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Date: (Filing No. S- )

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**STATE OF MAINE  
SENATE  
132ND LEGISLATURE  
FIRST SPECIAL SESSION**

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to S.P. 650, L.D. 1642, “An Act to Protect Maine Consumers by Simplifying Subscription Cancellations”

Amend the amendment by striking out everything after the title and inserting the following:

'Amend the bill by striking out the title and substituting the following:

**'An Act to Protect Maine Consumers by Simplifying Subscription and Health Club Membership Cancellations'**

Amend the bill by striking out everything after the enacting clause and inserting the following:

**'Sec. 1. 10 MRSA c. 205-B, headnote** is amended to read:

**CHAPTER 205-B**

**AUTOMATIC SUBSCRIPTION OR HEALTH CLUB MEMBERSHIP RENEWAL**

**Sec. 2. 10 MRSA §1210-C**, as enacted by PL 2019, c. 175, §1, is amended by amending the section headnote to read:

**§1210-C. Cancellation of subscriptions or memberships**

**Sec. 3. 10 MRSA §1210-C, sub-§1, ¶A**, as enacted by PL 2019, c. 175, §1, is amended to read:

A. "Automatic subscription or health club membership renewal" means an offer or agreement to provide any of the following goods or services for a specified time and price that is automatically renewed at the end of a definite term for a subsequent term unless the consumer ~~elects~~ affirmatively acts to cancel the agreement or to reject further provision of the goods or services:

- (1) Online magazines, journals and periodicals;
- (2) Online media players;

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- 1 (3) Mobile apps;
- 2 (4) Social networking services;
- 3 (5) Internet game services; ~~and~~
- 4 (6) Online software; and
- 5 (7) Health club memberships.

6 **Sec. 4. 10 MRSA §1210-C, sub-§1, ¶B**, as enacted by PL 2019, c. 175, §1, is  
7 amended to read:

8 B. "Extended automatic subscription or health club membership renewal" means an  
9 automatic subscription or health club membership renewal with a specified  
10 subscription term of 12 months or more, in which the subscription or membership  
11 automatically renews for a specified term of more than one month unless the consumer  
12 ~~elects affirmatively~~ acts to cancel the subscription or membership or to reject further  
13 provision of the goods or services.

14 **Sec. 5. 10 MRSA §1210-C, sub-§1, ¶B-1** is enacted to read:

15 B-1. "Health club" means an establishment that provides health club services intended  
16 to improve or maintain the user's physical condition or appearance through exercise.  
17 "Health club" includes, but is not limited to, fitness centers, gyms, health studios,  
18 exercise clubs and facilities that offer access to equipment, classes or amenities such  
19 as pools, saunas or courts. "Health club" does not include:

- 20 (1) An establishment operated by a nonprofit organization;
- 21 (2) An establishment operated by a public or private school, college or university;
- 22 (3) An establishment operated by the State, a political subdivision of the State or  
23 the Federal Government;
- 24 (4) An establishment in which health club services are incidental to the primary  
25 purpose of the business; and
- 26 (5) A health care facility as defined by Title 22, section 328, subsection 8.

27 **Sec. 6. 10 MRSA §1210-C, sub-§1, ¶B-2** is enacted to read:

28 B-2. "Health club membership" means an agreement under which a consumer pays or  
29 commits to pay a health club for ongoing access to health club services, whether on a  
30 recurring basis or for a specified term. "Health club membership" includes any  
31 agreement entered into online, through a mobile app or over the Internet.

32 **Sec. 7. 10 MRSA §1210-C, sub-§1, ¶B-3** is enacted to read:

33 B-3. "Health club services" means services, privileges and rights offered by a health  
34 club for use of its equipment, classes or facilities, including but not limited to access  
35 to exercise equipment, wellness programs, swimming pools, playing courts and fitness-  
36 related amenities.

37 **Sec. 8. 10 MRSA §1210-C, sub-§1, ¶G**, as enacted by PL 2019, c. 175, §1, is  
38 amended to read:

39 G. "Seller" means a person who sells, leases or offers to sell or lease automatic  
40 subscription or health club membership renewals or extended automatic subscription

1 or health club membership renewals and does not include an entity providing only the  
2 host platform on the website of an Internet game service.

3 **Sec. 9. 10 MRSA §1210-C, sub-§2**, as enacted by PL 2019, c. 175, §1, is amended  
4 to read:

5 **2. Method of cancellation of automatic subscription or health club membership**  
6 **renewal; required seller disclosure; misrepresentation.** A seller may not make an  
7 automatic subscription or health club membership renewal offer to a consumer in this State  
8 unless the seller presents that consumer with ~~an~~ a clear, conspicuous and easily accessible  
9 disclosure of all material terms of the renewal offer and of the methods that the consumer  
10 may use to cancel the subscription or membership. A seller shall obtain the express consent  
11 of a consumer to automatic subscription or health club membership renewal prior to  
12 enrollment through a check box, electronic signature requirement or other affirmative  
13 action by the consumer agreeing to the renewal offer. The seller must provide for ~~online~~  
14 cancellation of the subscription ~~by any means of communicating information over a~~  
15 ~~computer network~~ or health club membership by a consumer using the same method and  
16 in the same manner by which the consumer initially agreed to the subscription or  
17 membership. If a phone number is also provided for the purposes of cancellation of the  
18 subscription or membership, the number must be toll-free and must be prominently  
19 displayed in the disclosure. The disclosure must also include, but is not limited to,  
20 information regarding the amount and frequency of subscription or membership charges  
21 and the seller's refund policy upon cancellation. In marketing, offering or selling a  
22 subscription or membership with an automatic subscription or health club membership  
23 renewal, a seller may not make any misrepresentation of a material fact associated with that  
24 renewal offer.

25 **Sec. 10. 10 MRSA §1210-C, sub-§3**, as enacted by PL 2019, c. 175, §1, is amended  
26 to read:

27 **3. Extended automatic subscriptions subscription or health club membership**  
28 **renewals; additional notice requirement.** A seller may not make an extended automatic  
29 subscription or health club membership renewal offer to a consumer in this State unless the  
30 seller complies with the same requirements and restrictions applicable to automatic  
31 subscription or health club membership renewals under subsection 2 and additionally  
32 notifies the consumer of the automatic renewal in accordance with this subsection. ~~Notice~~  
33 ~~must be provided to the consumer no less~~ No more than 30 days and no more than 60 days  
34 ~~before the cancellation deadline pursuant to the automatic subscription renewal.~~ The seller  
35 ~~must provide for online cancellation of the subscription by any means of communicating~~  
36 ~~information over a computer network.~~ The notice before the renewal date for an extended  
37 automatic subscription or health club membership renewal, the seller shall provide notice  
38 to the consumer regarding the renewal, which must disclose clearly and conspicuously:

39 A. That unless the consumer cancels the subscription or membership it will  
40 automatically renew; and

41 B. Where the consumer can obtain details regarding the ~~automatic subscription~~  
42 renewal and cancellation procedure.

43 **Sec. 11. 10 MRSA §1210-C, sub-§4**, as enacted by PL 2019, c. 175, §1, is amended  
44 to read:

