



April 15, 2011

**ENGROSSED
SENATE BILL No. 300**

DIGEST OF SB 300 (Updated April 14, 2011 9:27 am - DI 113)

Citations Affected: IC 7.1-3; IC 24-5.

Synopsis: Automatic renewal clauses in consumer contracts. Requires a person who: (1) provides services or the service, maintenance, lease, sale, or repair of real or personal property to a consumer; and (2) includes an automatic renewal clause in the person's contracts; to clearly and conspicuously in the contract and contract offer, disclose the automatic renewal clause and what actions the consumer must take to cancel the contract at the expiration of the contract term. Excludes certain transactions, policies, contracts, and agreements. Makes it a rebuttable presumption that a person complied with the requirements if the person meets certain criteria regarding the person's routine business practices. Provides that an automatic renewal clause is void if a person fails to comply with the requirements. Provides that the holder of a club permit may designate as "guest day" or "guest days" three or fewer days in a month or nine or less consecutive days in a quarter. (Current law allows a holder of a club permit to designate one day each month as a "guest day".)

Effective: July 1, 2011.

Taylor, Young R Michael

(HOUSE SPONSORS — EBERHART, PRYOR)

January 6, 2011, read first time and referred to Committee on Commerce & Economic Development.

February 15, 2011, amended, reported favorably — Do Pass.

February 21, 2011, read second time, amended, ordered engrossed.

February 22, 2011, engrossed. Read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Commerce, Small Business and Economic Development.

April 15, 2011, amended, reported — Do Pass.

**C
O
P
Y**

ES 300—LS 7210/DI 110+



April 15, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

C
O
P
Y

**ENGROSSED
SENATE BILL No. 300**

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 7.1-3-20-8.6 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8.6. (a) The holder of
- 3 a club permit may do the following:
- 4 (1) Designate ~~one (1) day~~ as "guest day" or "guest days":
- 5 (A) **three (3) or fewer days** in each a month; as "guest day"
- 6 or
- 7 (B) **nine (9) or fewer consecutive days in a quarter.**
- 8 (2) Keep a record of all designated guest days.
- 9 (3) Invite guests who are not members of the club to attend the
- 10 club on a guest day.
- 11 (4) Sell or give alcoholic beverages to guests for consumption on
- 12 the permit premises on a guest day.
- 13 (5) Keep a guest book listing members and their nonmember
- 14 guests, except on a designated guest day.
- 15 (b) This subsection applies to a club that furnishes alcoholic
- 16 beverages on not more than two (2) days in each week.
- 17 Notwithstanding subsection (a)(1), the holder of a club permit to which

ES 300—LS 7210/DI 110+



1 this subsection applies may designate twenty-four (24) guest days in
2 each calendar year. rather than one (1) guest day in each month.

3 SECTION 2. IC 24-5-27 IS ADDED TO THE INDIANA CODE AS
4 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2011]:

6 **Chapter 27. Contracts With Automatic Renewal Clauses**

7 **Sec. 1. This chapter does not apply to the following:**

- 8 (1) A transaction between merchants (as defined in
9 IC 26-1-2-104).
- 10 (2) A policy or contract that is regulated under IC 27.
- 11 (3) A contract or agreement with a:
 - 12 (A) financial institution (as defined in IC 28-1-1);
 - 13 (B) depository financial institution (as defined in
14 IC 28-1-1-6);
 - 15 (C) subsidiary or affiliate of an entity described in clause
16 (A) or (B); or
 - 17 (D) foreign bank (as defined in IC 6-5.5-1-9) that maintains
18 a branch or office licensed under the laws of the United
19 States.
- 20 (4) A contract or agreement for a small loan that is regulated
21 under IC 24-4.5-7.
- 22 (5) A contract or agreement with a:
 - 23 (A) communications service provider (as defined in
24 IC 8-1-2.6-13); or
 - 25 (B) direct-to-home satellite service provider.
- 26 (6) A contract or agreement that allows for cancellation by
27 the consumer by written notice month to month after the
28 initial contract period has expired.

29 **Sec. 2. As used in this section, "automatic renewal clause"**
30 **means a provision in a contract that provides that the contract**
31 **shall be renewed for a specified additional period or indefinitely**
32 **unless the recipient provides notice to the person furnishing the**
33 **services or the service, maintenance, lease, sale, or repair of real or**
34 **personal property that the recipient intends to terminate the**
35 **contract at the expiration of the contract term.**

36 **Sec. 3. As used in this chapter, "clear and conspicuous" as**
37 **applied to text in a document means text in a bold font at least two**
38 **(2) font sizes larger than the predominate font of the document.**

39 **Sec. 4. As used in this chapter, "consumer" means an individual**
40 **who receives services or the service, maintenance, lease, sale, or**
41 **repair of real or personal property under a contract for personal,**
42 **family, or household purposes.**

C
o
p
y



1 **Sec. 5. (a) As used in this chapter, "contract" means to provide:**
2 (1) services;
3 (2) the service, maintenance, lease, sale, or repair of real or
4 personal property; or
5 (3) both services and the service, maintenance, lease, sale, or
6 repair of real or personal property.
7 **(b) The term does not include a contract that does not specify an**
8 **expiration of the contract term.**
9 **Sec. 6. As used in this chapter, "person" means an individual, a**
10 **partnership, a limited liability company, a corporation, an**
11 **association, or any other legal entity.**
12 **Sec. 7. A person who offers to enter into a contract with a**
13 **consumer that includes an automatic renewal clause in the contract**
14 **shall, clearly and conspicuously in the contract and contract offer,**
15 **disclose the automatic renewal clause and what actions the**
16 **consumer must take to cancel the contract at the expiration of the**
17 **contract term.**
18 **Sec. 8. If a person fails to meet the requirements under section**
19 **7 of this chapter regarding a contract, there is a rebuttable**
20 **presumption that a person complied with this chapter if the**
21 **person's routine business practices include the following:**
22 (1) The person has established and implemented written
23 procedures to comply with this chapter.
24 (2) The person enforces the procedures described under
25 subdivision (1).
26 (3) The failure of the person to comply with this chapter was
27 the result of an error.
28 (4) The person provided a full refund or credit for all amounts
29 billed to or paid by the consumer from the following dates,
30 whichever occurs first:
31 (A) The date of the automatic renewal until the date of
32 termination of the contract.
33 (B) The date of the subsequent notice of renewal.
34 **Sec. 9. If a person fails to comply with this chapter, an**
35 **automatic renewal clause in the person's contract is void.**

**C
O
P
Y**



COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Economic Development, to which was referred Senate Bill No. 300, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 10, delete "or".

Page 1, between lines 10 and 11, begin a new line double block indented and insert:

"(B) depository financial institution (as defined in IC 28-1-1-6);

(C) subsidiary or affiliate of an entity described in clause (A) or (B); or".

Page 1, line 11, delete "(B)" and insert "(D)".

Page 2, between lines 5 and 6, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "clear and conspicuous" as applied to text in a document means text in a bold font at least two (2) font sizes larger than the predominate font of the document.".

Page 2, line 6, delete "3" and insert "4".

Page 2, line 9, delete "4" and insert "5".

Page 2, line 17, delete "5" and insert "6".

Page 2, line 20, delete "6" and insert "7".

Page 2, line 25, delete "7" and insert "8".

Page 2, line 26, delete "6" and insert "7".

Page 2, line 41, delete "8" and insert "9".

and when so amended that said bill do pass.

(Reference is to SB 300 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 300 be amended to read as follows:

Page 2, between lines 2 and 3, begin a new line double block indented and insert:

ES 300—LS 7210/DI 110+



C
O
P
Y

"(5) a contract or agreement with a communications service provider (as defined in IC 8-1-2.6-13)."

(Reference is to SB 300 as printed February 16, 2011.)

TAYLOR

SENATE MOTION

Madam President: I move that Senate Bill 300 be amended to read as follows:

Page 2, delete lines 2 and 3, begin a new line double block indented and insert:

"(5) A contract or agreement that allows for cancellation by the consumer by written notice month to month after the initial contract period has expired."

(Reference is to SB 300 as printed February 16, 2011.)

TAYLOR

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred Senate Bill 300, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 7.1-3-20-8.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8.6. (a) The holder of a club permit may do the following:

- (1) Designate ~~one (1) day~~ as **"guest day" or "guest days"**:
 - (A) **three (3) or fewer days** in each a month; as **"guest day"**
 - or
 - (B) **nine (9) or fewer consecutive days in a quarter.**
- (2) Keep a record of all designated guest days.
- (3) Invite guests who are not members of the club to attend the club on a guest day.
- (4) Sell or give alcoholic beverages to guests for consumption on

C
O
P
Y



the permit premises on a guest day.

(5) Keep a guest book listing members and their nonmember guests, except on a designated guest day.

(b) This subsection applies to a club that furnishes alcoholic beverages on not more than two (2) days in each week. Notwithstanding subsection (a)(1), the holder of a club permit to which this subsection applies may designate twenty-four (24) guest days in each calendar year. ~~rather than one (1) guest day in each month.~~

Page 2, line 1, after "regulated" insert "**under IC 24-4.5-7.**".

Page 2, line 2, delete "a contract" and insert "**A contract**".

Page 2, line 2, delete "with a" and insert "**with a:**

(A)".

Page 2, line 3, delete "IC 8-1-2.6-13)." and insert "**IC 8-1-2.6-13);**
or

(B) direct-to-home satellite service provider.".

Page 2, line 7, before "means" begin a new paragraph and insert:
"**Sec. 2. As used in this section, "automatic renewal clause"**".

Page 2, line 16, delete "a person" and insert "**an individual**".

Page 2, line 18, delete "." and insert "**for personal, family, or household purposes.**".

Page 2, line 30, after "contract" insert "**with a consumer**".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 300 as reprinted February 22, 2011.)

STEMLER, Chair

Committee Vote: yeas 7, nays 0.

C
O
P
Y

