▶ grants administrative rulemaking authority; and



26 ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **13-2-1 (Superseded 12/31/23)**, as last amended by Laws of Utah 2022, Chapter 201

34 **13-2-1 (Effective 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201, 462

35 ENACTS:

36 **13-63-101**, Utah Code Annotated 1953

37 **13-63-201**, Utah Code Annotated 1953

38 **13-63-301**, Utah Code Annotated 1953

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

41 Section 1. Section **13-2-1 (Superseded 12/31/23)** is amended to read:

42 **13-2-1 (Superseded 12/31/23). Consumer protection division established --**

43 **Functions.**

44 (1) There is established within the Department of Commerce the Division of Consumer
45 Protection.

46 (2) The division shall administer and enforce the following:

47 (a) Chapter 5, Unfair Practices Act;

48 (b) Chapter 10a, Music Licensing Practices Act;

49 (c) Chapter 11, Utah Consumer Sales Practices Act;

50 (d) Chapter 15, Business Opportunity Disclosure Act;

51 (e) Chapter 20, New Motor Vehicle Warranties Act;

52 (f) Chapter 21, Credit Services Organizations Act;

53 (g) Chapter 22, Charitable Solicitations Act;

54 (h) Chapter 23, Health Spa Services Protection Act;

55 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;

56 (j) Chapter 26, Telephone Fraud Prevention Act;

- 57 (k) Chapter 28, Prize Notices Regulation Act;
- 58 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
- 59 Transaction Information Act;
- 60 (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- 61 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 62 (o) Chapter 41, Price Controls During Emergencies Act;
- 63 (p) Chapter 42, Uniform Debt-Management Services Act;
- 64 (q) Chapter 49, Immigration Consultants Registration Act;
- 65 (r) Chapter 51, Transportation Network Company Registration Act;
- 66 (s) Chapter 52, Residential Solar Energy Disclosure Act;
- 67 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 68 (u) Chapter 54, Ticket Website Sales Act;
- 69 (v) Chapter 56, Ticket Transferability Act; [~~and~~]
- 70 (w) Chapter 57, Maintenance Funding Practices Act[-]; and
- 71 (x) Chapter 63, Automatic Renewal Contracts Act.

72 Section 2. Section 13-2-1 (Effective 12/31/23) is amended to read:

73 **13-2-1 (Effective 12/31/23). Consumer protection division established --**

74 **Functions.**

- 75 (1) There is established within the Department of Commerce the Division of Consumer
- 76 Protection.
- 77 (2) The division shall administer and enforce the following:
- 78 (a) Chapter 5, Unfair Practices Act;
- 79 (b) Chapter 10a, Music Licensing Practices Act;
- 80 (c) Chapter 11, Utah Consumer Sales Practices Act;
- 81 (d) Chapter 15, Business Opportunity Disclosure Act;
- 82 (e) Chapter 20, New Motor Vehicle Warranties Act;
- 83 (f) Chapter 21, Credit Services Organizations Act;
- 84 (g) Chapter 22, Charitable Solicitations Act;
- 85 (h) Chapter 23, Health Spa Services Protection Act;
- 86 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 87 (j) Chapter 26, Telephone Fraud Prevention Act;

- 88 (k) Chapter 28, Prize Notices Regulation Act;
- 89 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
- 90 Transaction Information Act;
- 91 (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- 92 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 93 (o) Chapter 41, Price Controls During Emergencies Act;
- 94 (p) Chapter 42, Uniform Debt-Management Services Act;
- 95 (q) Chapter 49, Immigration Consultants Registration Act;
- 96 (r) Chapter 51, Transportation Network Company Registration Act;
- 97 (s) Chapter 52, Residential Solar Energy Disclosure Act;
- 98 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 99 (u) Chapter 54, Ticket Website Sales Act;
- 100 (v) Chapter 56, Ticket Transferability Act;
- 101 (w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]
- 102 (x) Chapter 61, Utah Consumer Privacy Act[-]; and
- 103 (y) Chapter 63, Automatic Renewal Contracts Act.

104 Section 3. Section **13-63-101** is enacted to read:

105 **CHAPTER 63. AUTOMATIC RENEWAL CONTRACTS ACT**

106 **Part 1. General Provisions**

107 **13-63-101. Definitions.**

108 As used in this chapter:

109 (1) "Automatic renewal provision" means a provision under a contract that is
110 automatically renewed at the end of a definite term for a subsequent term that is longer than 45
111 days.

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

113 (a) in print:

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

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

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

118 (b) through audio, in a volume and cadence sufficient to be readily audible and

119 understandable.

120 (3) "Division" means the Division of Consumer Protection established in Section
121 13-2-1.

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

124 Section 4. Section 13-63-201 is enacted to read:

125 **Part 2. Automatic Renewal Contract**

126 **13-63-201. Automatic renewal provisions -- Trial period offers -- Notice --**

127 **Exceptions.**

128 (1) Except as provided in Subsection (3), a person who provides an individual a
129 product or service under a contract with an automatic renewal provision shall provide a notice
130 to the individual, at least three but not more than five days before the day on which the
131 automatic renewal provision renews, that clearly and conspicuously discloses:

132 (a) the renewal date;

133 (b) the total renewal cost; and

134 (c) options for cancellation of the contract.

135 (2) Except as provided in Subsection (3), a person who provides an individual a trial
136 period offer shall provide a notice to the individual, at least three but not more than five days
137 before the day on which the period of time under the trial period offer expires, that clearly and
138 conspicuously discloses:

139 (a) the trial period offer expiration date; and

140 (b) the price to be charged for the product or service, or any further purchase
141 obligations to be imposed on the individual, after the expiration date.

142 (3) This section does not apply to:

143 (a) an insurance organization or an affiliate of an insurance organization regulated
144 under Title 31A, Insurance Code;

145 (b) a person providing a service contract, as defined in Section 31A-6a-101;

146 (c) a financial institution or an affiliate of a financial institution regulated under Title V
147 of the Gramm-Leach-Bliley Act, 15 U.S.C. Sec. 6801 et seq.;

148 (d) a person providing a contract for electricity, gas, water, sewer, or another utility
149 service; or

150 (e) an entity providing services regulated by the Federal Communications Commission,
151 Federal Energy Regulatory Commission, or federal Professional Services Council.

152 Section 5. Section 13-63-301 is enacted to read:

153 **Part 3. Enforcement**

154 **13-63-301. Administration and enforcement -- Division powers -- Fees --**
155 **Rulemaking.**

156 (1) The division shall administer and enforce this chapter in accordance with Chapter
157 2, Division of Consumer Protection.

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

160 (a) the division director may impose an administrative fine of up to \$2,500 for each
161 violation of this chapter; and

162 (b) the division may bring a civil action to enforce this chapter.

163 (3) In a civil action by the division to enforce this chapter, the court may:

164 (a) declare that an act or practice violates this chapter;

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

166 (c) order disgorgement of any money received after a violation of this chapter;

167 (d) order payment of disgorged money to an injured individual;

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

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

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

172 (a) reasonable attorney fees;

173 (b) court costs; and

174 (c) investigative fees.

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

177 (b) A civil penalty authorized under this section may be imposed in any civil action
178 brought by the division.

179 (c) The division shall deposit money received for the payment of a fine or civil penalty
180 under this section into the Consumer Protection Education and Training Fund created in

181 Section 13-2-8.

182 (6) The division may make rules in accordance with Title 63G, Chapter 3, Utah
183 Administrative Rulemaking Act, to enforce this chapter.

184 Section 6. **Effective date.**

185 This bill takes effect on May 3, 2023, except that the amendments to Section 13-2-1
186 (Effective 12/31/23) take effect on December 31, 2023.