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HOUSE BILL NO. 744

Offered January 10, 2024

Prefiled January 9, 2024

A *BILL to amend and reenact § 59.1-207.46 of the Code of Virginia, relating to consumer protection; automatic renewal or continuous service offers.*

Patron—Maldonado

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-207.46 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-207.46. Making automatic renewal or continuous service offer to consumer; affirmative consent required; disclosures; prohibited conduct.

A. No supplier making an automatic renewal or continuous service offer to a consumer in the Commonwealth shall do any of the following:

1. ~~Fail~~ *Prior to the completion of the initial order for the automatic renewal or continuous service, fail* to present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the consumer becomes obligated on the automatic renewal or continuous service offer and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer.

2. ~~Charge~~ *Prior to the completion of the initial order for the automatic renewal or continuous service, charge* the consumer's credit or debit card or the consumer's account with a third party for an automatic renewal or continuous service without first obtaining the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms.

3. Fail to provide an acknowledgment that includes the automatic renewal or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the offer includes a free trial, the supplier shall also disclose in the acknowledgment how to cancel the free trial before the consumer pays or becomes obligated to pay for the goods or services.

B. A supplier making automatic renewal or continuous service offers shall provide a toll-free telephone number, an electronic mail address, a postal address only when the supplier directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation that shall be described in the acknowledgment specified in subdivision A 3. Each supplier making automatic renewal or continuous service offers through an online website shall make available a conspicuous online option to cancel a recurring purchase of a good or service.

C. In the case of a material change in the terms of the automatic renewal or continuous service offer that has been accepted by a consumer in the Commonwealth, the supplier shall, *prior to implementation of the material change*, provide the consumer with a clear and conspicuous notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer.

D. A supplier making automatic renewal or continuous service offers that include a free trial lasting more than 30 days shall, within 30 days of the end of any such free trial, notify the consumer of his option to cancel the free trial before the end of the trial period to avoid an obligation to pay for the goods or services.

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

1. ~~The requirement in subdivision A 3 may be fulfilled after completion of the initial order; and~~

2. ~~The requirement in subsection C shall be fulfilled prior to implementation of the material change.~~

A supplier making automatic renewal or continuous service offers that will automatically renew after a period of more than 30 days and extend the automatic renewal or continuous service offer for a period of more than 12 months shall notify the consumer of his option to cancel the automatic renewal or continuous service offer no less than 30 days and no more than 60 days before the cancellation deadline or the end of the current contract term. Such notice shall conspicuously disclose (i) that the automatic renewal or continuous service offer will automatically renew unless the consumer cancels, (ii) the date by which the consumer must cancel to avoid automatic renewal or continuous service, (iii) the method by which the consumer may cancel, and (iv) a copy of the automatic renewal or continuous service offer provisions.

INTRODUCED

HB744