
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 481-9.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~+~~§481-9.5~~+~~ **Automatic renewal clauses~~-~~ and**
4 **continuous service clauses.** (a) Any person who sells or offers
5 to sell any products or services to a consumer pursuant to a
6 consumer contract that has a specified term of more than one
7 month and an automatic renewal clause under which the contract
8 will automatically renew for a specified term of more than one
9 month unless the consumer cancels the contract, shall disclose
10 the automatic renewal clause and the procedure by which the
11 consumer can cancel automatic renewal of the consumer contract
12 clearly and conspicuously in the consumer contract.

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



- 1 (1) That the consumer contract will automatically renew
2 unless the consumer cancels the contract;
3 (2) How to cancel the contract; and
4 (3) The deadline by which the consumer shall respond to
5 cancel the consumer contract and prevent automatic
6 renewal.

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

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

- 13 (1) Transaction for sale of products or services was
14 conducted electronically at the election of the
15 consumer and in compliance with the requirements of
16 chapter 489E, the uniform electronic transactions act;
17 or
18 (2) Consumer elects to receive electronic communications
19 and provides a valid electronic-mail address for the
20 purpose of receiving the notice required by this
21 section.



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

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

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



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

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

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

21 ~~(e)~~ (j) This section shall not apply to any:



- 1 (1) Financial institution subject to chapter 412 to the
2 extent that the financial institution is engaged in
3 activities regulated pursuant to chapter 412; [~~and~~]
- 4 (2) Insurer subject to chapter 431, 432, or 432D to the
5 extent that the insurer is engaged in activities
6 regulated pursuant to those chapters[~~-~~];
- 7 (3) Telecommunications provider subject to chapter 269;
8 and
- 9 (4) Cable operator subject to chapter 440G or 440J to the
10 extent that the provider is engaged in activities
11 regulated pursuant to those chapters or the Federal
12 Communications Commission.

13 [~~+f~~] (k) For purposes of this section:

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

18 "Clearly and conspicuously" means in larger type than the
19 surrounding text; in contrasting type, font, or color to the
20 surrounding text of the same size; or set off from the
21 surrounding text of the same size by symbols or other marks in a



1 manner that clearly calls attention to the language. In the
2 case of an audio disclosure, "clear and conspicuous" and
3 "clearly and conspicuously" mean in a volume and cadence
4 sufficient to be readily audible and understandable.

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

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

9 SECTION 2. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 3. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 4. This Act shall take effect on July 1, 2015.

15



Report Title:

Unfair and Deceptive Practices; Free Trial Offers; Automatic Renewals; Continuous Service Offers

Description:

Requires persons charging a consumer's credit or debit card or account for automatic renewal or continuous service offer to first obtain the consumer's affirmative consent. Requires acknowledgment of terms, cancellation policy, and information on how to cancel the automatic renewal or continuous service to be provided to the consumer. Requires free trial offers to clearly and conspicuously disclose how to cancel the agreement prior to the consumer being charged for goods and services. (CD1)

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