

HOUSE BILL 3201
By Williams (Wil)

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18, relative to health clubs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-301(3)(B)(i), is amended by adding the word "or" immediately after the language "karate;"

SECTION 2. Tennessee Code Annotated, Section 47-18-301(3)(B)(ii), is amended by deleting the language "; or" following the word "equipment" and replacing the deleted language with the punctuation "."

SECTION 3. Tennessee Code Annotated, Section 47-18-301(3)(B)(iii), is amended by deleting the subsection in its entirety.

SECTION 4. Tennessee Code Annotated, Section 47-18-301(3)(A), is amended by deleting the subsection in its entirety and substituting instead the following language:

(A) "Health club" means any enterprise, however styled, which offers on a regular, full-time basis, and pursuant to a health club agreement, services or facilities for the development or preservation of physical fitness through exercise, weight control or athletics.

SECTION 5. Tennessee Code Annotated, Section 47-18-303(2), is amended by deleting the word "and" and substituting instead the words "or fails to".

SECTION 6. Tennessee Code Annotated, Section 47-18-305, is amended by adding the following language as new subsections to be designated as (c) and (d):

(c) It shall be unlawful for a health club to offer any cash or discounted prepayment option that exceeds a reduction of cost value of the highest stated price for any similar period or service type of agreement:

(1) by an excess of six percent (6%) for any term of less than two (2) years of duration;

(2) by an excess of twelve percent (12%) for any term of two (2) years duration, but less than three (3) years duration; or

(3) by an excess of eighteen percent (18%) for any term of three (3) years duration.

(d) It shall be unlawful for a health club to offer free or no cost periods of enrollment in addition to the initial paid term of the agreement in order to circumvent the discounting provision of subsection (c).

SECTION 7. Tennessee Code Annotated, Section 47-18-305(a)(5)(B)(iii), is amended by deleting the punctuation “.” following the word “agreement” and substituting instead the following:

, AND, IN THE CASE OF INSTALLMENT PAYMENTS WHICH ARE NOT MADE BY ELECTRONIC FUND TRANSFER, AN ADMINISTRATIVE CHARGE, NOT TO EXCEED FIVE DOLLARS (\$5.00) FOR EACH BILLING PERIOD.

SECTION 8. Tennessee Code Annotated, Section 47-18-305(a)(5)(B)(iv), is amended by deleting the original subsection in its entirety and substituting the following language:

(iv) THERE ARE NO AUTOMATIC OR LIFETIME RENEWALS OF THE TERM INCIDENT TO THE TERM OF THIS CONTRACT. IF THE HEALTH CLUB PROVIDES FOR A RENEWAL OPTION, SUCH OPTION MUST BE AFFIRMATIVELY AGREED TO IN WRITING BY THE BUYER AT THE BEGINNING OF THE RENEWAL PERIOD. IF THE HEALTH CLUB FACILITY IS LESS THAN OR EQUAL TO TEN THOUSAND (10,000) SQUARE FEET (GROSS) OF BUILDING SPACE, THEN THE ANNUAL COST OF SUCH RENEWAL SHALL NOT BE LESS THAN THIRTY PERCENT (30%) OF THE

ANNUALIZED COST OF THE BASE MEMBERSHIP CONTRACT OR SEVENTY-FIVE DOLLARS (\$75), WHICHEVER IS GREATER. HOWEVER, IF THE HEALTH CLUB FACILITY IS GREATER THAN TEN THOUSAND (10,000) SQUARE FEET (GROSS) OF BUILDING SPACE, THEN THE ANNUAL COST OF SUCH RENEWAL SHALL NOT BE LESS THAN THIRTY PERCENT (30%) OF THE ANNUALIZED COST OF THE BASE MEMBERSHIP CONTRACT OR ONE HUNDRED TWENTY-FIVE DOLLARS (\$125), WHICHEVER IS GREATER. PAYMENT OF ANY RENEWAL SHALL BE MADE AS REQUIRED BY TENNESSEE CODE ANNOTATED, SECTION 47-18-305(A)(5)(B)(ii).

SECTION 9. Tennessee Code Annotated, Section 47-18-305(a)(5)(B), is amended by adding the following language as a new subsection to be designated subsection (v):

(v) A CONTRACT OR AGREEMENT MAY HAVE A CONTINUING PROVISION OR STIPULATION THAT PROVIDES FOR A MONTH TO MONTH CONTINUATION OF THE INITIAL TERM OF THE AGREEMENT PROVIDED THE BUYER HAS THE RIGHT TO CANCEL THE CONTINUING PORTION OF THE AGREEMENT AFTER FULFILLING THE ORIGINAL TERM OF THE AGREEMENT BY TENDERING THIRTY (30) DAYS WRITTEN NOTICE OF SUCH INTENT TO THE OPERATOR BY REGISTERED MAIL. IF SUCH CONTRACTUAL OBLIGATION HAS A CONTINUING PROVISION OR STIPULATION, NOTIFICATION MUST BE SENT BY THE HEALTH CLUB OPERATOR TO CONFIRM THAT THE ORIGINAL OBLIGATION WAS FULFILLED AND TO REAFFIRM THE MONTH TO MONTH OR CONTINUING PROVISION OR STIPULATION.

SECTION 10. Tennessee Code Annotated, Section 47-18-305(a)(5)(B), is amended by adding the following language as a new subsection to be designated subsection (vi):

(vi) ANY RENEWAL RIGHT GRANTED UNDER THIS CONTRACT SHALL EXPIRE ON THE FINAL DAY OF THE AGREEMENT. HOWEVER, THE BUYER SHALL HAVE A THIRTY (30) DAY GRACE PERIOD FROM THE DATE OF THE

EXPIRATION OF THE RENEWAL RIGHT IN WHICH TO EXERCISE ANY RENEWAL RIGHT GRANTED TO THE BUYER UNDER THIS CONTRACT.

SECTION 11. Tennessee Code Annotated, Section 47-18-305(b), is amended by deleting the subsection in its entirety and substituting the following language:

(b) A health club shall not enter into or offer to enter into a health club agreement unless the health club is fully operational and available for use by prospective buyers. The division shall, upon application by a health club operator, certify that a health club facility is fully operational if all of the promised equipment and services are available for use by prospective buyers. No payment or promise to pay by a prospective member may be accepted by any health club operator unless and until the health club facility has been certified by the division to be fully operational as described herein.

SECTION 12. Tennessee Code Annotated, Section 47-18-306(a), is amended by deleting the subsection in its entirety and substituting the following language:

(a) Unless the buyer is granted a right to cancel the health club agreement as provided in subsection (b) of this section, no buyer shall be bound by any health club agreement with a stated initial term of greater than thirty-six (36) months.

SECTION 13. Tennessee Code Annotated, Section 47-18-306(b), is amended by deleting the subsection in its entirety and substituting the following language:

(b) A health club agreement may include a provision or stipulation that provides for a month to month continuation of the agreement, either as an initial agreement between the operator and the buyer or as an extension of an agreement beyond a stated term or duration; provided, however, that buyer has the right to cancel the continuing portion of the agreement by providing the health club operator thirty (30) days written notice by registered mail of the buyer's intent to cancel the agreement.

SECTION 14. Tennessee Code Annotated, Section 47-18-309, is amended by adding the following language as subsection (c):

(c) No health club operator shall accept payment or a promise to pay pursuant to any health club agreement or pursuant to any subsequent amendment to an existing health club agreement until a copy of the health club agreement or the amendment thereto has been filed with the division, and unless the division approves the agreement or amendment as being in compliance with the provisions of this chapter. A health club agreement shall be deemed to be approved by the division unless the division furnishes the health club operator written notice of the disapproval of the agreement within forty-five (45) days of the date the agreement was received for filing by the division.

SECTION 15. Tennessee Code Annotated, Section 47-18-312, is amended by designating the existing provisions as subsection (a) and adding the following language as subsection (b):

(b) In addition to any other penalty provided in subsection (a) of this section, any violation of this part by a health club operator shall also result in a suspension of the operator's ability to enter into health club agreements with prospective buyers for a period of:

- (1) fifteen (15) days, upon the operator's first violation;
- (2) sixty (60) days, upon the operator's second violation; and
- (3) one (1) year, upon the operator's third violation and all subsequent violations.

SECTION 16. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 17. This act shall take effect January 1, 1997, the public welfare requiring it.

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