S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N S E N A T E

January 10, 2013

Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the general business law, in relation to requirements for the renewal of magazine subscriptions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 5 of section 335-a of the general business law is renumbered subdivision 6 and a new subdivision 5 is added to read as follows:

5. (A) IT SHALL BE UNLAWFUL FOR ANY PUBLISHER OF A MAGAZINE SOLD BY SUBSCRIPTION OR ANY PERSON, FIRM, ASSOCIATION OR CORPORATION ENGAGED IN BUSINESS, THE PRINCIPAL PURPOSE OF WHICH IS TO REGULARLY SOLICIT MAGAZINE SUBSCRIPTION ORDERS FOR DELIVERY IN THIS STATE THROUGH THE MAIL FOR PROFIT, TO CHARGE A CONSUMER'S CREDIT OR DEBIT CARD OR THE CONSUMER'S ACCOUNT WITH A THIRD PARTY FOR AN AUTOMATIC RENEWAL OR CONTINUOUS SERVICE BEFORE BOTH OF THE FOLLOWING:

(I) THE CONSUMER'S AFFIRMATIVE CONSENT TO THE AGREEMENT THAT IT WILL BE AUTOMATICALLY RENEWED OR CONTINUED; AND

(II) CLEAR AND CONSPICUOUS DISCLOSURE OF THE AUTOMATIC RENEWAL OR CONTINUOUS SERVICE TERMS, CANCELATION POLICY, AND HOW TO CANCEL IN A MANNER THAT IS CAPABLE OF BEING RETAINED BY THE CONSUMER.

(B) A PUBLISHER OR BUSINESS ENTITY MAKING AUTOMATIC RENEWAL OR CONTINUOUS SERVICE OFFERS SHALL PROVIDE A TOLL-FREE TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, A POSTAL ADDRESS ONLY WHEN THE SELLER DIRECTLY

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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BILLS THE CONSUMER, OR ANOTHER COST-EFFECTIVE, TIMELY, AND EASY-TO-USE MECHANISM FOR CANCELLATION.

(C) IN THE CASE OF A MATERIAL CHANGE IN THE TERMS OF THE AUTOMATIC RENEWAL OR CONTINUOUS SERVICE OFFER THAT HAS BEEN ACCEPTED BY A CONSUMER IN THIS STATE, THE PUBLISHER OR BUSINESS ENTITY SHALL PROVIDE THE CONSUMER WITH A CLEAR AND CONSPICUOUS NOTICE OF THE MATERIAL CHANGE AND PROVIDE INFORMATION REGARDING HOW TO CANCEL.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.