

## House Bill 528 (COMMITTEE SUBSTITUTE)

By: Representatives Gaines of the 120<sup>th</sup>, Sainz of the 180<sup>th</sup>, Smith of the 18<sup>th</sup>, Wiedower of the 121<sup>st</sup>, Burchett of the 176<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,  
2 relating to deceptive or unfair trade practices, so as to enact the "Georgia Online Automatic  
3 Renewal Transparency Act"; to provide for legislative purpose and intent; to provide for a  
4 short title; to provide for definitions; to provide for regulation of certain acts and practices  
5 of businesses that offer paid subscriptions or purchasing agreements online subject to  
6 automatic renewal or continuous service; to provide for online cancellation; to provide for  
7 exceptions; to provide for limitations; to provide that certain automatic online renewal offers  
8 and online continuous service offers shall be unlawful; to provide that terms shall be clear  
9 and conspicuous; to provide for customer consent prior to any debit card, credit card, or  
10 third-party consumer account charge authorization; to provide for notice and requirements;  
11 to provide for unconditional gifts; to provide for exclusions; to provide for construction; to  
12 provide for enforcement; to provide for severability; to provide for related matters; to provide  
13 for an effective date and applicability; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to  
17 deceptive or unfair trade practices, is amended by adding a new part to read as follows:

18 "Part 819 10-1-439.5.

20 (a) The purpose of this part shall be to stop the practice of the charging of consumer credit  
21 or debit cards or third-party payment accounts for ongoing shipments of a product or  
22 ongoing deliveries of service without the consumer's consent and without providing clear  
23 and conspicuous online methods of cancellation by businesses that allow a consumer to  
24 accept an automatic renewal or continuous service offer online. It is the intent of the  
25 General Assembly that such practices be swiftly stopped, and this part shall be liberally  
26 construed and applied to promote its underlying purposes and policies.

27 (b) It is the further intent of the General Assembly that this part be interpreted and  
28 construed consistently with interpretations given by the Federal Trade Commission in the  
29 federal courts pursuant to Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C.  
30 Section 45(a)(1)), as from time to time amended.

31 10-1-439.6.

32 This part shall be known and may be cited as the 'Georgia Online Automatic Renewal  
33 Transparency Act.'

34 10-1-439.7.

35 As used in this part, the term:

36 (1) 'Automatic renewal' means a plan or arrangement in which an online paid  
37 subscription or purchasing agreement is automatically renewed at the end of a definite  
38 term of more than 31 days for a subsequent term of more than 31 days.

39 (2) 'Consumer' means a natural person residing in this state who enters into a transaction  
40 primarily for personal, family, or household purposes.

41 (3) 'Continuous service' means a plan or arrangement for a paid term of more than  
42 31 days renewing for a subsequent term of more than 31 days in which an online  
43 subscription or purchasing agreement continues until the consumer cancels such service.

44 (4) 'Offer terms' means the following clear and conspicuous disclosures to the consumer:

45 (A) The description of the cancellation policy as applicable to the automatic renewal  
46 offer or arrangement;

47 (B) The recurring charges to be charged to the consumer's credit or debit card or  
48 payment account with a third-party payment account as part of the online automatic  
49 renewal plan or arrangement, and that the amount of such charge may change, and the  
50 amount to which such charge will change, if known;

51 (C) The length of the automatic renewal term or an indication that the service is  
52 continuous, unless the length of the term is chosen by the consumer; and

53 (D) The minimum purchase obligation, if any.

54 10-1-439.8.

55 (a) Notwithstanding any law to the contrary, any business that allows a consumer to accept  
56 an automatic renewal or continuous service offer online shall allow a consumer to cancel  
57 the automatic renewal or continuous service online. The business shall provide a method  
58 of cancellation that is available online, which may include:

59 (1) A clear and conspicuous link to a website or other online cancellation service; or

60 (2) A cancellation email formatted and provided by the business that a consumer can  
61 send to the business without additional information.

62 (b) Notwithstanding subsection (a) of this Code section, a business that allows a consumer  
63 to accept an automatic renewal or continuous service offer online may require a consumer  
64 to enter account information or otherwise authenticate their account online before online  
65 cancellation of the automatic renewal or continuous service if the consumer has an account  
66 with the business. A consumer who is unwilling or unable to enter account information or  
67 otherwise authenticate online before online cancellation of the automatic renewal or  
68 continuous service shall not be precluded from cancelling the automatic renewal or  
69 continuous service offline using an alternate method pursuant to subsection (c) of this Code  
70 section.

71 (c) A business that allows a consumer to accept an automatic renewal or continuous  
72 service offer online shall provide a toll-free telephone number, email address, postal  
73 address if the seller directly bills the consumer, or another cost-effective, timely, and  
74 easy-to-use mechanism for cancellation that shall be described in an acknowledgment that  
75 includes the automatic renewal offer terms or continuous service offer terms, cancellation  
76 policy, and information regarding how to cancel.

77 (d) The requirements of this Code section apply to the automatic renewal terms and  
78 continuous service terms of the contract entered into online, and the remaining provisions  
79 of the contract shall continue to be governed by all applicable laws and regulations.

80 10-1-439.9.

81 (a) It shall be unlawful in this state for any business that allows a consumer to accept an  
82 automatic renewal or continuous service offer online to:

83 (1) Fail to present the automatic renewal offer terms or continuous service offer terms  
84 in a clear and conspicuous manner before the subscription or purchasing agreement is  
85 fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal  
86 proximity, to the request for consumer consent to the offer;

87 (2) Charge the consumer's credit or debit card, or the consumer's third-party payment  
88 account for an automatic renewal or continuous service without first obtaining the  
89 consumer's consent to the agreement containing such automatic renewal offer terms or  
90 continuous service offer terms;

91 (3) Fail to provide an acknowledgment that includes the automatic renewal offer terms  
92 or continuous service offer terms. Such acknowledgment may be from the business's own  
93 website or it may be provided via a link to a separate resource that provides instructions  
94 for unique platforms and services or other means that provide such offer terms in a  
95 manner easily retained by the consumer; or

96 (4) Fail to provide a consumer with notice pursuant to subsection (b) of this Code  
97 section.

98 (b) A business that allows a consumer to accept an automatic renewal or continuous  
99 service offer online shall provide the consumer with a notice prior to charging the  
100 consumer's credit or debit card or payment account with a third party. Such notice shall  
101 clearly and conspicuously state:

102 (1) That the automatic renewal or continuous service shall automatically renew unless  
103 it is canceled by the consumer;

104 (2) The length and any additional terms of the renewal period;

105 (3) If sent electronically, the notice shall include either a link or another reasonably  
106 accessible electronic method that directs the consumer to the cancellation process; and

107 (4) Contact information for the business.

108 (c) In the case of a material change in the terms of the online automatic renewal offer or  
109 continuous service offer that has been accepted by a consumer in this state, a business shall  
110 provide the consumer with a clear and conspicuous notice of the material change and shall  
111 provide information to the consumer regarding how to cancel such automatic renewal offer  
112 or continuous service offer in a manner that is easily retained by the consumer.

113 10-1-439.10.

114 When a business that allows a consumer to accept an automatic renewal or continuous  
115 service offer online sends any goods, wares, merchandise, or products to a consumer under  
116 an automatic renewal of purchase or a continuous service agreement, without first  
117 obtaining the consumer's consent pursuant to paragraph (2) of subsection (a) of Code  
118 Section 10-1-439.9, such goods, wares, merchandise, or products shall for all purposes be  
119 deemed an unconditional gift to the consumer, who may use or dispose of such goods,  
120 wares, merchandise, and products in any manner he or she sees fit without obligation to the  
121 business, including, but not limited to, bearing the cost of, or responsibility for shipping  
122 any goods, wares, merchandise, or products to the business.

123 10-1-439.11.

124 The requirements of this part shall apply only prior to the completion of the initial order  
125 for the online automatic renewal or continuous service; provided, however, that an  
126 acknowledgment that includes the automatic renewal offer terms or continuous service  
127 offer terms, cancellation policy, and information regarding how to cancel, and the notice  
128 required pursuant to subsection (b) of Code Section 10-1-439.9 may be fulfilled after the  
129 completion of the initial order.

130 10-1-439.12.

131 The following are exempt from the requirements of this part:

132 (1) Any service provided by a business or its affiliate when either the business or its  
133 affiliate is doing business as a franchise issued by a political subdivision of this state;

134 (2) Any service provided by a business or its affiliate when either the business or its  
135 affiliate is regulated by the Georgia Public Service Commission, the Federal  
136 Communications Commission, or the Federal Energy Regulatory Commission;

137 (3) Any entity regulated by the Office of Insurance and Safety Fire Commissioner;

138 (4) Any financial institution as defined in Code Section 7-1-4 or any subsidiary or  
139 affiliate of such institution, or any bank holding company as defined in Code  
140 Section 7-1-605; and

141 (5) Any foreign bank maintaining a branch or agency licensed under federal law or under  
142 the laws of any state of the United States.

143 10-1-439.13.

144 (a) The Attorney General shall be authorized to bring an action under this part to obtain  
145 a temporary or permanent injunction prohibiting the use of any method, act, or practice in  
146 violation of this part and to obtain restitution for consumers who are residents of this state  
147 and who incurred a loss of money or property as the direct result of a violation of this part.

148 (b) If a business that allows a consumer to accept an automatic renewal or continuous  
149 service offer online complies with the provisions of this article in good faith, it shall not  
150 be subject to civil penalty or damages.

151 (c) There shall be no private right of action for a violation of this part, nor shall a violation  
152 of this part serve as the basis for a private right of action under any other provision of law.

153 (d) If any provision of this part or its application to any person or circumstance is held  
154 invalid, such invalidity shall not affect other provisions or applications of this part that can  
155 be given effect without the invalid provision or application. To this end, the provisions of  
156 this part are severable."

157 **SECTION 2.**

158 This Act shall become effective on January 1, 2024, and shall apply to any automatic renewal  
159 or continuous service plan or arrangement entered into on or after that date.

160 **SECTION 3.**

161 All laws and parts of laws in conflict with this Act are repealed.