



Senate

General Assembly

File No. 633

February Session, 2004

Substitute Senate Bill No. 399

Senate, April 20, 2004

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING INTRODUCTORY RATE OFFERS AND
AUTOMATIC RENEWAL OF CONSUMER CONTRACTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 42-126b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) No person, firm, partnership, association or corporation, or agent
4 or employee thereof, shall, in any manner, or by any means, offer for
5 sale goods, wares or merchandise, where the offer includes the
6 voluntary and unsolicited sending of goods, wares or merchandise not
7 actually ordered or requested by the recipient, either orally or in
8 writing. The receipt of any such unsolicited goods, wares or
9 merchandise shall for all purposes be deemed an unconditional gift to
10 the recipient who may use or dispose of the same in any manner [he]
11 such recipient sees fit without any obligation on [his] such recipient's
12 part to the sender.

13 (b) Any person, firm, partnership, association or corporation that
14 sells or offers to sell any products or services used primarily for
15 personal, family or household purposes pursuant to a trial offer or at
16 an introductory rate that will change at the end of the introductory rate
17 period, shall provide the recipient of such products or services with
18 clear and conspicuous written notice that the recipient may cancel such
19 products or services upon the expiration of such trial offer or
20 introductory rate period. Such notice shall include the procedure for
21 such cancellation and shall be provided with any written promotional
22 material for such products or services furnished to the recipient before
23 the start of the trial offer or the introductory rate period or with the
24 initial delivery of such products or services to the recipient. Any such
25 products or services furnished to the recipient after the expiration of
26 such trial offer or introductory rate period, where such trial offer or
27 introductory rate period is cancelled or not otherwise renewed or
28 continued by the recipient, shall be deemed an unconditional gift
29 under subsection (a) of this section. The provisions of this subsection
30 shall not apply to (1) any trial offer or introductory rate period
31 provided by a public service company, as defined in section 16-1, as
32 amended, an affiliate or subsidiary of such public service company, or
33 any certified telecommunications provider, as defined in section 16-1,
34 as amended, to any consumer with whom such public service
35 company, affiliate or subsidiary, or certified telecommunications
36 provider has an established and ongoing business relationship,
37 provided such public service company, affiliate or subsidiary, or
38 certified telecommunications provider shall inform such consumer of
39 the procedure to cancel such trial offer [, and] or to cancel after the
40 expiration of the introductory rate period, (2) any transaction
41 involving the use of a negative option plan that is governed by 16 CFR
42 Part 425, (3) any contract subject to the provisions of sections 36a-675
43 to 36a-685, inclusive, and (4) any introductory rate where the rate paid
44 by the consumer after the end of the introductory rate period has been
45 clearly and conspicuously disclosed to the consumer in the contract.

46 (c) (1) Any person, firm, partnership, association or corporation that
47 sells or offers to sell any products or services used primarily for

48 personal, family or household purposes for a specified period of time
49 of more than one hundred eighty days pursuant to a written contract
50 that contains a provision for automatic renewal of the contract for a
51 period of time of more than thirty-one days at the end of the period of
52 time specified in the contract shall provide the recipient of such
53 products or services with a clear and conspicuous written notice that
54 the recipient may cancel such contract. Such notice shall include the
55 procedure for such cancellation. Such notice shall be given at least
56 fifteen days but not more than sixty days prior to the end of such
57 specified period of time.

58 (2) Any person, firm, partnership, association or corporation that
59 sells or offers to sell any products or services used primarily for
60 personal, family or household purposes for a specified period of time
61 of one hundred eighty days or less pursuant to a written contract that
62 contains a provision for automatic renewal of the contract for a period
63 of time of more than thirty-one days at the end of the period of time
64 specified in the contract, shall include in such contract a clear and
65 conspicuous written notice that the recipient of such products or
66 services may cancel such contract and the procedure for such
67 cancellation, provided the recipient shall not be required to exercise
68 such right of cancellation more than sixty days prior to the expiration
69 of the specified period of time.

70 (3) If such notice is not provided to the recipient in accordance with
71 subdivision (1) of this subsection or included in the contract in
72 accordance with subdivision (2) of this subsection, as the case may be,
73 any such products or services furnished to the recipient after the
74 expiration of the period of time specified in the contract shall be
75 deemed an unconditional gift under subsection (a) of this section.

76 (4) Nothing in this subsection shall be construed to apply to a health
77 club contract subject to the provisions of section 21a-219 or a contract
78 subject to the provisions of sections 36a-675 to 36a-685, inclusive.

79 (d) The provisions of this section shall not apply to any banking,
80 insurance or securities product or service, the provision of which is

81 subject to regulation or licensing by the state or a federal agency.

82 [(c)] (e) A violation of any provision of this section shall be deemed
83 an unfair or deceptive trade practice under subsection (a) of section 42-
84 110b.

This act shall take effect as follows:	
Section 1	October 1, 2004

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Consumer Protection, Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires introductory rate offers and automatic renewal of consumer contracts meet certain requirements. The bill has no fiscal impact on the Department of Consumer Protection.

OLR BILL ANALYSIS

sSB 399

**AN ACT CONCERNING INTRODUCTORY RATE OFFERS AND
AUTOMATIC RENEWAL OF CONSUMER CONTRACTS****SUMMARY:**

This bill (1) requires offers made at an introductory rate to contain the same disclosures required of trial offers; (2) requires contracts containing automatic renewal clauses to include notice provisions that depend on the original term of the contract, and (3) limits the application of the trial offer law to consumer goods and services (those used primarily for personal, family, or household purposes). If contracts with automatic renewal clauses do not contain the required notices, the bill deems products or services provided to the consumer after the scheduled end of the contract to be an unconditional gift without any obligation on the recipient's part.

The bill establishes exemptions from the trial offer law and its provisions on introductory rate offers and contracts with automatic renewal clauses.

A violation of the bill's requirements is deemed to be an unfair trade practice.

EFFECTIVE DATE: October 1, 2004

OFFERS MADE AT INTRODUCTORY RATES

The bill requires anyone who sells or offers to sell goods or services at an introductory rate that will change at the end of the introductory period to provide a clear and conspicuous written notice informing the purchaser that he can cancel at the end of the introductory period. The notice must include the cancellation procedure. The bill requires a seller to give the notice to the purchaser with (1) any written promotional material provided before the start of the introductory period or (2) the initial delivery. The bill states that goods or services provided after the introductory period and ends after the contract has been cancelled or not renewed are deemed an unconditional gift. These provisions currently apply to trial offers.

OFFERS CONTAINING AUTOMATIC RENEWAL CLAUSES

Contracts Lasting Longer than 180 Days

The bill requires anyone who sells or offers to sell consumer goods or services under a written contract that (1) will last longer than 180 days (six months) and (2) includes a provision automatically renewing it for more than 31 days to provide a clear and conspicuous written notice informing the purchaser that he can cancel the contract. The notice must (1) include the cancellation procedure and (2) be provided at least 15 but not more than 60 days before the end of the contract term.

Contracts Lasting 180 Days or Fewer

It requires anyone who sells or offers to sell consumer goods or services under a written contract that (1) will last up to 180 days and (2) includes a provision automatically renewing it for more than 31 days to include in the contract a clear and conspicuous notice that the recipient may cancel the contract and the cancellation procedure. The bill prohibits requiring the consumer to exercise his cancellation right more than 60 days before the scheduled end of the contract term.

EXEMPTIONS

The bill exempts from the law on trial offers (1) contracts subject to the state's Truth-in-Lending Act and (2) the sale of banking, insurance, and securities products and services, if the provision of the goods or services is subject to regulation or licensing by the state or a federal agency. The law already exempts negative option plans governed by federal regulations and utilities, their affiliates and subsidiaries, and intrastate communications providers that have an established and ongoing relationship with a consumer. It requires these companies to inform a purchaser of how to cancel. The bill makes the same exemptions for introductory rate offers and also exempts offers that disclose the "after-introduction" rate clearly and conspicuously in the contract from its introductory rate provisions.

It exempts from its provisions concerning contracts with automatic renewal provisions (1) contracts offered by licensed health clubs; (2) contracts subject to the state's Truth-in-Lending Act; and (3) the sale of banking, insurance, and securities products and services, if the provision of the goods or services is subject to regulation or licensing

by the state or a federal agency.

BACKGROUND

Connecticut Unfair Trade Practice Act

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to bring sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

Connecticut's Truth-in-Lending Act

The act requires lenders to fully disclose the terms of credit being extended. Disclosure is meant to (1) protect consumers from becoming unknowingly obligated to pay hidden and unreasonable charges and (2) permit them to meaningfully compare terms of credit extended by different lenders.

Negative Option Plans

A “negative option plan” is automatically renewed unless the consumer exercises his option to terminate it. Federal regulations require negative option sellers to (1) clearly and conspicuously disclose the material terms of the plan in promotional material and (2) mail announcements identifying the merchandise in time for the subscriber to reject the selection. Failure to do so is an unfair trade practice. Federal regulations specify the material terms that must be disclosed and require the announcements to clearly identify the merchandise and rejection procedure (16 CFR § 425.1).

Legislative History

The Senate referred the bill (File 187) to the Judiciary Committee on March 31. That committee favorably reported a substitute bill on April 6 that differed from the file by (1) eliminating the file’s prohibition

against offering written contracts for consumer goods and services lasting longer than 12 months, (2) revising its requirements about contracts with automatic renewal clauses, and (3) increasing the number of exemptions.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute
Yea 19 Nay 0

Judiciary Committee

Joint Favorable Substitute
Yea 23 Nay 14