
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.** (a) Any
4 person who sells or offers to sell any products or services to a
5 consumer pursuant to a consumer contract that has a specified
6 term of more than one month and an automatic renewal clause
7 under which the contract will automatically renew for a
8 specified term of more than one month unless the consumer
9 cancels the contract, shall disclose the automatic renewal
10 clause and the procedure by which the consumer can cancel
11 automatic renewal of the consumer contract clearly and
12 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) No person shall charge the consumer's credit or debit
2 card or the consumer's account with a third party for an
3 automatic renewal or continuous service without first obtaining
4 the consumer's acknowledgment and affirmative consent to the
5 agreement containing the automatic renewal offer terms or
6 continuous service offer terms.

7 (e) No person shall fail to provide an acknowledgment that
8 includes the automatic renewal or continuous service offer
9 terms, cancellation policy, and information regarding how to
10 cancel in a manner that is capable of being retained by the
11 consumer. If the offer includes a free trial, the person shall
12 also clearly and conspicuously disclose in the acknowledgment
13 how to cancel and allow the consumer to cancel before the
14 consumer pays for the goods or services.

15 (f) A person making automatic renewal or continuous
16 service offers shall provide a toll-free telephone number,
17 electronic mail address, postal address only when the seller
18 directly bills the consumer, or another cost-effective, timely,
19 and easy-to-use mechanism for cancellation that shall be clearly
20 and conspicuously described in the acknowledgment specified in
21 this section.



1 (g) In the case of a material change in the terms of the
2 automatic renewal or continuous service offer that has been
3 accepted by a consumer in Hawaii, the person shall clearly and
4 conspicuously provide the consumer with a notice of the material
5 change and provide information regarding how to cancel in a
6 manner that is capable of being retained by the consumer.

7 [~~d~~] (h) Any person who knowingly violates this section
8 or who knowingly fails to cancel an automatic renewal contract
9 upon consumer request shall be deemed to have engaged in an
10 unfair method of competition and unfair or deceptive act or
11 practice in the conduct of any trade or commerce within the
12 meaning of section 480-2.

13 [~~e~~] (i) This section shall not apply to any:

14 (1) Financial institution subject to chapter 412 to the
15 extent that the financial institution is engaged in
16 activities regulated pursuant to chapter 412; and

17 (2) Insurer subject to chapter 431, 432, or 432D to the
18 extent that the insurer is engaged in activities
19 regulated pursuant to those chapters.

20 [~~f~~] (j) For purposes of this section:



1 "Clearly and conspicuously" means in larger type than the
2 surrounding text; in contrasting type, font, or color to the
3 surrounding text of the same size; or set off from the
4 surrounding text of the same size by symbols or other marks in a
5 manner that clearly calls attention to the language. In the
6 case of an audio disclosure, "clear and conspicuous" and
7 "clearly and conspicuously" mean in a volume and cadence
8 sufficient to be readily audible and understandable.

9 "Consumer" shall have the same meaning as in section 480-
10 1."

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

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2050.



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 acknowledgment and affirmative consent. Requires acknowledgment of terms, cancellation policy, and how to cancel to be provided. Requires free trial offers to clearly and conspicuously disclose how to cancel the agreement prior to the consumer being charged for goods and services. Requires clear and conspicuous disclosure of cancellation mechanisms and notice of material changes in the terms of an automatic renewal or continuous service offer. Effective 07/01/2050. (SD1)

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