

SECOND REGULAR SESSION

HOUSE BILL NO. 3519

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HALES.

7008H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to automatically renewed transactions, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be
2 known as section 407.205, to read as follows:

**407.205. 1. It shall be unlawful for any business that makes an automatic
2 renewal offer or continuous service offer to a consumer in this state to:**

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

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

16 **(3) Fail to provide an acknowledgment that includes the automatic renewal offer
17 terms or continuous service offer terms, cancellation policy, and information regarding**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **how to cancel in a manner that the consumer is able to retain. If the automatic renewal**
19 **offer or continuous service offer includes a gift or free trial, the business shall also**
20 **disclose in the acknowledgment how to cancel, and allow the consumer to cancel, the**
21 **automatic renewal or continuous service before the consumer pays for the goods or**
22 **services.**

23 **2. A business that makes an automatic renewal offer or continuous service offer**
24 **shall provide at least one of the following:**

- 25 **(1) A toll-free telephone number;**
26 **(2) An email address;**
27 **(3) A postal address if the seller directly bills the consumer; or**
28 **(4) Other cost-effective, timely, and easy-to-use mechanism for cancellation.**
29

30 **The business shall clearly and conspicuously display such contact mechanism in the**
31 **acknowledgment, subscription, and purchasing agreement described under this section.**

32 **3. A consumer who accepts an automatic renewal or continuous service offer**
33 **shall be allowed to terminate the automatic renewal or continuous service through any**
34 **of the cancellation mechanisms described under subsection 2 of this section, which may**
35 **include a termination email formatted and provided by the business that a consumer**
36 **may send to the business without additional information.**

37 **4. In the case of a material change in the terms of the automatic renewal or**
38 **continuous service accepted by a consumer in this state, the business shall provide the**
39 **consumer with a clear and conspicuous written notice of the material change and shall**
40 **provide information regarding how to cancel in a manner that the consumer is able to**
41 **retain.**

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

44 **(1) The requirement in subdivision (3) of subsection 1 of this section may be**
45 **fulfilled after completion of the initial order; and**

46 **(2) The requirement in subsection 4 of this section shall be fulfilled prior to**
47 **implementation of the material change.**

48 **6. (1) The attorney general may commence a civil action to recover a civil**
49 **penalty in a court of competent jurisdiction against any business that violates this**
50 **section or that commits a deceptive act or practice by failing to provide a simple**
51 **mechanism for a consumer to cancel the automatic renewal of the subscription or**
52 **purchasing agreement. In such an action, the business shall be liable for a civil penalty**
53 **of at least fifty thousand dollars for each violation.**

54 **(2) The attorney general shall have all powers, rights, and duties regarding**
55 **violations of this section as are provided in sections 407.010 to 407.130, in addition to**
56 **rulemaking authority under section 407.145.**

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