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Wilson

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 378

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO HEALTH SPA REGULATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 4205, Title 6 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 4205. Right of cancellation.

4 (a) Every health spa contract for the sale of future health spa services which are paid for in advance or for which
5 the buyer agrees to pay in future installments shall be in writing and shall contain the following contractual provisions:

6 (1) A provision for the penalty-free cancellation of the contract within 3 business days of its making and a
7 provision for a refund following such cancellation of all moneys paid under the contract upon written notice by the
8 buyer.

9 (2) A provision for the cancellation of the contract if the health spa relocates or goes out of business and fails
10 to provide alternative facilities within 15 miles of the location designated in the health spa contract, obligating the
11 health spa to refund to the buyer funds paid or accepted in payment of the contract in an amount computed by dividing
12 the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks
13 remaining in the contract term.

14 (3) A provision that to cancel a contract in accordance with paragraph (2) of this section, the buyer shall notify
15 the health spa of cancellation in writing, by certified mail, return receipt requested, to the address specified in the
16 health spa contract; that all moneys to be refunded upon cancellation of the health spa contract shall be paid within 30
17 days of receipt of the notice of cancellation; and that if the customer has executed any credit or lien agreement with the
18 health spa to pay for all or part of health spa services, any such negotiable instrument executed by the buyer shall also
19 be returned within 30 days after such cancellation.

20 (b) A health spa selling subscription services as a subscription services provider shall provide the buyer with an
21 online option to cancel the automatic renewal of the subscription service in accordance with the established billing terms

22 and conditions of the agreement. The health spa shall provide to the eligible buyer, in a clear and conspicuous manner and
23 in a prominent location on the website, a direct link or button through which the buyer can cancel their subscription to their
24 service.

25 (c) As used in this section

26 (1) “Automatic renewal” means a plan or arrangement in which a paid subscription service is
27 automatically renewed at the end of a definite term for a subsequent term

28 (2) “Clear and conspicuous” means in larger type than the surrounding text, or in contrasting type, font,
29 or color to the surrounding text of the same size or set off from the surrounding text of the same size by symbols or
30 other marks, in a manner that clear calls attention to the language.

31 (3) “Subscription service provider” means a person who sells a subscription service to a consumer online.

32 (4) “Subscription service” means health spa services provided on a subscription basis in exchange for a
33 reoccurring payment, including, but not limited to a weekly, monthly, or annual payment charged to and made by
34 the buyer.

SYNOPSIS

This Act requires health spas selling subscription services online to provide a prospective buyer of such a subscription the right to cancel the automatic renewal online. The option to cancel is also to be presented on the website in a clear and conspicuous manner to simplify such cancellation for the buyer.