



Internet Association

MPA THE ASSOCIATION OF
MAGAZINE MEDIA

March 5, 2020

Delegate Dereck Davis, Chairman
House Economic Matters Committee
Room 231, House Office Building
Annapolis, MD 21401

RE: Opposition to HB 1156, Automatic Recurring Payments

Dear Chairman Davis:

Our associations represent hundreds of the country's leading technology companies in high-tech manufacturing, computer networking, information technology, clean energy, life sciences, internet media, ecommerce, education and the sharing economy sectors. Our member companies are committed to advancing public policies and private sector initiatives that make the United States the most innovative country in the world.

On behalf of our members, we write today in **opposition to HB 1156**, an act concerning Automatic Recurring Payments.

This bill is different from treatment of automatic renewals in any other state, has vague definitions that leave responsible companies unsure whether they are in full compliance, and lacks the good faith measures allowed by other states where a private right of action exists. Therefore, we believe this bill should be rejected, or aligned with measures in other states.

Maryland has existing automatic renewal laws that specifically apply to activities over the Internet (Maryland Code, Commercial Law § 14-1321), and another that applies specifically to health clubs (Maryland Code, Commercial Law [§ 14-12B-06](#)). We understand that one motivation for consideration of this bill may be to adequately allow internet services to provide internet mechanisms for cancellation of contracts. We have no objections to such updates but believe underlying definitions and enforcement mechanisms should be aligned with other states to avoid a patchwork of laws inhibiting interstate commerce.

Specifically, the definitions referenced by the bill in §13-101 do not translate well into the internet environment and are not used in other states. The definition of "merchant" references an entity that "indirectly" offers or makes available consumer goods, consumer goods, etc. In today's environment where many websites provide distribution of others' goods and services, it

is important to ensure the actual provider of the goods, services, etc. is the entity responsible for the notice of the automatic renewal terms, information about cancellation, and responsibility should there be need for enforcement. Should this bill move forward, this definition must be clarified.

Further, the bill expands coverage to offline services in subsection (b), but specifies cancellation instructions only for internet services in (b)(1). If allowing for internet mechanisms is the point, we have no objections and believe internet cancellation should be an option where the good, service, etc. is internet based. However, it should not be a requirement that such services also provide a toll-free number and an address where a consumer can write to have the contract cancelled. Even under existing law a merchant does not need to provide both, yet this bill would extend antiquated offline mechanisms to internet services. This seems out of line with an approach of updating the law to address the realities of today's internet.

The requirement in subsection (b)(3) that dictates provision of either "an electronic or physical form" in order to effectuate cancellation is not required in any other state. This specification is unnecessary and overly prescriptive. Most entities currently provide the instructions for cancellation of automatic renewals within a confirmation document and disclosure provided to the consumer before charges are made, but this language implies that a specific form must be developed and presented to the consumer. The important element is that an entity must provide an opportunity to cancel before payment is drawn from the account. Such a specific requirement will result in extra compliance costs for Maryland companies while failing to provide consumers extra protections.

Finally, the bill enables a private right of action without good faith protections we see in other states. For example, California provides this defense in [CA BPC Article 9 17604](#). *"If a business complies with the provisions of this article in good faith, it shall not be subject to civil remedies."* We cannot support a bill that does not allow companies to fix minor mistakes in otherwise compliant offerings.

For the reasons enumerated above we **oppose HB 1156** in its current form and urge the committee to reject its adoption. Please feel to contact Tammy Cota, IC Executive Director at 802-279-3534 or tammy@theinternetcoalition.com with questions or comments.

Sincerely,

Internet Coalition (IC)
Entertainment Software Association (ESA)
Internet Association (IA)
MDDC Press Association: Maryland,
Delaware, DC Newspapers
The Association of Magazine Media (MPA)

cc: House Economic Matters Committee members