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January 21, 2025

TO: The Honorable C.T. Wilson, Chair
Economic Matters Committee

FROM: Steven M. Sakamoto-Wengel
Consumer Protection Counsel for Regulation, Legislation and Policy

RE: House Bill 107 – Consumer Protection – Automatic Renewals –
SUPPORT WITH AMENDMENTS

The Consumer Protection Division of the Office of the Attorney General submits the following written testimony in support of House Bill 107, sponsored by Delegate Andrew Pruski, with an amendment discussed below. This bill establishes protections for consumers who enter into a contract with an automatic renewal or a free trial period. House Bill 107 will help to reduce the number of complaints from consumers who are stuck in contracts that renewed automatically without the consumers' knowledge.

Parties should be able to make a fully informed decision as to whether they want to continue to do business with each other rather than be surprised into another term of a contract they no longer wish to be in. Under this bill, businesses selling contracts that make an automatic renewal must include clear notice that the contract will renew if the consumer does not cancel. If the length of the initial contract is for a year or more, notice must be provided between 15 and 45 days before the renewal date. The business must also provide the terms of the renewal as well as the means by which a consumer may easily cancel should they choose. House Bill 107 would conform the methods of cancellation to the Federal Trade Commission's "Click to Cancel" rule so businesses should be able to easily comply the bill's cancellation requirements.

In addition, if companies offer a "free trial" as part of the automatic renewal, they must state the price that will be incurred and any changes that may occur after the free trial period ends. This notice must be provided between 3 and 15 days before the renewal.

House Bill 107 is comparable to laws in effect in California and Maine, so the bill's notice and cancellation provisions should not be substantially different from requirements that retailers are currently following in those states. Last session, Delegate Pruski and Senator Gile held discussions with stakeholders to address concerns they raised about the bill as introduced and House Bill 107 incorporates numerous amendments that address those concerns.

The Division does have concerns, however, that House Bill 107 excludes the private right of action under § 13-408 of the Consumer Protection Act, which means that consumers who are harmed by violations of the bill's requirements can only obtain relief if the Division is able to bring an enforcement action. However, due to limited resources, the Division must weigh which violations of the Consumer Protection Act to prioritize for enforcement, so it is likely that consumers who are stuck paying for renewals of contracts because they weren't given the required notice, or because the business made it exceedingly difficult to cancel the contract, will be left without recourse. Accordingly, the Division requests that HB 107 be amended to allow victims to recover their actual damages by striking "EXCEPT § 13-408 OF THIS ARTICLE" on page 5, line 31 of the bill.

By providing notice in advance and allowing a consumer to make an informed decision, both parties share the benefit of a healthy business relationship. For these reasons, the Consumer Protection Division asks that the Economic Matters Committee return a favorable report on this bill with the amendment discussed.

cc: The Honorable Andrew C. Pruski
Members, Economic Matters Committee