

SENATE BILL REPORT

SB 5207

As of January 22, 2025

Title: An act relating to requiring refunds to consumers for early cancellation of term-based subscriptions to electronic media services.

Brief Description: Requiring refunds to consumers for early cancellation of term-based subscriptions to electronic media services.

Sponsors: Senators MacEwen, Dozier, Hasegawa, Nobles and Valdez.

Brief History:

Committee Activity: Business, Financial Services & Trade: 1/23/25.

Brief Summary of Bill

- Directs electronic media services to provide refunds to consumers on a pro rata basis when requested.
- Defines the failure or refusal of an electronic media service to issue a subscription refund as a violation that is subject to the Consumer Protection Act.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Staff: Clint McCarthy (786-7319)

Background: Efforts by States to Clarify Consumer Rights in the Use of Subscription Services. A number of states have passed laws regulating automatic renewal payments for subscriptions and services in the last year. A number of states have passed laws requiring companies that provide goods and services through subscriptions to give notice prior to an automatic renewal of a subscription and make it easier for consumers to cancel subscriptions. Prior notice requirements range from 14 to 60 days. Examples of states that have made statutory changes on automatic renewal subscription services in 2024 include:

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- Tennessee;
- Minnesota;
- California; and
- Virginia.

The Federal Trade Commission Issues the Click-to-Cancel Rule, Effective January 15, 2025. On January 15, 2025, the Federal Trade Commission finalized the Click-to-Cancel rule that imposed requirements on companies that use subscription services. This rule requires easy cancellation and record keeping of consent, and broadly prohibits misrepresentation in connection with the sale of a product or service through a negative option. Negative option marketing broadly refers to a category of commercial transactions in which sellers interpret a customer's failure to take an affirmative action, either to reject an offer or cancel an agreement, as assent to be charged for goods or services.

Click-to-Cancel has a number of new requirements in place, including:

- it must be as easy to cancel the subscription as it is to provide consent to the service;
- cancellation must be available through the same medium as to sign-up;
- cancellation online must be easy to find and cannot require interacting with a live or virtual representative;
- cancellation requests must be honored promptly when made to a live person or recorded message; and
- cancellation must be offered by phone when the consumer initially consented in person.

The final rule is silent on refunds due to early cancellation of a subscription initiated by a consumer.

Summary of Bill: Definition of Electronic Media Service. The term "electronic media" is defined as any combination of intangible music, news, software, games, or other intangible forms of information or entertainment. Electronic media services are any commercial service that provide electronic media. These services are provided to consumers through a subscription arrangement where there is an agreement between the electronic media service and the consumer where the consumer receives access to the electronic media in exchange for money during either a set term or on a regularly recurring basis.

Contractual Obligations of an Electronic Media Service to a Consumer. Electronic media services are obligated to disburse refunds due to consumer when a consumer cancels a subscription. The amount of the refund must be calculated on a pro rata basis of time. The basis of the amount of the refund must be based on the amounts paid up to cancellation and upon the charges agreed to by the consumer.

Automatic Renewal of Subscriptions. Electronic media services are permitted to continue to offer automatic renewal of any subscription to a consumer.

Violations. Electronic media services that fail or refuse to offer a subscription refund to a consumer are in violation of this act. A private right of action concerning electronic media services is not permitted. Subscriptions offered by an electronic media services are subject to the Consumer Protection Act.

Appropriation: None.

Fiscal Note: Requested on January 13, 2025.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.