

By: Guerra

H.B. No. 2259

A BILL TO BE ENTITLED

AN ACT

relating to requirements for subscription service contracts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 12, Business & Commerce Code, is amended by adding Chapter 608 to read as follows:

CHAPTER 608. SUBSCRIPTION SERVICE CONTRACTS

Sec. 608.001. DEFINITIONS. In this chapter:

(1) "Automatic renewal clause" means a provision of a contract that extends the term of or renews a contract if the consumer does not take a specified action.

(2) "Consumer" means a person who acquires goods or services for personal, family, or household purposes.

(3) "Service provider" means a business that provides a service to a consumer.

(4) "Subscription service" means a service provided by a service provider to a consumer under a contract that:

(A) has an automatic renewal clause; or

(B) continues indefinitely until canceled by a party.

Sec. 608.002. NOTICE REQUIREMENTS FOR SUBSCRIPTION SERVICE CONTRACTS. (a) If a service provider and a consumer enter into a contract for a subscription service, the service provider shall:

(1) at the time the service provider enters into the contract with the consumer, clearly and conspicuously disclose to

1 the consumer the:

2 (A) nature of the contract; and

3 (B) procedure for canceling the contract;

4 (2) if the contract has a term of six months or more  
5 and automatically renews for a term of at least one month, give the  
6 consumer additional written notice of the automatic renewal and the  
7 procedure for canceling the contract not earlier than the 90th day  
8 and not later than the 15th day before the date the contract is set  
9 to renew; and

10 (3) if the contract does not automatically renew but  
11 continues until canceled, give the consumer additional written  
12 notice of an upcoming payment not earlier than the 30th day and not  
13 later than the fifth day before the date the payment is due.

14 (b) A service provider may provide the written notice  
15 required under Subsection (a)(2) or (3):

16 (1) by regular mail or certified mail;

17 (2) on an invoice delivered to the consumer; or

18 (3) by written electronic communication, including  
19 electronic mail, if agreed to by the consumer.

20 (c) Notice provided under Subsection (b) must be clear and  
21 conspicuous. For purposes of Subsection (b)(1), the service  
22 provider may assume that written notice sent by regular mail is  
23 received by the consumer on the third business day after the date  
24 the notice is deposited in the mail.

25 Sec. 608.003. METHOD OF CANCELLATION. (a) A service  
26 provider shall allow a consumer to cancel a contract for a  
27 subscription service by using the same method as the consumer used

1 to enter into the contract, including allowing cancellation online,  
2 by mail, or by telephone.

3 (b) This section does not prohibit the service provider from  
4 allowing the consumer to cancel a contract by additional methods.

5 Sec. 608.004. DECEPTIVE TRADE PRACTICE. (a) Except as  
6 provided by Subsection (b), a violation of this chapter is a false,  
7 misleading, or deceptive act or practice as defined by Section  
8 17.46(b), and any remedy under Subchapter E, Chapter 17, is  
9 available for a violation of this chapter.

10 (b) A violation of this chapter is not a false, misleading,  
11 or deceptive act or practice if the service provider can  
12 demonstrate that:

13 (1) as a part of its routine business practice, the  
14 service provider has established and implemented written  
15 procedures to comply with this chapter and enforces compliance with  
16 the procedures;

17 (2) the violation of this chapter is the result of  
18 error; and

19 (3) the service provider prospectively canceled the  
20 contract for the subscription service within a reasonable time  
21 after becoming aware of the error that caused the violation of this  
22 chapter, without penalty to the consumer, and has not subsequently  
23 automatically renewed or revived that same contract.

24 (c) Subsection (b)(3) does not relieve a consumer of the  
25 consumer's duties under a contract before the date the contract is  
26 canceled.

27 SECTION 2. Chapter 608, Business & Commerce Code, as added

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1 by this Act, applies only to a contract entered into or renewed on  
2 or after the effective date of this Act.

3 SECTION 3. This Act takes effect September 1, 2021.