

**House File 229 - Reprinted**

HOUSE FILE 229  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 89)

(As Amended and Passed by the House March 10, 2015)

**A BILL FOR**

1 An Act relating to the regulation of free offers and buying  
2 club memberships.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 552A.2, Code 2015, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 7. The sale of goods or services transacted  
4 through the internet.

5 Sec. 2. Section 552A.3, Code 2015, is amended to read as  
6 follows:

7 **552A.3 Right of cancellation — requirement of writing.**

8 The requirements of sections 555A.1 through 555A.5, relating  
9 to door-to-door sales, shall apply to sales of buying club  
10 memberships, ~~irrespective of the place or manner of sale or~~  
11 ~~the purpose for which they are purchased~~ subject to regulation  
12 under this chapter. In addition to the requirements of chapter  
13 555A, a contract shall not be enforceable against a person  
14 acquiring a membership in a buying club unless the contract is  
15 in writing and signed by the purchaser.

16 Sec. 3. Section 714.16, subsection 2, Code 2015, is amended  
17 by adding the following new paragraph:

18 NEW PARAGRAPH. o. (1) It is an unlawful practice for  
19 a person to make a free offer to a consumer, or impose a  
20 financial obligation on the consumer as a result of the  
21 consumer's acceptance of a free offer, unless the person  
22 provides the consumer with clear and conspicuous information  
23 regarding the terms of the free offer before the consumer  
24 agrees to accept the free offer, including at a minimum all of  
25 the following:

26 (a) Identification of all goods or services, or enrollments  
27 in a membership, subscription, or service contract, that the  
28 consumer will receive or incur a financial obligation for as a  
29 result of accepting the free offer.

30 (b) The cost to the consumer of any financial obligation  
31 the consumer will incur if the consumer accepts the free offer,  
32 including any fees or charges.

33 (c) Any requirement, if applicable, that the consumer take  
34 affirmative action to reject the free offer and instructions  
35 about how the consumer is to indicate the consumer's rejection

1 of the free offer.

2 (d) A statement, if applicable, that by accepting the free  
3 offer, the consumer will become obligated for additional goods  
4 or services, or enrollment in a membership, subscription, or  
5 service contract, unless the consumer takes affirmative action  
6 to cancel the free offer or otherwise reject receipt of the  
7 additional goods or services or the enrollment in a membership,  
8 subscription, or service contract.

9 (e) Except as provided in subparagraph division (h), the  
10 consumer's right to cancel the free offer using procedures  
11 specifically intended for that purpose that, at a minimum,  
12 enable the consumer to cancel by calling a toll-free telephone  
13 number or to cancel in a manner substantially similar to that  
14 by which the consumer accepted the free offer.

15 (f) The time period during which the consumer must cancel in  
16 order to avoid incurring a financial obligation as a result of  
17 accepting the free offer.

18 (g) If applicable, the consumer's right to receive a credit  
19 on goods or services received as a result of accepting the free  
20 offer when the goods or services are returned or rejected, and  
21 the time period during which the goods or services must be  
22 returned or rejected for the purpose of receiving a credit.

23 (h) With respect to a free offer that is for a publication,  
24 including but not limited to a magazine, newspaper, or other  
25 periodical, a statement that the consumer will receive, at  
26 the time the consumer receives an invoice to pay for the  
27 publication, information regarding the consumer's right to  
28 cancel the free offer and an explanation of the procedure to  
29 cancel the free offer, including but not limited to written  
30 notice of cancellation by mail to the person providing the free  
31 offer.

32 (2) It is an unlawful practice for a person to cause  
33 a consumer to incur a financial obligation as a result of  
34 accepting a free offer unless one of the following occurs:

35 (a) The person obtains the consumer's billing information

1 directly from the consumer. For purposes of this subparagraph  
2 division, a person obtains a consumer's billing information  
3 directly from the consumer if the billing information is  
4 obtained by the person or by the person's agent or employee.

5 (b) The consumer gives affirmative consent at the time the  
6 consumer accepts a free offer for the person to provide billing  
7 information to a person other than the person making the free  
8 offer.

9 (3) It is an unlawful practice for a person to impose  
10 a financial obligation on a consumer as a result of the  
11 consumer's acceptance of a free offer unless the consumer's  
12 affirmative consent to the terms of the free offer as disclosed  
13 in subparagraph (1) is obtained.

14 (4) It is an unlawful practice for a person that makes a  
15 free offer to a consumer to fail or refuse to cancel the free  
16 offer if the consumer has used, or made reasonable efforts to  
17 attempt to use, one of the procedures required to be available  
18 to the consumer as described in subparagraph (1), subparagraph  
19 division (e).

20 (5) This paragraph "o" does not apply to free offers made  
21 in connection with services that are subject to the federal  
22 Communications Act of 1934, 47 U.S.C. §151 et seq.

23 (6) For purposes of this paragraph "o":

24 (a) "*Affirmative consent*" means a consumer's agreement to  
25 incur a financial obligation as a result of accepting a free  
26 offer, or to provide the consumer's billing information, given  
27 or made in the manner specifically identified for the consumer  
28 to indicate the consumer's agreement.

29 (b) "*Billing information*" means any record or information  
30 compiled or maintained with respect to a consumer that  
31 identifies the consumer and provides a means by which the  
32 consumer's financial obligation incurred by accepting a free  
33 offer may be paid or otherwise satisfied, including but not  
34 limited to information pertaining to a consumer's credit card,  
35 payment card, charge card, debit card, checking, savings,

1 or other banking account, and electronic funds transfer  
2 information.

3 (c) "*Clear and conspicuous information*" means language that  
4 is readily understandable and presented in such size, color,  
5 contrast, and location, or audibility and cadence, compared to  
6 other language, as to be readily noticed and understood, and  
7 that is in close proximity to the request for consent to a free  
8 offer.

9 (d) "*Consumer*" means an individual who seeks to accept or  
10 accepts a free offer.

11 (e) (i) "*Free offer*" means an offer of goods or services  
12 without cost, or for a one-time payment to cover only  
13 incidental charges such as shipping or handling, to a consumer  
14 that, if accepted, causes the consumer to incur a financial  
15 obligation for any of the following:

16 (A) The goods or services received.

17 (B) Additional goods or services other than those initially  
18 received.

19 (C) Enrollment in a membership, subscription, or service  
20 contract as a result of accepting the offer.

21 (ii) "*Free offer*" does not include a free good or service  
22 that is received by a consumer as a result of the consumer's  
23 entering into an agreement for enrollment in a membership,  
24 subscription, or service contract that is not otherwise a free  
25 offer or a consequence of the consumer's agreement to accept  
26 a free offer.