STATE OF NEW YORK

932--D

Cal. No. 111

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sens. PERSAUD, JACKSON, SEPULVEDA -- 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 -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report -- ordered to second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to 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 the cancellation of a health club contract

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 624 of the general business law, as added by chapter 630 of the laws of 1978, is amended to read as follows:

§ 624. Rights of cancellation of contracts for services. 1. Every contract for services at a planned health club or a health club under construction shall, at the option of the buyer, be voidable in the event that the health club and the services to be provided pursuant to such contract are not available within one year from the date the contract is executed by the buyer.

2. Every contract for services shall provide that such contract may be cancelled within three business days after the date of receipt by the buyer of a copy of the written contract. Notice of cancellation shall be delivered by [~~certified or registered~~] United States mail **or electronic mail** at the address **or e-mail address** specified in the contract. Such contract shall contain the following written notice in at least [~~ten~~]

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

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twelve point bold type: CONSUMERS RIGHT TO CANCELLATION. YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR FURTHER OBLIGATION WITHIN THREE (3) BUSINESS DAYS FROM THIS DATE . . . . . Notice of cancellation shall be in writing subscribed by the buyer and mailed by [~~registered or certified~~] United States mail or electronic mail to the seller at the address or e-mail address specified in such form. Such notice shall be accompanied by the contract forms, membership cards and any other documents or evidence of membership previously delivered to the buyer. All moneys paid pursuant to such contract shall be refunded within [~~fifteen~~] ten business days of receipt of such notice of cancellation. If the buyer has executed any credit or loan agreement to pay for all or part of health club services, any such negotiable instrument executed by the buyer shall also be returned within [~~fifteen~~] ten business days.

3. (a) Every contract for services shall provide that after such three business day period for cancellation as provided in subdivision two of this section, the buyer's estate may cancel a contract for services if the buyer dies. The buyer may also cancel after three business days if the buyer becomes significantly physically disabled for a period in excess of [~~six~~] three months, or moves [~~his~~] their residence to a location more than twenty-five miles from a health club operated by the seller, or after the services are no longer available or substantially available as provided in the contract because of the seller's permanent discontinuance of operation or substantial change in operation. Nothing contained herein shall restrict or prohibit the seller from offering or providing in such contract additional or broader reasons for cancellation. The seller may require reasonable evidence for a cancellation pursuant to this subdivision.

(b) Such contract shall contain the following notice captioned in at least [~~ten~~] twelve point bold type:

ADDITIONAL RIGHTS TO CANCELLATION:

You may also cancel this contract for any of the following reasons:

If upon a doctor's order, you cannot physically receive the services because of significant physical disability for a period in excess of [~~six~~] three months.

If you die, your estate shall be relieved of any further obligation for payment under the contract not then due and owing.

If you move your residence more than twenty-five miles from any health club operated by seller.

If the services cease to be offered as stated in the contract.

(c) All moneys paid pursuant to such contract cancelled for the reasons contained in this subdivision shall be refunded within [~~fifteen~~] ten business days of receipt of such notice of cancellation; provided however that the seller may retain the expenses incurred and the portion of the total price representing the services used or completed, and further provided that the seller may demand the reasonable cost of goods and services which the buyer has consumed or wishes to retain after cancellation of the contract. In no instance shall the seller demand more than the full contract price from the buyer. If the buyer has executed any credit or loan agreement to pay for all or part of health club services, any such negotiable instrument executed by the buyer shall also be returned within [~~fifteen~~] ten business days.

4. (a) Every contract for services shall provide that such health club shall accept cancellation of a membership by the buyer or the buyer's estate, as provided in this section, no later than three business days after receiving notice of the cancellation.

(b) Where a contract for services is due for renewal on an annual basis, such contract for services following the initial contract shall provide that such health club shall accept cancellation of renewal of a membership, by the buyer or the buyer's estate, provided such request is made within fifteen business days after such renewal takes effect. Where a contract for service is due for renewal on a monthly basis, such contract for services following the initial contract shall provide that such health club shall accept cancellation of renewal of a monthly membership, by the buyer or the buyer's estate provided such request is made within three business days after such renewal takes effect.

(c) Such health club shall accept notice of cancellation of a membership through methods including, but not limited to, website, electronic mail, telephone, mail, or in person.

(d) If a health club allows a buyer to enter into a contract for services through a website, such health club shall accept a notice of cancellation of such contract through such website in addition to the methods provided pursuant to paragraph (c) of this subdivision.

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