

Senator Klein from the Committee on Commerce and Consumer Protection, to which was referred

S.F. No. 3920: A bill for an act relating to contracts; defining indefinite subscription agreement and related terms; regulating certain contracts subject to automatic renewal clauses or continuous service; requiring seller notice to consumers; providing for consumer rights in connection with the termination of certain contracts; providing civil penalties; proposing coding for new law in Minnesota Statutes, chapter 325G.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2022, section 325G.24, is amended to read:

325G.24 RIGHT OF CANCELLATION.

Subdivision 1. Right of cancellation. (a) Any person who has elected to become a member of a club may unilaterally cancel such membership, in the person's exclusive discretion, by giving ~~written~~ notice of cancellation at any time before midnight of the third business day following the date on which membership was attained. ~~Notice of cancellation may be given personally or by mail.~~

(b) If given by mail, the notice is effective upon deposit in a mailbox, properly addressed and postage prepaid. ~~Notice of cancellation need not take a particular form and is sufficient if it indicates, by any form of written expression, the intention of the member not to be bound by the contract.~~

(c) Cancellation under this subdivision shall be without liability on the part of the member and the member shall be entitled to a refund, within ten days after notice of cancellation is given, of the entire consideration paid for the contract. ~~Rights of cancellation may not be waived or otherwise surrendered.~~

Subd. 2. Right of member unilateral termination. (a) Any person who has elected to become a member of a club may unilaterally terminate such membership, in the person's exclusive discretion, by giving notice of termination at any time.

(b) If given by mail, the notice is effective upon deposit in a mailbox, properly addressed, and postage prepaid.

(c) A club must not impose a termination fee or any other liability on the member for termination under this subdivision.

(d) Termination under this subdivision will be effective at the end of the membership term in which the member provides the notice of termination. If membership is at-will without a defined membership term, then termination under this subdivision will be effective

immediately, unless the member indicates a future effective date of termination, in which event the date indicated by the member will be the effective date of termination.

(e) If a member provides notice of termination at any time before midnight of the third business day following the date on which membership was attained, the club must treat the notice as a notice of cancellation under subdivision 1, unless the member specifically provides for a future termination effective date.

Subd. 3. **Notice requirements.** (a) A club must accept a notice of cancellation or notice of termination that has been given:

(1) verbally, including but not limited to personally or over the phone to customer or account service members;

(2) in writing, including but not limited to via mail, email, or an online message through the club's website directed to customer or account service members;

(3) through a termination election as described in section 325G.60; or

(4) in any other manner or medium by which the member initially accepted membership to the club and that is no more burdensome to the member than was the initial acceptance.

(b) The process to cancel must be stated clearly and be easily accessible and completed with ease.

Subd. 4. **No waiver.** A right of cancellation or right of termination under this section may not be waived or otherwise surrendered.

Sec. 2. Minnesota Statutes 2022, section 325G.25, subdivision 1, is amended to read:

Subdivision 1. **Form and content.** A copy of every contract shall be delivered to the member at the time the contract is signed. Every contract must be in writing, must be signed by the member, must designate the date on which the member signed the contract and must state, clearly and conspicuously in boldface type of a minimum size of 14 points, the following:

"MEMBERS' RIGHT TO CANCEL"

"If you wish to cancel this contract, you may cancel in-person, over the phone, by delivering or mailing a written notice to the club, via email or an online message through the club's website, through the "termination election" provided on the club's website (if applicable) and as described in Minnesota Statutes, section 325G.60, or in any other manner or medium by which you initially accepted membership to the club. The notice must be provided to the club ~~say that you do not wish to be bound by the contract and must be~~

~~delivered or mailed~~ before midnight of the third business day after you sign this contract.
~~The notice must be delivered or mailed to: (Insert name and mailing address of club).~~ If
you cancel, the club will return, within ten days of the date on which you give notice of
cancellation, any payments you have made."

"MEMBERS' RIGHT TO UNILATERAL TERMINATION"

"You may unilaterally terminate this contract in your exclusive discretion at any time.
If you terminate, your membership will terminate at the end of the membership term in
which you provided the club with notice of termination. If your membership is at-will
without a defined membership term, then your membership will terminate immediately,
unless you indicate a future effective date of termination. If you wish to terminate this
contract, you may terminate in-person, over the phone, by delivering or mailing a written
notice to the club, via email or an online message through the club's website, through the
"termination election" provided on the club's website (if applicable) and as described in
Minnesota Statutes, section 325G.60, or in any other manner or medium by which you
initially accepted membership to the club. The club may not impose a termination fee or
any other liability on you for termination."

"NOTICE INFORMATION"

"If you wish to provide notice of cancellation or notice of termination to the club:

In-person or by mail, the applicable address is: [Insert name and mailing address of
club];

Over the phone, the applicable phone number is: [Insert phone number of club];

Via email, the applicable email address is: [Insert email address of club];

On the club's website, the applicable website address is: [Insert address, if applicable]."

Sec. 3. **[325G.56] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 325G.56 to 325G.62, the terms defined
in this section have the meanings given them.

Subd. 2. **Automatic renewal.** "Automatic renewal" means a plan or arrangement in
which a subscription or purchasing agreement is automatically renewed at the end of a
definite term for a subsequent term.

Subd. 3. **Clear and conspicuous.** "Clear and conspicuous" means in larger type than
the surrounding text, or in contrasting type, font, or color to the surrounding text of the same
size, or set off from the surrounding text of the same size by symbols or other marks, in a

4.1 manner that calls attention to the language. In the case of an audio disclosure, "clear and
4.2 conspicuous" means in a volume and cadence sufficient to be readily audible and
4.3 understandable.

4.4 Subd. 4. **Consumer.** "Consumer" means any individual who seeks or acquires, by
4.5 purchase or lease, any goods, services, money, or credit for personal, family, or household
4.6 purposes. Consumer includes, but is not limited to, a member as defined in section 325G.23,
4.7 unless the context clearly indicates otherwise.

4.8 Subd. 5. **Continuous service.** "Continuous service" means a plan or arrangement in
4.9 which a subscription or purchasing agreement continues until the consumer terminates the
4.10 agreement.

4.11 Subd. 6. **Indefinite subscription agreement.** "Indefinite subscription agreement" means
4.12 a subscription or purchasing agreement:

4.13 (1) between a seller and a consumer in the state; and

4.14 (2) subject to automatic renewal or continuous service.

4.15 Indefinite subscription agreements include but are not limited to contracts, as defined in
4.16 section 325G.23, subject to automatic renewal or continuous service.

4.17 Subd. 7. **Offer terms.** "Offer terms" means the following disclosures:

4.18 (1) that the indefinite subscription agreement will continue until the consumer terminates
4.19 the agreement;

4.20 (2) the description of the cancellation policy that applies to the indefinite subscription
4.21 agreement;

4.22 (3) the recurring charges that will be charged to the consumer's credit or debit card or
4.23 payment account with a third party as part of the plan or arrangement and that the amount
4.24 of the charge may change, if that is the case, and the amount to which the charge will change,
4.25 if known;

4.26 (4) the length of the automatic renewal term or that the service is continuous, unless the
4.27 length of the term is definite and chosen by the consumer; and

4.28 (5) the minimum purchase obligation, if any.

4.29 Subd. 8. **Seller.** "Seller" means a seller, lessor, licensor, or professional who advertises,
4.30 solicits, or engages in consumer transactions, or a manufacturer, distributor, or licensor who
4.31 advertises and sells, leases, or licenses goods or services to be resold, leased, or sublicensed

by other persons in consumer transactions. Seller includes, but is not limited to, a club as defined in section 325G.23, unless the context clearly indicates otherwise.

Sec. 4. [325G.57] REQUIREMENTS FOR AUTOMATIC RENEWAL OR CONTINUOUS SERVICE.

Subdivision 1. Notices upon offer. A seller making an offer for an indefinite subscription agreement must, before the consumer accepts the offer, present the offer terms in a clear and conspicuous manner to the consumer and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the offer's proposal.

Subd. 2. Confirmation upon consumer consent. A seller making an offer for an indefinite subscription agreement must, in a timely manner after the consumer accepts the offer, provide the consumer with confirmation of the consumer's acceptance of the offer, in a manner that is capable of being retained by the consumer, that includes the following:

(1) the offer terms;

(2) if the offer includes a free trial, information on how to cancel the free trial before the consumer pays or becomes obligated to pay for any goods or services in connection with the free trial; and

(3) options for termination of the indefinite subscription agreement, which options must be easy to use, cost-effective, and timely for all consumers:

(i) if a seller makes offers for an indefinite subscription agreement through an online website, a termination election as set forth in section 325G.60; and

(ii) if a consumer enters into the indefinite subscription agreement through any means other than a toll-free telephone number, an electronic mail address, or a postal address, then an option substantially similar to, as easy to use, and as accessible as the initial means of consumer acceptance of the agreement.

A communication of the required information through electronic mail is sufficient to meet the requirements of this subdivision.

Subd. 3. Material changes. Upon a material change in the terms of the indefinite subscription agreement, the seller must provide to the consumer in a timely manner, and in any case prior to the implementation of the material change, a clear and conspicuous notice of the material change and provide information regarding how to terminate the agreement in a manner that is capable of being retained by the consumer. A material change in the

6.1 terms of an indefinite subscription agreement in violation of this subdivision is void and
6.2 unenforceable.

6.3 Subd. 4. **Free trials.** A seller making an offer for an indefinite subscription agreement
6.4 that includes a free trial lasting more than 30 days must, no fewer than five days and no
6.5 more than 30 days before the end of any such free trial, notify the consumer of the consumer's
6.6 option to cancel the free trial before the end of the trial period to avoid an obligation to pay
6.7 for the goods or services.

6.8 Subd. 5. **Periodic notice of continuous service.** (a) If an indefinite subscription
6.9 agreement is subject to continuous service, the seller must give the consumer written notice
6.10 of the continuous service at least once per calendar year via mail or electronic mail.

6.11 (b) The notice required under this subdivision must include the terms of the service and
6.12 how to terminate or manage the service.

6.13 Sec. 5. **[325G.58] PROHIBITED CONDUCT.**

6.14 Subdivision 1. **Definition; agreement.** For purposes of this section, "agreement" means
6.15 an indefinite subscription agreement, as defined in section 325G.56, and a contract, as
6.16 defined in section 325G.23.

6.17 Subd. 2. **Charges prior to effective date.** A seller must not charge the consumer's credit
6.18 or debit card or the consumer's account with a third party in connection with an agreement
6.19 before the agreement has been duly authorized by the seller and consumer and made effective.

6.20 Subd. 3. **Right of first refusal.** An agreement must not require the consumer to permit
6.21 the seller to match any offer the consumer has received. A provision in an agreement that
6.22 violates this subdivision is void and unenforceable.

6.23 Subd. 4. **No abusive tactics or offers upon notice.** (a) A seller that has received a notice
6.24 of cancellation or notice of termination of an agreement from a consumer cannot:

6.25 (1) make any misrepresentation or undertake any unfair or abusive tactic to delay,
6.26 unreasonably delay, or avoid the cancellation or termination of the agreement; or

6.27 (2) make or provide additional benefits, contract modifications, gifts, or similar offers
6.28 to the consumer until the seller has obtained permission from the consumer, granted by the
6.29 consumer after notice of cancellation or termination was given to the seller, for the seller
6.30 to engage in any such activity.

6.31 (b) A seller can only seek a consumer's permission under this paragraph once per
6.32 cancellation or termination attempt. A consumer's grant of permission under this paragraph

is limited to the immediate cancellation or termination attempt and does not apply to subsequent attempts.

Subd. 5. Exceptions. This section does not prohibit a seller from:

(1) asking the consumer the reasons for cancellation or termination, provided that a consumer is not required to answer as a condition of cancellation or termination;

(2) informing the consumer that there may be consequences of cancelling or terminating the subscription; or

(3) verifying the identity of the consumer.

Sec. 6. [325G.59] CONSUMER'S RIGHT TO TERMINATE.

Subdivision 1. Termination of agreement subject to automatic renewal. A consumer may terminate an indefinite subscription agreement subject to automatic renewal at any time by following the procedure set forth in the confirmation described in section 325G.57, subdivision 2. A termination under this subdivision is effective at the end of the term in which notice of termination is provided by the consumer, unless the consumer specifies a termination date occurring at the end of a subsequent term, in which event the termination is effective as of the date specified by the consumer, if the option is available.

Subd. 2. Termination of agreement subject to continuous service. (a) A consumer may terminate an indefinite subscription agreement subject to continuous service at any time by following the procedure set forth in the confirmation described in section 325G.57, subdivision 2. A termination under this subdivision must take effect no later than 31 days from the date of a verified consumer's notice of termination unless the consumer specifies a future termination date, in which event the termination is effective as of such date.

(b) This subdivision does not require a seller to provide an option to set a future termination date.

Subd. 3. Termination in absence of confirmation or notice. If the seller fails to provide either the confirmation required under section 325G.57, subdivision 2, or a notice required by section 325G.57, subdivision 5, the consumer may terminate the indefinite subscription agreement by any reasonable means at any time, including but not limited to by mail, electronic mail, telephone, an online option, a termination election under section 325G.60, or the means by which the consumer entered into the agreement, at no cost to the consumer.

8.1 Sec. 7. **[325G.60] TERMINATION ELECTION REQUIREMENT.**

8.2 Subdivision 1. Definition; agreement. For purposes of this section, "agreement" means
8.3 an indefinite subscription agreement, as defined in section 325G.56, and a contract, as
8.4 defined in section 325G.23.

8.5 Subd. 2. Termination election required. (a) If a seller has a website with profile or
8.6 subscription management capabilities, then such website must include a termination election
8.7 on the website. The termination election must be clear and conspicuous on the website and
8.8 must use plain language to convey that any consumer may use the termination election to
8.9 terminate the agreement at any time. The termination election must only require a consumer
8.10 to input information that is necessary to process the termination. The termination election
8.11 must include a checkbox, submission button, or similarly common and simple mechanism
8.12 for the member to indicate a desire to terminate the agreement.

8.13 (b) For purposes of this section, "termination election" means a simple and easily
8.14 accessible means for a consumer to quickly provide notice of termination, and that does not
8.15 include undue complexity, confusion, or misrepresentation by the seller.

8.16 Sec. 8. **[325G.61] UNCONDITIONAL GIFTS.**

8.17 Any good, including but not limited to any ware, merchandise, or product, is an
8.18 unconditional gift to the consumer if a seller sends the good under an indefinite subscription
8.19 agreement without first obtaining the consumer's affirmative consent to the agreement in
8.20 accordance with section 325G.57. The consumer may use or dispose of the good in any
8.21 manner without any obligation to the seller, including but not limited to any obligation
8.22 relating to shipping of the good.

8.23 Sec. 9. **[325G.62] EXEMPTION.**

8.24 Sections 325G.56 to 325G.61 do not apply to:

8.25 (1) contracts governed by another state or federal statute or regulation specifically
8.26 intended to regulate automatic renewal or continuous service;

8.27 (2) any licensee as defined in section 60A.985, subdivision 8, and any affiliate of such
8.28 a licensee as defined in section 60D.15, subdivision 2;

8.29 (3) an individual or business licensed by the Department of Labor and Industry as a
8.30 technology system contractor or power limited technician as defined in section 326B.31.

(4) any service provided by a business or its affiliate where either the business or its affiliate is licensed or regulated by the Public Utilities Commission, the Federal Communications Commission, or the Federal Energy Regulatory Commission; or

(5) any person or entity registered or licensed with the Financial Industry Regulatory Authority, the Securities and Exchange Commission, or under the Minnesota Securities Act.

Sec. 10. **REPEALER.**

Minnesota Statutes 2022, section 325G.25, subdivision 1a, is repealed.

Sec. 11. **EFFECTIVE DATE.**

This act is effective August 1, 2025, and applies to contracts entered into, modified, or renewed on or after that date."

Amend the title as follows:

Page 1, line 5, delete "providing civil penalties;"

Amend the title numbers accordingly

And when so amended the bill do pass and be re-referred to the Committee on Judiciary and Public Safety. Amendments adopted. Report adopted.


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(Committee Chair)

March 19, 2024.....
(Date of Committee recommendation)