

HOUSE BILL 1652

By Howell

AN ACT to amend Tennessee Code Annotated, Title 47,
Chapter 18, relative to subscription services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, Part 1, is amended by adding the following as a new section:

47-18-133.

(a) A business that makes an automatic renewal offer or continuous service offer to a consumer in this state shall:

(1) Present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the subscription or purchasing agreement is fulfilled 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. If the offer also includes a free gift or trial, the offer must include a clear and conspicuous explanation of the price that will be charged after the trial ends or the manner in which the subscription or purchasing agreement pricing will change upon conclusion of the trial;

(2) Obtain the consumer's affirmative consent to the agreement containing the automatic renewal offer terms or continuous service offer terms, including the terms of an automatic renewal offer or continuous service offer that is made at a promotional or discounted price for a limited period of time, before charging the consumer's credit or debit card, or the consumer's account with a third party, for an automatic renewal offer or continuous service offer; and

(3) Provide an acknowledgment that includes the automatic renewal offer terms 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 automatic renewal offer or continuous service offer includes a free gift or trial, the business shall also disclose in the acknowledgment how to cancel, and allow the consumer to cancel, the automatic renewal or continuous service before the consumer pays for the goods or services.

(b) A business that makes an automatic renewal offer or continuous service offer shall provide a toll-free telephone number, electronic mail address, a postal address if the seller directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation that must be described in the acknowledgment specified in subdivision (a)(3).

(c) A business that allows a consumer to accept an automatic renewal or continuous service offer online shall allow the consumer to terminate the automatic renewal or continuous service exclusively online, which may include a termination email formatted and provided by the business that a consumer can send to the business without additional information.

(d) In the event of a material change in the terms of the automatic renewal or continuous service that has been accepted by a consumer in this state, the business shall 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.

SECTION 2. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following as a new subdivision:

() Violating § 47-18-133.

SECTION 3. Tennessee Code Annotated, Section 47-18-103, is amended by adding the following as new subdivisions:

() "Automatic renewal" means a plan or arrangement in which a paid subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term;

() "Automatic renewal offer terms" means the following clear and conspicuous disclosures:

(A) That the subscription or purchasing agreement will continue until the consumer cancels;

(B) The description of the cancellation policy that applies to the offer;

(C) The recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal plan or arrangement, and that the amount of the charge may change, if that is the case, and the amount to which the charge will change, if known;

(D) The length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer; and

(E) The minimum purchase obligation, if any;

() "Clear and conspicuous" means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. In the case of an audio disclosure, "clear and conspicuous" and "clearly and conspicuously" means in a volume and cadence sufficient to be readily audible and understandable;

() "Continuous service" means a plan or arrangement in which a subscription or purchasing agreement continues until the consumer cancels the service;

SECTION 4. This act takes effect January 1, 2023, the public welfare requiring it, and applies to offers made or agreements entered into or renewed on or after that date.