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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 ~~enacts~~ 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;

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

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

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

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

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

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

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

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

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

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

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

G. "Seller" means a person who sells, leases or offers to sell or lease automatic 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:

4. Application. This chapter applies only to an agreement entered into or renewed after January 1, 2020 under which a seller makes an automatic subscription or health club membership renewal or extended automatic subscription or health club membership renewal offer to a consumer in this State.

Sec. 12. 10 MRSA §1210-D, as enacted by PL 2019, c. 175, §1, is amended to read:

§1210-D. Violation

1. Violations. A violation of this section chapter is a violation of the Maine Unfair Trade Practices Act. Notwithstanding any provision of law to the contrary, in addition to remedies authorized pursuant to the Maine Unfair Trade Practices Act, a person found in violation of this chapter based on unauthorized subscription or membership or other charges billed to or paid by a consumer is required to provide to the consumer a refund or credit for 3 times the unauthorized amounts billed or paid.

2. Exceptions. An action may not be brought under the Maine Unfair Trade Practices Act if a seller violates this chapter as the result of an error and provides a full refund or credit for all amounts billed to or paid by the consumer from the date of the subscription or membership renewal until the date of the termination of the subscription or membership or the date of the subsequent notice of renewal, whichever occurs first.

3. Enforcement; rules. The Attorney General shall enforce the provisions of this chapter and shall bring necessary actions for violations of this chapter in accordance with this section. The Attorney General may adopt rules necessary for the enforcement of this chapter. Rules adopted by the Attorney General pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 13. Application. Notwithstanding the Maine Revised Statutes, Title 10, section 1210-C, subsection 4, this Act applies only to offers or agreements entered into or renewed on or after January 1, 2026 under which a seller makes an automatic subscription or health club membership renewal or extended automatic subscription or health club membership renewal offer to a consumer in this State.'

Amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment incorporates the changes made to the bill by Committee Amendment "A" and clarifies that the automatic renewal provisions of the bill also apply to health club memberships.

SPONSORED BY:

(Senator NANGLE, T.)

COUNTY: Cumberland