

4908

2009-2010 Regular Sessions

I N A S S E M B L Y

February 6, 2009

Introduced by M. of A. PHEFFER, FIELDS -- read once and referred to the
Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to unlawful trial
offers

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

1 Section 1. Paragraph b of subdivision 1 of section 396-mm of the
2 general business law, as added by chapter 508 of the laws of 2007, is
3 amended to read as follows:

4 b. At least fifteen, but not more than thirty days before a consumer
5 is required to cancel a free trial, [in which a credit card is billed,]
6 the person, partnership, firm, association, corporation or agent or
7 employee thereof shall send to the consumer the terms of the offer and
8 the deadline to cancel; provided, however, that where a free trial offer
9 ends in less than thirty days, the terms of the offer and the deadline
10 to cancel shall be sent at least seven days before a consumer is
11 required to cancel the free trial. Such notice is not required when the
12 free trial is a magazine or newspaper subscription and at any time
13 cancellation occurs the consumer shall receive a refund for issues not
14 mailed; provided, however, that such refund option is disclosed with the
15 free trial subscription offer.

16 S 2. Subdivision 3 of section 396-mm of the general business law is
17 renumbered subdivision 4 and a new subdivision 3 is added to read as
18 follows:

19 3. THIS SECTION SHALL NOT APPLY TO ANY PURCHASE WHEN THE PERSON,
20 PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION OR AGENT OR EMPLOYEE THEREOF
21 DOES NOT DEBIT OR CHARGE ANY CONSUMER ACCOUNT AND SENDS THE CONSUMER AN
22 INVOICE REQUESTING PAYMENT WHICH INCLUDES INFORMATION ABOUT HOW TO
23 CANCEL A FREE TRIAL.

24 S 3. This act shall take effect on the first of April next succeeding
25 the date on which it shall have become a law.

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

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