

BILL ANALYSIS

Senate Research Center
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S.B. 1835
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The requirements to cancel a gym membership are frustrating and unnecessarily burdensome in the age of the Internet. Chapter 702 of the Occupations Code requires a mailed written notice to cancel a contract, does not mandate that gyms make cancellations available via the Internet, and allows for gyms to wait up to 30 days to issue a refund. These restrictions were illuminated by the COVID-19 pandemic, where people attempting to quit memberships faced excessively elongated call-to-cancel procedures, largely unsuccessfully. This is particularly coercive for groups with difficulty navigating these cancellation policies, or people who have specific circumstances such as a disability that make purposefully lengthy cancellation processes less accessible.

S.B. 1835 makes several changes to the existing Occupations Code to simplify the process of canceling a gym membership (defined as "health spas" under statute) and prevent excessive restrictions from being leveraged against the customer.

Specifically, S.B. 1835:

- Expands the options of a customer to submit a notice of cancellation by electronic mail, over the phone, on a website, or in-person rather than written and mailed to the address of the health spa home office.
- Requires a health spa contracts to allow a customer to cancel with thirty days' notice after the third day of the membership.
- Enables customers to cancel a membership when they move more than 25 miles from a health spa's location by providing a notice.
- Enables customers to cancel a membership if they receive orders from a doctor that they cannot use the service for more than 3 months.
- Requires a health spa to accept a notice of cancellation via website if such contract was entered into via website.
- Requires that refunds be made within 48 hours rather than 30 days.
- Decreases the time necessary for a disability cancellation from six months to three months.

As proposed, S.B. 1835 amends current law relating to certain contract and notice requirements for the cancellation of a health spa membership.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 702.304, Occupations Code, as follows:

Sec. 702.304. CANCELLATION AND REFUND NOTICE. (a) Requires a contract to include a notice meeting certain criteria. Sets forth the language required to be included in the notice. Deletes existing language required to be included in the notice.

(b) Makes a conforming change.

(c) Requires a health spa operator to include a statement in a contract that any notice provided by a member to cancel a contract is authorized to be given to a health spa:

(1) in person, by e-mail, by certified mail, or by telephone; and

(2) for a contract entered into through an Internet website, through an Internet website.

SECTION 2. Amends Section 702.307, Occupations Code, as follows:

Sec. 702.307. CANCELLATION OF CONTRACT FOR FULL REFUND. (a) Authorizes a member to cancel a contract and receive a full refund of the payments made under the contract by providing to the certificate holder for the health spa, not later than midnight of the third business day after the contract date, notice of cancellation, accompanied by proof of payment made under the contract. Deletes existing text authorizing a member to cancel a contract and receive a full refund of the payments made under the contract by sending, not later than midnight of the third business day after the contract date, written notice of cancellation, accompanied by proof of payment made under the contract, by certified mail to the certificate holder's home office.

(b) Requires a certificate holder who receives notice under Subsection (a) to refund the payments made under the contract not later than 48 hours, rather than the 30th day, after the date notice is received.

SECTION 3. Amends Section 702.308, Occupations Code, by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (a-2), as follows:

(a) Authorizes a member to cancel a contract and receive a refund of unearned payments made under the contract by providing to the certificate holder for the health spa 30 days' notice accompanied by proof of payment made under the contract.

(a-1) Authorizes a member to cancel a contract and receive a refund of unearned payments made under the contract by providing notice of cancellation, accompanied by proof of payment made under the contract, to the certificate holder for the health spa if the certificate holder takes certain actions. Deletes existing text authorizing a member to cancel a contract and receive a refund of unearned payments made under the contract by sending written notice of cancellation, accompanied by proof of payment made under the contract, by certified mail to the certificate holder's home office if the certificate holder takes certain actions.

(a-2) Authorizes a member to cancel a contract and receive a refund of unearned payments made under the contract by providing notice of cancellation, accompanied by proof of payment made under the contract to the certificate holder for the health spa, if the member:

(1) moves the member's residence more than 25 miles from any health spa operated by the seller; or

(2) on a doctor's order, cannot physically receive the services provided by the health spa for more than three months because of a significant physical disability.

(b) Authorizes a member who dies or becomes totally and permanently disabled after the date a contract is entered into, or the member's estate, to cancel the contract and receive a refund of the unearned payments made under the contract by providing to the certificate holder for the health spa notice of cancellation, rather than by sending written notice of cancellation by certified mail to the certificate holder's home office.

(c) Requires a certificate holder who receives notice under Subsection (a), (a-1), (a-2), or (b) to refund the unearned payments made under the contract to the member, or the member's estate, as appropriate, not later than 48 hours, rather than the 30th day, after the date notice is received.

SECTION 4. Effective date: September 1, 2023.