

HB0382S02 compared with HB0382S01

~~deleted text~~ shows text that was in HB0382S01 but was deleted in HB0382S02.

inserted text shows text that was not in HB0382S01 but was inserted into HB0382S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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: _____

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

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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
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1 (Superseded 12/31/23), as last amended by Laws of Utah 2022, Chapter 201

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

ENACTS:

13-63-101, Utah Code Annotated 1953

13-63-201, Utah Code Annotated 1953

13-63-301, Utah Code Annotated 1953

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

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 Section **13-2-1 (Superseded 12/31/23)** is amended to read:

13-2-1 (Superseded 12/31/23).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

Functions.

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

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

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;

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- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter

Transaction Information Act;

- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 41, Price Controls During Emergencies Act;
- (p) Chapter 42, Uniform Debt-Management Services Act;
- (q) Chapter 49, Immigration Consultants Registration Act;
- (r) Chapter 51, Transportation Network Company Registration Act;
- (s) Chapter 52, Residential Solar Energy Disclosure Act;
- (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- (u) Chapter 54, Ticket Website Sales Act;
- (v) Chapter 56, Ticket Transferability Act; ~~[and]~~
- (w) Chapter 57, Maintenance Funding Practices Act~~[-];~~ and
- (x) Chapter 63, Automatic Renewal Contracts Act.

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

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

Functions.

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

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

- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;

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- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 41, Price Controls During Emergencies Act;
- (p) Chapter 42, Uniform Debt-Management Services Act;
- (q) Chapter 49, Immigration Consultants Registration Act;
- (r) Chapter 51, Transportation Network Company Registration Act;
- (s) Chapter 52, Residential Solar Energy Disclosure Act;
- (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- (u) Chapter 54, Ticket Website Sales Act;
- (v) Chapter 56, Ticket Transferability Act;
- (w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]
- (x) Chapter 61, Utah Consumer Privacy Act[~~;~~]; and
- (y) Chapter 63, Automatic Renewal Contracts Act.

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

CHAPTER 63. AUTOMATIC RENEWAL CONTRACTS ACT

Part 1. General Provisions

13-63-101. Definitions.

As used in this chapter:

- (1) "Automatic renewal provision" means a provision under a contract that is automatically renewed at the end of a definite term for a subsequent term for on a recurring basis that is longer than 45 days.
- (2) "Clearly and conspicuously disclose" means to disclose:

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(a) in print:

(i) in larger type than the surrounding text;

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

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

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

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

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

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

Part 2. Automatic Renewal Contract

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

Exceptions.

(1) Except as provided in Subsection (3), a person who provides an individual a product or service under a contract with an automatic renewal provision shall~~†~~

~~— (a) if the automatic renewal provision renews annually,} provide a notice to the individual, at least three but not more than five days before the day on which the automatic renewal provision renews, that clearly and conspicuously discloses:~~

~~(~~†~~†a) the renewal date;~~

~~(~~†~~†b) the total renewal cost; and~~

~~{ — (iii) options for cancellation of the contract; and~~

~~— (b) if the automatic renewal provision renews monthly or at the end of another definite term that is not an annual term, provide a notice to the individual, at least three but not more than five days before the day on which the automatic renewal provision has been in place for one year, that clearly and conspicuously discloses:~~

~~— (i) the contract is ongoing; and~~

~~† (~~†~~†c) options for cancellation of the contract.~~

(2) Except as provided in Subsection (3), a person who provides an individual a trial period offer shall provide a notice to the individual, at least three but not more than five days

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before the day on which the period of time under the trial period offer expires, that clearly and conspicuously discloses:

(a) the trial period offer expiration date; and

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

(3) This section does not apply to ~~f~~ a contract for:

~~— (a) insurance; or~~

~~— (b) ~~†~~:~~

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

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

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

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

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

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

Part 3. Enforcement

13-63-301. Administration and enforcement -- Division powers -- Fees --

Rulemaking.

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

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

(a) the division director may ~~impose an administrative fine of up to \$2,500~~ for each violation of this chapter ~~f, impose an administrative fine up to an amount equal to the amount of money received after a violation of this chapter plus \$100~~; and

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

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

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

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

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

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

(e) impose a ~~fine~~ **civil penalty of** up to ~~an amount equal to the amount of money received after a~~ **\$2,500 for each** violation of this chapter ~~{ plus \$100 }~~; or

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

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

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

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

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

(c) The division shall deposit money received for the payment of a fine or civil penalty under this section into the Consumer Protection Education and Training Fund created in Section 13-2-8.

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

Section 6. Effective date.

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