

SENATE, No. 2952

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 29, 2022

Sponsored by:

Senator GORDON M. JOHNSON

District 37 (Bergen)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/27/2023)

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

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

8 1. a. (New section) A subscription service provider selling
9 subscription services online shall provide a consumer with an online
10 option to cancel the automatic renewal of the subscription service.
11 The subscription service provider or a person administering the
12 subscription service shall provide to any eligible consumer a direct
13 link or button on the subscription service provider's Internet
14 website through which a consumer can cancel the automatic
15 renewal of the subscription service. The link or button shall be in a
16 prominent location on the subscription service provider's Internet
17 website and in clear and conspicuous text.

18 b. As used in this section:

19 "Automatic renewal" means a plan or arrangement in which a
20 paid subscription service is automatically renewed at the end of a
21 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.

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

29 "Subscription service provider" means a person who sells a
30 subscription service to a consumer online.

31 "Subscription service" means a service provided on a
32 subscription basis in exchange for a reoccurring payment,
33 including, but not limited to, a weekly, monthly, or annual payment
34 charged to and made by a consumer.

35 c. It shall be an unlawful practice and a violation of P.L.1960,
36 c.39 (C.56:8-1 et seq.) for any person to violate the provisions of
37 this section.
38

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

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

44 b. A health club services contract shall specifically set forth in
45 a conspicuous manner on the first page of the contract the buyer's

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.

1 total payment obligation for health club services to be received
2 pursuant to the contract.

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

11 d. Services to be rendered to the buyer under the contract shall
12 not obligate the buyer for more than three years from the date the
13 contract is signed by the buyer.

14 e. A contract for new or increased health club services may be
15 cancelled by the buyer for any reason at any time before midnight
16 of the third operating day after the buyer receives a copy of the
17 contract. In order to cancel a contract the buyer shall notify the
18 health club of cancellation by telephone or in writing **[,]** online, if
19 the contract was entered into online; by regular, registered,² or
20 certified mail, return receipt requested**[,]**¹; or personal delivery, to
21 the address specified in the contract. All moneys paid pursuant to
22 the cancelled contract shall be fully refunded within 30 days of
23 receipt of the notice of cancellation. If the customer has executed
24 any credit or loan agreement through the health club to pay all or
25 part of health club services, the negotiable instrument executed by
26 the buyer shall also be returned within 30 days. The contract shall
27 contain a conspicuous notice printed in at least 10-point bold-faced
28 type as follows:

29

30 "NOTICE TO CUSTOMER

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

32 You may cancel this contract at any time before midnight of the
33 third operating day after receiving a copy of this contract. If you
34 choose to cancel this contract, you must **[either]** take any one of the
35 following actions:

36 1. Send a signed and dated written notice of cancellation by
37 regular, registered,² or certified mail, return receipt requested; **[or]**

38 2. Personally deliver a signed and dated written notice of
39 cancellation to: (Name of health club)
40 (Address of health club);²

41 3. Personally place a telephone call to the health club facility;
42 or

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

47 If you cancel this contract within the three-day period, you are
48 entitled to a full refund of your money. If the third operating day

1 falls on a Sunday or holiday, notice is timely given if it is mailed or
2 delivered as specified in this notice on the next operating day.
3 Refunds must be made within 30 days of receipt of the cancellation
4 notice to the health club.

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

8 f. A health club services contract shall provide that it is subject
9 to cancellation by telephone or written notice online, if the contract
10 was entered into online; sent by regular, registered, or certified
11 mail, return receipt requested~~[.]~~; or personally delivered, to the
12 address of the health club specified in the contract upon the buyer's
13 death or permanent disability, if the permanent disability is fully
14 described and confirmed to the health club by a physician. In a
15 cancellation under this subsection, the health club may retain the
16 portion of the total contract price representing the services used
17 plus reimbursement for expenses incurred in an amount not to
18 exceed 10% of the total contract price.

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

32 h. A health club services contract shall provide that if a health
33 club facility is closed for a period longer than 30 days through no
34 fault of the buyer of the health club services contract, the buyer is
35 entitled to either extend the contract for a period equal to that
36 during which the facility is closed or to receive a prorated refund of
37 the amount paid by the buyer under the contract.

38 i. A health club services contract shall not obligate the buyer
39 to renew the contract. A buyer who entered into a health club
40 services contract online shall be provided with the option to
41 terminate the automatic renewal of the health club services contract
42 online through a direct link or button on the health club facility's
43 Internet website. The link or button shall be in a prominent location
44 on the health club facility's Internet website and in clear and
45 conspicuous text.

46 j. If a health club facility is not in existence on the date the
47 contract is executed, the health club services contract shall provide
48 that a buyer of a contract may cancel the contract if the facility is

1 not open for business on a date which shall be set forth in the
2 contract and receive a full refund of any deposit or payment on the
3 contract.

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

7 “Clear and conspicuous” means in larger type than the
8 surrounding text, or in contrasting type, font, or color to the
9 surrounding text of the same size, or set off from the surrounding
10 text of the same size by symbols or other marks, in a manner that
11 clearly calls attention to the language.

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

13
14 3. This act shall take effect immediately.

17 STATEMENT

18
19 This bill requires an online cancellation option for subscriptions
20 and gym memberships that are entered into online.

21 Under the bill, a subscription service provider selling
22 subscription services online is required to provide a consumer with
23 an online option to cancel the subscription. The subscription
24 service provider is to provide to any eligible consumer a direct link
25 or button by which a consumer can cancel a subscription to the
26 service.

27 The bill defines “subscription service provider” as a person who
28 sells a subscription service to a consumer online. In addition, the
29 bill defines “subscription service” as a service provided on a
30 subscription basis in exchange for a reoccurring payment,
31 including, but not limited to, a weekly, monthly, or annual payment
32 charged to and made by a consumer. “Consumer” is defined as a
33 resident of this State to whom a subscription service is sold online.

34 It is an unlawful practice for a subscription service provider to
35 violate the provisions of this bill. An unlawful practice under the
36 consumer fraud act is punishable by a monetary penalty of not more
37 than \$10,000 for a first offense and not more than \$20,000 for any
38 subsequent offense. In addition, violations may result in cease and
39 desist orders issued by the Attorney General, the assessment of
40 punitive damages, and the awarding of treble damages and costs to
41 the injured party.

42 Finally, the bill provides that if a health club services contract is
43 entered into online, the buyer is to be entitled to cancel the contract
44 online. Under the bill, a health club services contract may be
45 cancelled before midnight of the third operating day by telephone,
46 regular mail, or online, if the health club services contract was
47 entered into online. The bill also provides that upon the death or
48 disability of the consumer or upon the consumer’s change of

S2952 JOHNSON, SCUTARI

6

1 personal residence to a location more than 25 miles from the health
2 club, the consumer may cancel the contract by telephone, regular
3 mail, or online. Under current law, a consumer is required to cancel
4 a health club services contract by written notice sent by registered
5 or certified mail or by personal delivery to the health club facility.