

2076--B

Cal. No. 443

2013-2014 Regular Sessions

I N   S E N A T E

January 10, 2013

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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

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:

1     Section 1. Subdivision 5 of section 335-a of the general business law  
2     is renumbered subdivision 6 and a new subdivision 5 is added to read as  
3     follows:  
4     5. (A) IT SHALL BE UNLAWFUL FOR ANY PUBLISHER OF A MAGAZINE SOLD BY  
5     SUBSCRIPTION OR ANY PERSON, FIRM, ASSOCIATION OR CORPORATION ENGAGED IN  
6     BUSINESS, THE PRINCIPAL PURPOSE OF WHICH IS TO REGULARLY SOLICIT MAGA-  
7     ZINE SUBSCRIPTION ORDERS FOR DELIVERY IN THIS STATE THROUGH THE MAIL FOR  
8     PROFIT, TO DO ANY OF THE FOLLOWING:  
9     (I) FAIL TO PRESENT THE AUTOMATIC RENEWAL OFFER TERMS OR CONTINUOUS  
10    SERVICE OFFER TERMS IN A CLEAR AND CONSPICUOUS MANNER BEFORE THE  
11    SUBSCRIPTION OR PURCHASING AGREEMENT IF FULFILLED;  
12    (II) CHARGE THE CONSUMER'S CREDIT OR DEBIT CARD OR THE CONSUMER'S  
13    ACCOUNT WITH A THIRD PARTY FOR AN AUTOMATIC RENEWAL OR CONTINUOUS  
14    SERVICE WITHOUT FIRST OBTAINING THE CONSUMER'S AFFIRMATIVE CONSENT TO  
15    THE AGREEMENT CONTAINING THE AUTOMATIC RENEWAL OFFER TERMS OR CONTINUOUS  
16    SERVICE OFFER TERMS; OR  
17    (III) FAIL TO PROVIDE AN ACKNOWLEDGMENT THAT INCLUDES THE AUTOMATIC  
18    RENEWAL OR CONTINUOUS SERVICE OFFER TERMS, CANCELLATION POLICY, AND  
19    INFORMATION REGARDING HOW TO CANCEL IN A MANNER THAT IS CAPABLE OF BEING  
20    RETAINED BY THE CONSUMER.

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

LBD05346-07-3

1 (B) A PUBLISHER OR BUSINESS ENTITY MAKING AUTOMATIC RENEWAL OR CONTIN-  
2 UOUS SERVICE OFFERS SHALL PROVIDE A TOLL-FREE TELEPHONE NUMBER, ELEC-  
3 TRONIC MAIL ADDRESS, A POSTAL ADDRESS ONLY WHEN THE SELLER DIRECTLY  
4 BILLS THE CONSUMER, OR ANOTHER COST-EFFECTIVE, TIMELY, AND EASY-TO-USE  
5 MECHANISM FOR CANCELLATION.

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

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