

[Second Reprint]

ASSEMBLY, No. 3892

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MAY 9, 2022

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Assemblywoman ANGELA V. MCKNIGHT

District 31 (Hudson)

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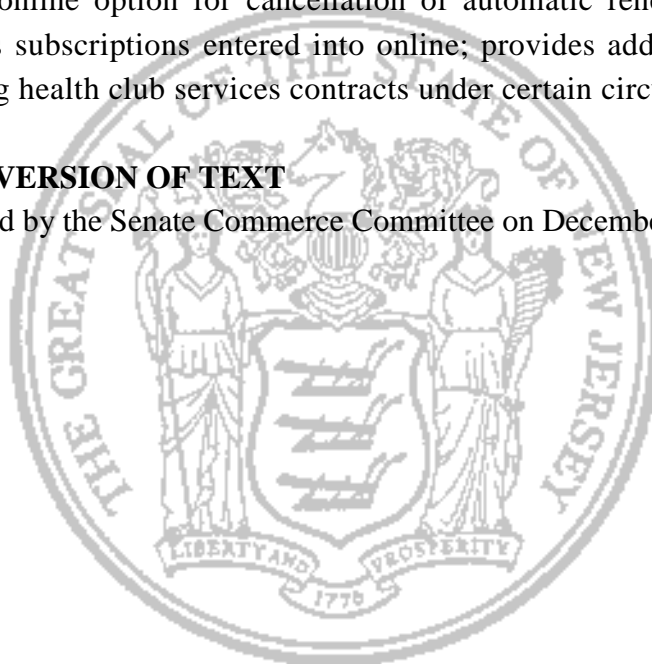
**Assemblyman Benson, Assemblywomen Dunn, Eulner, Piperno,
Assemblymen Moen, Mejia, Assemblywomen Jimenez, Jasey, Speight and
Assemblyman Freiman**

SYNOPSIS

Requires online option for cancellation of automatic renewal of health club services subscriptions entered into online; provides additional options for cancelling health club services contracts under certain circumstances.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on December 4, 2023, with amendments.



(Sponsorship Updated As Of: 6/29/2022)

1 AN ACT concerning the cancellation of ²**[subscription services**
 2 ¹**and]**² health club facility contracts¹ ²and health club services
 3 subscriptions² by consumers, amending P.L.1987, c.238, and
 4 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

5
 6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 7 *of New Jersey:*

8
 9 1. a. (New section) A subscription service provider selling
 10 subscription services online shall provide a consumer with an online
 11 option to cancel the ¹automatic renewal of the¹ subscription
 12 ¹service¹. The subscription service provider ¹or a person
 13 administering the subscription service¹ shall provide to any eligible
 14 consumer ¹**[**, in a conspicuous and visible manner and in a
 15 prominent location,¹ a direct link or button ¹**[by]** on the
 16 subscription service provider's Internet website through¹ which a
 17 consumer can cancel ¹**[a]** the automatic renewal of the¹
 18 subscription ¹**[to the]**¹ service. The link or button shall ¹**[make it]**
 19 be in a prominent location on the subscription service provider's
 20 Internet website and in¹ clear ¹**[that its purpose is to cancel the**
 21 subscription] and conspicuous text¹.

22 b. As used in this section:

23 ¹"Automatic renewal" means a plan or arrangement in which a
 24 paid subscription service is automatically renewed at the end of a
 25 definite term for a subsequent term.

26 "Clear and conspicuous" means in larger type than the
 27 surrounding text, or in contrasting type, font, or color to the
 28 surrounding text of the same size, or set off from the surrounding
 29 text of the same size by symbols or other marks, in a manner that
 30 clearly calls attention to the language.¹

31 "Consumer" means a resident of this State to whom a
 32 subscription service is sold online.

33 "Subscription service provider" means a person who sells a
 34 subscription service to a consumer online.

35 "Subscription service" means ²**[a service]** health club services²
 36 provided on a subscription basis in exchange for a reoccurring
 37 payment, including, but not limited to, a weekly, monthly, or annual
 38 payment charged to and made by a consumer.

39 c. It shall be an unlawful practice and a violation of P.L.1960,
 40 c.39 (C.56:8-1 et seq.) for any person to violate the provisions of
 41 this section.

42
 43 2. Section 4 of P.L.1987, c.238 (C.56:8-42) is amended to read
 44 as follows:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 16, 2022.

²Senate SCM committee amendments adopted December 4, 2023.

1 4. a. Every contract for health club services shall be in writing.
 2 A copy of the written contract shall be given to the buyer at the time
 3 the buyer signs the contract.

4 b. A health club services contract shall specifically set forth in
 5 a conspicuous manner on the first page of the contract the buyer's
 6 total payment obligation for health club services to be received
 7 pursuant to the contract.

8 c. A health club services contract of a health club facility
 9 which maintains a bond, irrevocable letter of credit or securities,
 10 moneys or other security pursuant to subsection a. of section 3 of
 11 this act shall set forth that a bond, irrevocable letter of credit or
 12 securities, moneys or other security is filed or deposited with the
 13 Director of the Division of Consumer Affairs to protect buyers of
 14 these contracts who are damaged or suffer any loss by reason of
 15 breach of contract or bankruptcy by the seller.

16 d. Services to be rendered to the buyer under the contract shall
 17 not obligate the buyer for more than three years from the date the
 18 contract is signed by the buyer.

19 e. A contract for new or increased health club services may be
 20 cancelled by the buyer for any reason at any time before midnight
 21 of the third operating day after the buyer receives a copy of the
 22 contract. In order to cancel a contract the buyer shall notify the
 23 health club of cancellation ¹by telephone or¹ in writing ¹[.] online,
 24 if the contract was entered into online;¹ by ¹regular,¹ registered¹,¹
 25 or certified mail, return receipt requested¹[.]¹ or personal
 26 delivery, to the address specified in the contract. All moneys paid
 27 pursuant to the cancelled contract shall be fully refunded within 30
 28 days of receipt of the notice of cancellation. If the customer has
 29 executed any credit or loan agreement through the health club to
 30 pay all or part of health club services, the negotiable instrument
 31 executed by the buyer shall also be returned within 30 days. The
 32 contract shall contain a conspicuous notice printed in at least 10-
 33 point bold-faced type as follows:

34

35 "NOTICE TO CUSTOMER

36 You are entitled to a copy of this contract at the time you sign it.

37 You may cancel this contract at any time before midnight of the
 38 third operating day after receiving a copy of this contract. If you
 39 choose to cancel this contract, you must ¹[either] take any one of
 40 the following actions¹:

41 1 Send a signed and dated written notice of cancellation by
 42 ¹regular,¹ registered¹,¹ or certified mail, return receipt requested;
 43 ¹[or]¹

44 2. Personally deliver a signed and dated written notice of
 45 cancellation to: (Name of health club)
 46 (Address of health club) ¹;

1 3. Personally place a telephone call to the health club facility;
2 or

3 4. If you entered into the contract online, use either the direct
4 link on the health club facility's Internet website or through a
5 termination email formatted and provided by the health club facility
6 to cancel the contract online.¹

7 If you cancel this contract within the three-day period, you are
8 entitled to a full refund of your money. If the third operating day
9 falls on a Sunday or holiday, notice is timely given if it is mailed or
10 delivered as specified in this notice on the next operating day.
11 Refunds must be made within 30 days of receipt of the cancellation
12 notice to the health club.

13 'Operating day' means any calendar day on which patrons may
14 inspect and use the health club's facilities and services during a
15 period of at least eight hours, except holidays and Sundays."

16 f. A health club services contract shall provide that it is subject
17 to cancellation by ¹telephone or written¹ notice ¹online, if the
18 contract was entered into online;¹ sent by ¹regular,¹ registered^{1,1} or
19 certified mail, return receipt requested^{1[,] ;}¹ or personally
20 delivered, to the address of the health club specified in the contract
21 upon the buyer's death or permanent disability, if the permanent
22 disability is fully described and confirmed to the health club by a
23 physician. In a cancellation under this subsection, the health club
24 may retain the portion of the total contract price representing the
25 services used plus reimbursement for expenses incurred in an
26 amount not to exceed 10% of the total contract price.

27 g. A health club services contract shall provide that it is subject
28 to cancellation by ¹telephone or written¹ notice ¹online, if the
29 contract was entered into online,¹ sent by ¹regular,¹ registered^{1,1} or
30 certified mail, return receipt requested^{1[,] ;}¹ or personally
31 delivered, to the address of the health club specified in the contract
32 upon the buyer's change of permanent residence to a location more
33 than 25 miles from the health club or an affiliated health club
34 offering the same or similar services and facilities at no additional
35 expense to the buyer. In a cancellation under this subsection, the
36 health club may require proof of the new permanent residence and
37 may retain a prorated share of the total contract price based upon
38 the date the notice was received plus reimbursement for expenses
39 incurred in an amount not to exceed 10% of the total contract price.

40 h. A health club services contract shall provide that if a health
41 club facility is closed for a period longer than 30 days through no
42 fault of the buyer of the health club services contract, the buyer is
43 entitled to either extend the contract for a period equal to that
44 during which the facility is closed or to receive a prorated refund of
45 the amount paid by the buyer under the contract.

46 i. A health club services contract shall not obligate the buyer
47 to renew the contract. ¹A buyer who entered into a health club

1 services contract online shall be provided with the option to
2 terminate the automatic renewal of the health club services contract
3 online through a direct link or button on the health club facility's
4 Internet website. The link or button shall be in a prominent location
5 on the health club facility's Internet website and in clear and
6 conspicuous text.¹

7 j. If a health club facility is not in existence on the date the
8 contract is executed, the health club services contract shall provide
9 that a buyer of a contract may cancel the contract if the facility is
10 not open for business on a date which shall be set forth in the
11 contract and receive a full refund of any deposit or payment on the
12 contract.

13 ¹[k. If a health club services contract is entered into online, the
14 buyer shall be entitled to cancel the health club services contract
15 online. Upon request, the health club facility shall provide an
16 online buyer with a direct link which the buyer may use to cancel
17 the health club services contract.]

18 ²k. As used in this section:²

19 "Automatic renewal" means a plan or arrangement in which a
20 health club services contract is automatically renewed at the end of
21 a definite term for a subsequent term.

22 "Clear and conspicuous" means in larger type than the
23 surrounding text, or in contrasting type, font, or color to the
24 surrounding text of the same size, or set off from the surrounding
25 text of the same size by symbols or other marks, in a manner that
26 clearly calls attention to the language.¹

27 (cf: P.L.1987, c.238, s.4)

28
29 3. This act shall take effect immediately.