

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1040

(Senator Gile, *et al.*)

Finance

Consumer Protection - Automatic Renewals

This bill establishes a regulatory framework to govern “automatic renewals,” which the bill defines as any contract, plan, or agreement between a consumer and a seller in which a paid subscription or purchasing agreement is automatically renewed at the end of a definite term for a subsequent term. Violation of the bill is an unfair, abusive, or deceptive trade practice under the Maryland Consumer Protection Act (MCPA), subject to MCPA’s civil and criminal penalty provisions.

Fiscal Summary

State Effect: The bill’s imposition of existing penalty provisions does not have a material impact on State finances or operations. The Office of the Attorney General, Consumer Protection Division (CPD), can handle the bill’s requirements with existing resources.

Local Effect: The bill’s imposition of existing penalty provisions does not have a material impact on local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill prohibits a person from making an automatic renewal offer to a consumer unless the person:

- presents the consumer with the terms of the offer in a clear and conspicuous manner before the subscription or purchasing agreement is fulfilled and in visual proximity to, or in the case of an offer conveyed orally, at the same time as, the request for

consent to the offer, including (1) the price that will be charged after the initial term ends or (2) the manner in which the subscription or purchasing agreement will change at the end of the initial term;

- presents the consumer with an easily accessible disclosure of the methods that the consumer may use to cancel the automatic renewal; and
- allows the consumer to terminate the offer in a manner that does not delay, hinder, or obstruct the consumer's ability to terminate the automatic renewal.

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 and the manner in which the subscription or purchasing agreement pricing will change at the end of the trial.

A person that makes an automatic renewal offer online must allow a consumer who accepts the offer online to terminate the automatic renewal by:

- providing a cost-effective and widely available mechanism for canceling the automatic renewal, including a toll-free telephone number, email address, or a postal address (if the person bills the consumer at the consumer's postal address); or
- any means of communicating information over a computer network, including (1) a prominently located direct link or button that may be located within either a customer account or profile, or within either device or user settings or (2) by an immediately accessible termination email formatted and provided by the business or person that made the automatic renewal offer that a consumer can send without additional information.

A person that makes an automatic renewal offer or an offer that includes a free gift or trial must include clear and conspicuous notice, before the end of the automatic renewal or free trial, containing specified information (*e.g.*, that the offer will automatically renew unless canceled, the duration and any additional terms of the renewal period, methods by which a consumer may cancel, etc.).

If an automatic renewal or offer includes a free gift or trial, the required notice must be provided between 3 and 21 days before the date on which the automatic renewal is scheduled to take effect.

If the consumer has accepted an automatic renewal offer with an initial term of at least one year, the required notice must be provided between 15 and 45 days before the automatic renewal date.

The bill prohibits a person that makes an automatic renewal offer from automatically charging the consumer's credit card unless clear and conspicuous notice is provided.

Current Law: An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

CPD is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1049 (Delegate Pruski) - Economic Matters.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Department of Legislative Services

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