

**Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 06-0284.01 Duane Gall

SENATE BILL 06-040

SENATE SPONSORSHIP

Teck,

HOUSE SPONSORSHIP

(None),

Senate Committees

Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING INCREASED CONSUMER PROTECTIONS WITH REGARD TO**
102 **CONTRACTS CONTAINING AUTOMATIC RENEWAL PROVISIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires conspicuous disclosure and a separate authorization whenever a purchase of goods or services involves automatic future billings by use of a credit card. Makes violation of the requirements of this act a deceptive trade practice under the "Colorado Consumer Protection Act".

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 SECTION 1. Article 6 of title 6, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SECTION to read:

4 6-6-104. Automatic renewals - disclosure - separate
5 authorization - penalty. (1) ANY PERSON THAT SELLS OR OFFERS TO
6 SELL GOODS OR SERVICES TO A CONSUMER PURSUANT TO A CONTRACT
7 THAT WILL AUTOMATICALLY RENEW AND BE BILLED TO A CREDIT CARD
8 UNLESS THE CONSUMER CANCELS THE CONTRACT SHALL:

9 (a) CLEARLY AND CONSPICUOUSLY DISCLOSE:

10 (I) THE MATERIAL TERMS OF THE OFFER;

11 (II) THE AUTOMATIC RENEWAL PROVISIONS, INCLUDING THE FACT
12 THAT THE AMOUNT DUE UPON RENEWAL WILL BE BILLED TO A CREDIT
13 CARD; AND

14 (III) HOW TO CANCEL.

15 (2) IF A CONTRACT DESCRIBED IN SUBSECTION (1) OF THIS SECTION
16 HAS A SPECIFIED TERM OF TWELVE MONTHS OR LONGER, THE SELLER
17 SHALL ALERT THE CONSUMER TO THE PENDING RENEWAL BY SENDING
18 WRITTEN NOTICE TO THE CONSUMER'S LAST-KNOWN ADDRESS, NO LESS
19 THAN THIRTY DAYS AND NO MORE THAN SIXTY DAYS BEFORE THE
20 RENEWAL DATE, STATING CLEARLY AND CONSPICUOUSLY:

21 (a) THAT UNLESS THE CONSUMER CANCELS THE CONTRACT, THE
22 CONTRACT WILL AUTOMATICALLY RENEW ON THE RENEWAL DATE,
23 INCURRING A CHARGE THAT WILL BE BILLED TO THE CONSUMER'S CREDIT
24 CARD;

25 (b) HOW TO CANCEL THE CONTRACT; AND

26 (c) WHERE THE CONSUMER CAN OBTAIN DETAILS OF THE
27 AUTOMATIC RENEWAL PROVISION AND THE CANCELLATION PROCEDURE.

1 SUCH AS BY CONTACTING THE SELLER AT A SPECIFIED TELEPHONE NUMBER
2 OR ADDRESS, BY REFERRING TO A COPY OF THE CONTRACT, OR BY OTHER
3 MEANS REASONABLY CALCULATED TO MAKE SUCH INFORMATION EASILY
4 AVAILABLE TO THE CONSUMER.

5 (3) (a) VIOLATION OF THIS SECTION SHALL CONSTITUTE A CLASS 2
6 PETTY OFFENSE, AND, UPON CONVICTION THEREOF, THE VIOLATOR SHALL
7 BE PUNISHED BY A FINE OF NOT MORE THAN TWO HUNDRED FIFTY
8 DOLLARS. VIOLATION OF THIS SECTION SHALL ALSO CONSTITUTE A
9 DECEPTIVE TRADE PRACTICE IN VIOLATION OF THE "COLORADO CONSUMER
10 PROTECTION ACT", ARTICLE 1 OF THIS TITLE, AND SHALL BE SUBJECT TO
11 REMEDIES OR PENALTIES, OR BOTH, PURSUANT THERETO.

12 (b) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CREATE
13 ANY LIABILITY ON THE PART OF A CREDIT CARD ISSUER. THE
14 RESPONSIBILITY TO PROVIDE THE DISCLOSURES AND OBTAIN THE CONSENT
15 REQUIRED BY THIS SECTION SHALL BE UPON THE SELLER OF THE GOODS OR
16 SERVICES THAT ARE THE SUBJECT OF THE CONTRACT.

17 **SECTION 2.** 6-1-105 (1), Colorado Revised Statutes, is amended
18 BY THE ADDITION OF A NEW PARAGRAPH to read:

19 **6-1-105. Deceptive trade practices.** (1) A person engages in a
20 deceptive trade practice when, in the course of such person's business,
21 vocation, or occupation, such person:

22 (xx) VIOLATES ANY PROVISION OF SECTION 6-6-104.

23 **SECTION 3. Effective date - applicability.** (1) This act shall
24 take effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly that is
26 allowed for submitting a referendum petition pursuant to article V,
27 section 1 (3) of the state constitution (August 9, 2006, if adjournment sine

1 die is on May 10, 2006); except that, if a referendum petition is filed
2 against this act or an item, section, or part of this act within such period,
3 then the act, item, section, or part, if approved by the people, shall take
4 effect on the date of the official declaration of the vote thereon by
5 proclamation of the governor.

6 (2) The provisions of this act shall apply to contracts entered into
7 on or after the applicable effective date of this act.