

**Representative Cheryl K. Acton** proposes the following substitute bill:

**AUTOMATIC RENEWAL CONTRACT REQUIREMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Cheryl K. Acton**

Senate Sponsor: Daniel W. Thatcher

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**LONG TITLE**

**General Description:**

This bill addresses automatic renewal contract requirements.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires a person who offers a contract with an automatic renewal provision to disclose certain information to the consumer regarding the renewal and cancellation of the contract;
- ▶ requires a person who offers a trial period offer to disclose certain information to the consumer regarding the expiration of the trial period and purchase obligations upon expiration;
- ▶ authorizes the Division of Consumer Protection (division) to enforce the provisions in this bill;
- ▶ provides fines and civil penalties for a violation of the provisions in this bill;
- ▶ requires fines and civil penalties received by the division for a violation of the provisions in this bill to be placed in the Consumer Protection Education and Training Fund;
- ▶ grants administrative rulemaking authority; and



26           ▶ makes technical and conforming changes.

27 **Money Appropriated in this Bill:**

28           None

29 **Other Special Clauses:**

30           This bill provides a special effective date.

31 **Utah Code Sections Affected:**

32 AMENDS:

33           **13-2-1 (Effective 12/31/23)**, as last amended by Laws of Utah 2022, Chapters 201, 462

34 ENACTS:

35           **13-63-101**, Utah Code Annotated 1953

36           **13-63-201**, Utah Code Annotated 1953

37           **13-63-301**, Utah Code Annotated 1953



39 *Be it enacted by the Legislature of the state of Utah:*

40           Section 1. Section **13-2-1 (Effective 12/31/23)** is amended to read:

41           **13-2-1 (Effective 12/31/23). Consumer protection division established --**

42 **Functions.**

43           (1) There is established within the Department of Commerce the Division of Consumer  
44 Protection.

45           (2) The division shall administer and enforce the following:

- 46           (a) Chapter 5, Unfair Practices Act;
- 47           (b) Chapter 10a, Music Licensing Practices Act;
- 48           (c) Chapter 11, Utah Consumer Sales Practices Act;
- 49           (d) Chapter 15, Business Opportunity Disclosure Act;
- 50           (e) Chapter 20, New Motor Vehicle Warranties Act;
- 51           (f) Chapter 21, Credit Services Organizations Act;
- 52           (g) Chapter 22, Charitable Solicitations Act;
- 53           (h) Chapter 23, Health Spa Services Protection Act;
- 54           (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 55           (j) Chapter 26, Telephone Fraud Prevention Act;
- 56           (k) Chapter 28, Prize Notices Regulation Act;

- 57 (l) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
- 58 Transaction Information Act;
- 59 (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- 60 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 61 (o) Chapter 41, Price Controls During Emergencies Act;
- 62 (p) Chapter 42, Uniform Debt-Management Services Act;
- 63 (q) Chapter 49, Immigration Consultants Registration Act;
- 64 (r) Chapter 51, Transportation Network Company Registration Act;
- 65 (s) Chapter 52, Residential Solar Energy Disclosure Act;
- 66 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 67 (u) Chapter 54, Ticket Website Sales Act;
- 68 (v) Chapter 56, Ticket Transferability Act;
- 69 (w) Chapter 57, Maintenance Funding Practices Act; [~~and~~]
- 70 (x) Chapter 61, Utah Consumer Privacy Act[-:]; and
- 71 (y) Chapter 63, Automatic Renewal Contracts Act.

72 Section 2. Section 13-63-101 is enacted to read:

73 **CHAPTER 63. AUTOMATIC RENEWAL CONTRACTS ACT**

74 **Part 1. General Provisions**

75 **13-63-101. Definitions.**

76 As used in this chapter:

77 (1) "Automatic renewal provision" means a provision under a contract that is  
78 automatically renewed at the end of a definite term for a subsequent term that is longer than 45  
79 days.

80 (2) "Clearly and conspicuously disclose" means to disclose:

81 (a) in print:

82 (i) in larger type than the surrounding text;

83 (ii) in contrasting type, font, or color to the surrounding text of the same size; or

84 (iii) in a manner set off from the surrounding text of the same size by symbols or other  
85 marks that clearly call attention to the language; or

86 (b) through audio, in a volume and cadence sufficient to be readily audible and  
87 understandable.

88 (3) "Division" means the Division of Consumer Protection established in Section  
89 13-2-1.

90 (4) "Trial period offer" means an offer to provide a period of time to sample or use a  
91 product or service without payment.

92 Section 3. Section **13-63-201** is enacted to read:

93 **Part 2. Automatic Renewal Contract**

94 **13-63-201. Automatic renewal provisions -- Trial period offers -- Notice --**  
95 **Exceptions.**

96 (1) Except as provided in Subsection (3), a person who provides an individual a  
97 product or service under a contract with an automatic renewal provision shall provide a notice  
98 to the individual, at least 30 but not more than 60 days before the day on which the automatic  
99 renewal provision renews, that clearly and conspicuously discloses:

100 (a) the renewal date;

101 (b) the total renewal cost; and

102 (c) options for cancellation of the contract.

103 (2) Except as provided in Subsection (3), a person who provides an individual a trial  
104 period offer shall provide a notice to the individual, at least three days before the day on which  
105 the period of time under the trial period offer expires, that clearly and conspicuously discloses:

106 (a) the trial period offer expiration date; and

107 (b) the price to be charged for the product or service, or any further purchase  
108 obligations to be imposed on the individual, after the expiration date.

109 (3) This section does not apply to:

110 (a) an insurance organization or an affiliate of an insurance organization regulated  
111 under Title 31A, Insurance Code;

112 (b) a person providing a service contract, as defined in Section [31A-6a-101](#);

113 (c) a financial institution or an affiliate of a financial institution regulated under Title V  
114 of the Gramm-Leach-Bliley Act, 15 U.S.C. Sec. 6801 et seq.;

115 (d) a public utility, as defined in Section [54-2-1](#); or

116 (e) an entity or an affiliate of the entity that provides services regulated by the Federal  
117 Communications Commission, Federal Energy Regulatory Commission, or federal  
118 Professional Services Council.

119 Section 4. Section 13-63-301 is enacted to read:

120 **Part 3. Enforcement**

121 **13-63-301. Administration and enforcement -- Division powers -- Fees --**

122 **Rulemaking.**

123 (1) The division shall administer and enforce this chapter in accordance with Chapter  
124 2, Division of Consumer Protection.

125 (2) In addition to the division's enforcement powers under Chapter 2, Division of  
126 Consumer Protection:

127 (a) the division director may impose an administrative fine of up to \$2,500 for each  
128 violation of this chapter; and

129 (b) the division may bring a civil action to enforce this chapter.

130 (3) In a civil action by the division to enforce this chapter, the court may:

131 (a) declare that an act or practice violates this chapter;

132 (b) issue an injunction for a violation of this chapter;

133 (c) order disgorgement of any money received after a violation of this chapter;

134 (d) order payment of disgorged money to an injured individual;

135 (e) impose a civil penalty of up to \$2,500 for each violation of this chapter; or

136 (f) award any other relief that the court deems reasonable and necessary.

137 (4) If a court grants judgment or injunctive relief to the division, the court shall award  
138 the division:

139 (a) reasonable attorney fees;

140 (b) court costs; and

141 (c) investigative fees.

142 (5) (a) A person who violates an administrative or court order issued for a violation of  
143 this chapter is subject to a civil penalty of no more than \$5,000 for each violation.

144 (b) A civil penalty authorized under this section may be imposed in any civil action  
145 brought by the division.

146 (c) The division shall deposit money received for the payment of a fine or civil penalty  
147 under this section into the Consumer Protection Education and Training Fund created in  
148 Section 13-2-8.

149 (6) The division may make rules in accordance with Title 63G, Chapter 3, Utah

150 Administrative Rulemaking Act, to enforce this chapter.

151 Section 5. **Effective date.**

152 This bill takes effect on January 1, 2024.