

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	6 - 1 - 1
Yeas:	Clem, Conger, Matthews, Smith J., Holvey, Whisnant
Nays:	Sheehan
Exc.:	Cameron
Prepared By:	Jan Nordlund, Administrator
Meeting Dates:	5/5, 5/17, 5/19, 5/26

WHAT THE MEASURE DOES: Prohibits imposing financial obligation on a consumer who accepts a free offer unless offer complies with disclosure and billing information requirements. Requires consumer’s affirmative consent to terms of free offer. Makes violation unlawful trade practice. Exempts free offers made in connection with services subject to federal Communications Act of 1934.

ISSUES DISCUSSED:

- Work group activity
- Complaints received by Department of Justice
- Personal data passed to another company
- Difficulty in canceling “free offer” transaction
- “Clear and conspicuous information” terminology in statutes
- Effective date
- Method of cancellation

EFFECT OF COMMITTEE AMENDMENT: Requires person making a free offer for a publication to make a statement at the time of the free offer that the consumer will receive in an invoice information regarding the right to cancel and how to cancel in lieu of enabling the consumer to cancel by calling a toll-free number or canceling in a manner substantially similar to how the offer was accepted. Deletes emergency clause.

BACKGROUND: Promotional and free trial offers can be beneficial to consumers in that they allow them to try a particular good or service with reduced cost or obligation. However, such offers can also lead to problems in cases where the consumer is not fully aware of all of the terms and conditions of the offer. These can result from two types of situations: the first involves companies offering genuine goods or services and, through lack of oversight, aggressive marketing or other reasons fail to disclose all of the terms of promotional offers; the second involves companies actively seeking to deceive consumers and to charge them as much as possible before the consumer cancels the agreement. Examples of strategies used include post-transaction marketing (where the consumers may be unaware that they are engaging in a second transaction, rather than completing the first), data pass (where the first company passes account information, including credit card information, to a second entity), free-to-pay conversions (initially providing a limited free supply and then changing over to a paying membership), and difficult or cumbersome cancellation procedures.

Senate Bill 292-B is the product of a work group that sought to develop a consensus remedy for some of the practices listed above. The measure prohibits making free offers to consumers unless the seller provides: clear information on all goods and services that consumers will receive and be required to pay for; the cost they will incur; requirements for consumers to reject the offer; statement of obligation if the offer is accepted; specifically identified cancellation procedures and timelines; and the customer’s right to receive a credit on goods or services if they are returned or rejected. Violations are designated violations of the Oregon Unlawful Trade Practices Act (ORS 646.605 – 646.652).

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This summary has not been adopted or officially endorsed by action of the committee.