

1 HOUSE BILL 522

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Joy Garratt and William B. Pratt and Susan K. Herrera and
5 Christine Chandler and William "Bill" R. Rehm
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10 AN ACT

11 RELATING TO CONSUMER PROTECTION; DECLARING AS AN UNLAWFUL
12 PRACTICE THE AUTOMATIC RENEWAL OF CONSUMER CONTRACTS OR
13 CONTINUATION OF DELIVERY OF PRODUCTS OR SERVICES WITHOUT PRIOR
14 CONSUMER CONSENT; REQUIRING CERTAIN DISCLOSURES IN OFFERS TO
15 RENEW CONTRACTS FOR AND CONTINUE DELIVERY OF PRODUCTS OR
16 SERVICES TO CONSUMERS; REQUIRING THAT CONSUMERS BE PROVIDED
17 WITH AN OPTION TO TERMINATE THOSE CONTRACTS OR CONTINUING
18 DELIVERIES.
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20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. A new section of the Unfair Practices Act is
22 enacted to read:

23 "[NEW MATERIAL] RENEWAL AND CONTINUOUS DELIVERY
24 CONTRACTS--REQUIREMENTS--REMEDIES FOR VIOLATIONS.--

25 A. It is an unlawful practice within the meaning of

.210775.1

underscored material = new
[bracketed material] = delete

underscoring material = new
~~[bracketed material] = delete~~

1 the Unfair Practices Act for a person to renew a contract for
2 or continue delivery of a product or service to a consumer
3 after the expiration of the term of the contract, including
4 after a free trial, discount or other introductory offer,
5 without:

6 (1) obtaining the consumer's prior explicit
7 consent; provided that for an offer to:

8 (a) renew a contract for or continue
9 delivery of a product or service, the offer shall be provided
10 to the consumer not more than sixty days, and not less than
11 thirty days, prior to the expiration date of the term of the
12 contract for delivery of the product or service; and

13 (b) continue delivery of a product or
14 service upon the expiration of a free trial, discount or other
15 introductory offer period, the offer shall be provided to the
16 consumer not more than ten days, and not less than five days,
17 prior to the date of expiration; and

18 (2) simultaneously:

19 (a) presenting to the consumer in larger
20 type than the surrounding text, or in contrasting type, font or
21 color to the surrounding text of the same size, or set off from
22 the surrounding text of the same size by symbols or other
23 marks, in a manner that clearly calls attention to the
24 language: 1) clear instructions to the consumer on how to
25 cancel the contract for or continued delivery of the product or

.210775.1

1 service, including a toll-free telephone number, electronic
2 mail address and postal address, if the person directly bills
3 the consumer, for cancellation, and if a person makes and the
4 consumer accepts the offer online, instructions on how the
5 consumer may terminate the contract or continuous service offer
6 online; 2) the recurring charges that will be charged to the
7 consumer's credit or debit account or payment account with a
8 third party as a result of accepting the offer; 3) the length
9 of the term of delivery of the product or service; and 4) the
10 minimum purchase obligation, if any; and

11 (b) in the case of an audio disclosure,
12 providing to the consumer the terms listed in Subparagraph (a)
13 of this paragraph in a volume and cadence sufficient to be
14 readily audible and understandable to the consumer prior to the
15 consumer's consent.

16 B. If a person violates a provision of this
17 section, in addition to any other remedy provided pursuant to
18 the Unfair Practices Act, the product or service that is the
19 subject of a contract or continued delivery shall be deemed an
20 unconditional gift to the consumer. The consumer may use or
21 dispose of the product or service in any manner without any
22 obligation to that person."