

[Third Reprint]

ASSEMBLY, No. 3892

STATE OF NEW JERSEY
220th LEGISLATURE

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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 amended by the Senate on December 11, 2023.

(Sponsorship Updated As Of: 12/21/2023)

1 AN ACT concerning the cancellation of ²**[**subscription services
 2 ¹**and]**² health club facility contracts¹ ²**and** 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 ³**[**cancel the ¹automatic renewal of the¹ subscription
 12 ¹service¹**]** initiate the termination of the subscription service entered
 13 into online in accordance with the established billing terms and
 14 conditions of the agreement³. The subscription service provider ¹or a
 15 person administering the subscription service¹ shall provide to any
 16 eligible consumer ¹**[**, in a conspicuous and visible manner and in a
 17 prominent location,¹ ³, in an easily accessible location,³ a direct link
 18 or button ¹**[**by**]** on the subscription service provider's Internet website
 19 through¹ which a consumer can ³**[**cancel**]** initiate termination of³ ¹**[**a**]**
 20 the automatic renewal of the¹ subscription ¹**[**to the**]**¹ service. The
 21 ³direct³ link or button shall ¹**[**make it**]** be in a prominent location³ **[**on
 22 the subscription service provider's Internet website and in¹ clear ¹**[**that
 23 its purpose is to cancel the subscription**]** and conspicuous text¹**]**
 24 immediately accessible through:

25 (1) a customer account or profile on the subscription service
 26 provider's internet website, or the user settings on a consumer's
 27 smartphone or tablet; or

28 (2) a termination email formatted and provided by the subscription
 29 service provider that a consumer can email to the subscription service
 30 provider without being required to provide any additional
 31 information³.

32 b. As used in this section:

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

36 "Clear and conspicuous" means in larger type than the surrounding
 37 text, or in contrasting type, font, or color to the surrounding text of the
 38 same size, or set off from the surrounding text of the same size by
 39 symbols or other marks, in a manner that clearly calls attention to the
 40 language.¹

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

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.

³Senate floor amendments adopted December 11, 2023.

1 “Subscription service provider” means a person who sells a
2 subscription service to a consumer online.

3 “Subscription service” means ²[a service] health club services²
4 provided on a subscription basis in exchange for a reoccurring
5 payment, including, but not limited to, a weekly, monthly, or annual
6 payment charged to and made by a consumer.

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

10

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

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

16 b. A health club services contract shall specifically set forth in a
17 conspicuous manner on the first page of the contract the buyer's total
18 payment obligation for health club services to be received pursuant to
19 the contract.

20 c. A health club services contract of a health club facility which
21 maintains a bond, irrevocable letter of credit or securities, moneys or
22 other security pursuant to subsection a. of section 3 of this act shall set
23 forth that a bond, irrevocable letter of credit or securities, moneys or
24 other security is filed or deposited with the Director of the Division of
25 Consumer Affairs to protect buyers of these contracts who are
26 damaged or suffer any loss by reason of breach of contract or
27 bankruptcy by the seller.

28 d. Services to be rendered to the buyer under the contract shall
29 not obligate the buyer for more than three years from the date the
30 contract is signed by the buyer.

31 e. A contract for new or increased health club services may be
32 cancelled by the buyer for any reason at any time before midnight of
33 the third operating day after the buyer receives a copy of the contract.
34 In order to cancel a contract the buyer shall notify the health club of
35 cancellation ¹by telephone ³to the health club facility location where
36 the contract was entered into³ ¹or ³[in writing]³ ¹[,] online, if the
37 contract was entered into online;¹ by ¹regular,¹ registered¹,¹ or
38 certified mail ³received within the three-day period³, return receipt
39 requested¹[,] ¹; ¹or personal delivery, to the address specified in the
40 contract. All moneys paid pursuant to the cancelled contract shall be
41 fully refunded within 30 days of receipt of the notice of cancellation.
42 If the customer has executed any credit or loan agreement through the
43 health club to pay all or part of health club services, the negotiable
44 instrument executed by the buyer shall also be returned within 30 days.
45 The contract shall contain a conspicuous notice printed in at least 10-
46 point bold-faced type as follows:

1 "NOTICE TO CUSTOMER

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

3 You may cancel this contract at any time before midnight of the
4 third operating day after receiving a copy of this contract. If you
5 choose to cancel this contract, you must ¹**【either】** take any one of the
6 following actions¹:

7 1. Send a signed and dated written notice of cancellation by
8 regular,¹ registered¹,¹ or certified mail, return receipt requested;
9 ¹**【or】**¹

10 2. Personally deliver a signed and dated written notice of
11 cancellation to: (Name of health club)
12 (Address of health club) ¹;

13 3. Personally place a telephone call to the health club facility
14 location where the agreement was initially entered into³; or

15 4. If you entered into the contract online, use either the direct link
16 on the health club facility's Internet website ³, the user settings on
17 your smartphone or tablet,³ or ³**【through】**³ a termination email
18 formatted and provided by the health club facility to cancel the
19 contract online.¹

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

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

29 f. A health club services contract shall provide that it is subject to
30 cancellation by ¹telephone or written¹ notice ¹online, if the contract
31 was entered into online;¹ sent by ¹regular,¹ registered¹,¹ or certified
32 mail, return receipt requested¹,¹ ¹**【,】**¹ or personally delivered, to the
33 address of the health club specified in the contract upon the buyer's
34 death or permanent disability, if the permanent disability is fully
35 described and confirmed to the health club by a physician. In a
36 cancellation under this subsection, the health club may retain the
37 portion of the total contract price representing the services used plus
38 reimbursement for expenses incurred in an amount not to exceed 10%
39 of the total contract price.

40 g. A health club services contract shall provide that it is subject to
41 cancellation by ¹telephone or written¹ notice ¹online, if the contract
42 was entered into online,¹ sent by ¹regular,¹ registered¹,¹ or certified
43 mail, return receipt requested¹,¹ ¹**【,】**¹ or personally delivered, to the
44 address of the health club specified in the contract upon the buyer's
45 change of permanent residence to a location more than 25 miles from
46 the health club or an affiliated health club offering the same or similar

1 services and facilities at no additional expense to the buyer. In a
2 cancellation under this subsection, the health club may require proof of
3 the new permanent residence and may retain a prorated share of the
4 total contract price based upon the date the notice was received plus
5 reimbursement for expenses incurred in an amount not to exceed 10%
6 of the total contract price.

7 h. A health club services contract shall provide that if a health
8 club facility is closed for a period longer than 30 days through no fault
9 of the buyer of the health club services contract, the buyer is entitled to
10 either extend the contract for a period equal to that during which the
11 facility is closed or to receive a prorated refund of the amount paid by
12 the buyer under the contract.

13 i. A health club services contract shall not obligate the buyer to
14 renew the contract. ¹A buyer who entered into a health club services
15 contract online shall be provided with the option to terminate the
16 automatic renewal of the health club services contract online through a
17 direct link or button on the health club facility's Internet website. The
18 link or button shall be in a prominent location on the health club
19 facility's Internet website and in clear and conspicuous text.¹

20 j. If a health club facility is not in existence on the date the
21 contract is executed, the health club services contract shall provide that
22 a buyer of a contract may cancel the contract if the facility is not open
23 for business on a date which shall be set forth in the contract and
24 receive a full refund of any deposit or payment on the contract.

25 ¹[k. If a health club services contract is entered into online, the
26 buyer shall be entitled to cancel the health club services contract
27 online. Upon request, the health club facility shall provide an online
28 buyer with a direct link which the buyer may use to cancel the health
29 club services contact.]

30 ²k. As used in this section:²

31 “Automatic renewal” means a plan or arrangement in which a
32 health club services contract is automatically renewed at the end of a
33 definite term for a subsequent term.

34 “Clear and conspicuous” means in larger type than the surrounding
35 text, or in contrasting type, font, or color to the surrounding text of the
36 same size, or set off from the surrounding text of the same size by
37 symbols or other marks, in a manner that clearly calls attention to the
38 language.¹

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

40

41 3. This act shall take effect ³[immediately] on the first day of the
42 third month next following the date of enactment³ .