



Testimony to the Senate Finance Committee
SB 1040 – Consumer Protection– Automatic Renewals
Position: Favorable

The Honorable Pam Beidle
Senate Finance Committee
3 East, Miller Senate Building
Annapolis, MD 21401
cc: Members, Senate Finance Committee

March 13, 2024

Honorable Chair Beidle and Members of the Committee:

I'm a consumer advocate and Executive Director of Consumer Auto, a nonprofit group that works to protect Maryland consumers and secure safety, transparency, and fair treatment for Maryland drivers and car buyers.

We support **SB 1040** because it takes overdue and important steps to protect Marylanders against automatic renewal practices – and make sure we are notified about recurring charges before they're added to our accounts -- that can be very costly and frustrating for many consumers.

This kind of marketing often uses deceptive tricks to get people to sign up for products they may not really want or to turn attractive trial offers into enduring (and costly) obligations or to extend short-term subscriptions year after year – and can make it difficult and confusing for consumers to decline renewals or cancel subscriptions. Consumer frustration with these practices is commonplace. In 2020 the Better Business Bureau reported it had received 58,400 consumer complaints about “free trials” and automatic renewals over the last three years.¹

In response to consumer concerns, federal consumer regulators are taking significant steps to rein in such abuses. In Jan. 2023, the Consumer Financial Protection Bureau issued strong new guidance on “negative option” subscription services and warned of abusive “dark patterns” that trap consumers into expensive obligations.² In March 2023, the Federal Trade Commission issued a notice of new rules calling for stronger protections of consumers against automatic renewal contracts including a “click or cancel” provision requiring vendors to make it as easy to cancel a subscription as to sign up.³ At least 31 states have also now acted to regulate automatic renewal contracts – and states including California, New York, Maine, and Virginia have established fairly rigorous requirements in recent years.

Yet in Maryland, somehow, state law still mostly regulates automatic renewal contracts only from health clubs. That falls far short of giving state consumers the protection we need.

¹ <https://stateline.org/2022/03/04/it-turns-out-state-lawmakers-hate-auto-renew-contracts-too/>

² <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-guidance-to-root-out-tactics-which-charge-people-fees-for-subscriptions-they-dont-want/>

³ <https://www.ftc.gov/news-events/news/press-releases/2023/03/federal-trade-commission-proposes-rule-provision-making-it-easier-consumers-click-cancel-recurring>



It's also worth noting that it isn't just small-time, fly-by-night operators guilty of using "dark patterns" or other abuses in subscriptions and renewals. The New York Times (\$3.9 million), the Washington Post (6.7 million), weight-loss marketer Noom (\$62 million), Sirius XM (\$3.8 million), Vonage (\$100 million), McAfee (\$80 million), TransUnion, and Epic Games (\$520 million) are among the well-known marketers that have had to pay multi-million settlements for such practices.

Last year, the FTC also filed strong action against perhaps the biggest abusive modern marketer of all, Amazon, charging that it had "knowingly duped millions of consumers into unknowingly enrolling in Amazon Prime." As the complaint detailed, Amazon employees apparently also pushed consumers who sought to cancel the service into a process so lengthy and confusing that company officials themselves called it "the Iliad" – after Homer's epic, long and redundant 16,000-line history of the Trojan War.⁴

Maryland consumers urgently need stronger protection against such commonplace abuses. **SB 1040** takes a number of important steps to provide such protections. It mandates, among other things, that automatic renewal contracts must:

- Present their terms in a clear and conspicuous way before the consumer signs on.
- Give consumers clear information about how they may cancel.
- Allow consumers to end their subscription without undue delay or difficulty.
- Explain clearly the prices and terms that will take effect once a free trial period expires.
- Provide a widely-accessible mechanism (i.e. toll-free number or an email address or a direct link in a consumer's account) for cancelling the contract.
- Give consumers timely notice of when a free trial period will end, that the contract will renew unless cancelled by that date, and also about how they can cancel.

Importantly, the bill also requires merchants using automatic renewals to give clear and conspicuous notice to consumers before making an automatic charge to our credit cards. It greatly strengthens consumer protections by making failing to live up to these obligations an Unfair and Deceptive Trade Practice under Maryland consumer law.

The bill is broadly modeled on legislation that states like California and Maine have used effectively to protect consumers against automatic renewal abuses. It will give consumers considerable (and overdue) protections under state law against a very common form of abuse.

We strongly support SB 1040 and ask you to give it a FAVORABLE report.

Sincerely,
Franz Schneiderman
Consumer Auto

⁴ <https://www.consumerfinance.gov/about-us/newsroom/cfpb-issues-guidance-to-root-out-tactics-which-charge-people-fees-for-subscriptions-they-dont-want/>