

HOUSE BILL REPORT

HB 2254

As Reported By House Committee On:
Technology, Telecommunications & Energy
Appropriations

Title: An act relating to unauthorized changes and billing for telecommunication services.

Brief Description: Preventing unauthorized changes to, and unauthorized billing for, telecommunication services.

Sponsors: Representatives DeBolt, Ruderman, Poulsen, Crouse, Morris, Mielke, Bush, Thomas, Cooper, Reardon, Stensen, Keiser, Lantz, Fisher, McDonald, O'Brien, Lovick, Sullivan, Hurst, Santos, Hankins, Kenney, Wolfe, Ogden, Anderson, Kagi, Constantine, Dickerson, Conway, Linville, Rockefeller, Romero, Veloria, Wood, Ericksen, Edmonds, McIntire, Alexander, Mitchell, K. Schmidt and Esser.

Brief History:

Committee Activity:

Technology, Telecommunications & Energy: 3/2/99 [DP];
Appropriations: 3/6/99 [DPS].

Brief Summary of Substitute Bill

- Prohibits the unauthorized switching of a customer's telephone service to another company (slamming), and the placement of unauthorized, misleading, or deceptive charges on consumers' telephone bills (cramming).
- Requires that companies making unauthorized changes be responsible for reversing those changes, and compensating customers for unauthorized charges.
- Allows protection under the Consumer Protection Act, for consumers who suffer unauthorized changes or charges on their telephone bill.

**HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS &
ENERGY**

Majority Report: Do pass. Signed by 14 members: Representatives Crouse, Republican Co-Chair; Poulsen, Democratic Co-Chair; DeBolt, Republican Vice Chair; Ruderman, Democratic Vice Chair; Bush; Cooper; Delvin; Kastama; McDonald; Mielke; Morris; Reardon; Thomas and Wolfe.

Staff: Anntonette Alberti (786-7117).

Background:

Slamming

Slamming is the unauthorized switching of a customer's telephone service to another company. Slamming can occur for both long distance and local service.

Slamming is a growing problem. In 1996, the Washington Utilities and Transportation Commission (WUTC) received 186 slamming complaints. By 1998, that number had grown to over 450. At the federal level, slamming constitutes the largest category of telephone complaints handled by the Federal Communications Commission (FCC).

In Washington state the most severe slamming case occurred in March 1998, when an out-of-state company attempted to slam over 4,500 Colville customers. The unauthorized telephone company blamed a sales agency for the slam, but agreed to pay for calls made by slammed customers.

The WUTC adopted anti-slamming rules in November of 1997. The customer is returned to their original carrier immediately, without charge, and the customer is not liable for any fees incurred during the period of being slammed. The commission does not have authority to award damages to a slammed customer but can fine the slamming company \$1,000 per slam.

Cramming

Cramming is the placement of unauthorized, misleading, or deceptive charges on consumers' telephone bills. One of the fastest growing sources of consumer complaints are telephone bills that include charges for services that the consumer did not order, authorize or receive. In many cases, this problem is aggravated because telephone bills often do not explicitly state what services were provided or clearly identify what company provided those services.

Local telephone companies often bill their customers for telecommunication provided by other companies. Cramming charges can be included with a consumer's local telephone company bill when a long distance telephone company or another type of service provider sends inaccurate billing data to the local telephone company. The local telephone company, in turn, bills the consumer for the calls or services. A local telephone company may also engage in cramming if it bills a customer for an unauthorized service it provides. Cramming also occurs when a telecommunications

provider does not fully explain the charges associated with a service when the provider sells the service to a customer. While cramming charges typically appear on consumers' local telephone bills, cramming charges may also be included with bills issued by other telecommunications service providers like long distance, cellular phone, and paging companies.

For complaints regarding telephone related services provided within Washington, consumers can contact the WUTC and their authorized telephone company. The Washington attorney general receives and takes action on complaints of non-telephone related services.

In the federal arena, the FCC has proposed guidelines to make telephone bills more consumer friendly. Bills should include what services have been provided, the charges assessed for those services, and which entities provided those services. Complaints for cramming of non-telephone, interstate services can be filed with the Federal Trade Commission (FTC) . An example of non-telephone services are "content" services such as psychic hotlines.

Summary of Bill:

The Legislature finds that slamming and cramming are unfair and deceptive consumer practices. Current penalties and remedies need to be increased to deter these practices.

Every local exchange company must offer, at no cost, optional account freeze and bill block services to deter slamming and cramming. The company must give notice of the availability of these services to consumers when the service is established and at least once annually. Account freeze service allows the customer alone to make changes to their local or long distance service. Changes ordered by other telephone or non-telephone companies will be rejected. Bill block service prevents the customer from being billed for non-telecommunications services or for services provided by a company other than the customer's authorized carriers.

Charges that appear on a telephone bill will be clear, separate and distinct. At a minimum, the telephone bill will identify the company making the charge, the product or service billed, and a toll-free contact number for disputing a charge for non-telecommunications services. A subscriber to long distance or local exchange services will not have the provider of these services changed without the subscriber's authorization. The form of the authorization is to be prescribed by the commission. When the subscriber is 65 years old or older, authorization for change in provider must be made in writing. Additionally, no person can place an unauthorized charge on a subscriber's account. A subscriber who is the victim of any of the above prohibited acts is not responsible for any unauthorized charges placed on his or her account in the first

30 days after the unauthorized switch, switch back fees, or any other charges imposed in connection with the unauthorized change.

Upon being informed by the customer that an unauthorized change has occurred, a local exchange carrier will immediately switch the subscriber back to the authorized carrier, inform the subscriber of the 30-day absolution period, and remove all charges incurred during the absolution period and switch back charges from the subscriber's bill. If a customer disputes a charge, the charge will be removed, without limiting the ability of the charging company to independently collect legitimate unpaid charges.

In addition to any other penalties, the commission may order: (1) payment from the unauthorized company to the authorized service provider in the amount of the unauthorized charges incurred; and (2) a refund to the subscriber for all charges incurred during the unauthorized service period.

A violation of the prohibitions in this bill are violations of the Consumer Protection Act.

The WUTC and the attorney general will report to the Legislature by June 2000, whether this act has deterred slamming and cramming.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (On Related Bills) Currently, there is an informal complaint process in place with the WUTC, but the WUTC cannot offer consumers any damages; the WUTC only makes sure the consumer gets switched back. This bill removes the financial incentive to slamming and will reduce its occurrence. The bill should remain consistent with the federal guidelines and make sure consumers are held harmless. This bill balances the interests of preventing slamming and providing an incentive to consumers to look at their phone bills. The attorney general receives hundreds of complaints from consumers; these consumers, in addition to having been slammed, are very frustrated with the resolution process due to a general lack of accountability in the industry. Many of these consumers have educated themselves with regard to the availability of choice and want competition in the industry. Consumers do not want to wait for the WUTC to take action on their behalf. Telephone companies use computers to do switching so that many unauthorized requests to change services are handled automatically. A consumer education campaign is needed. Penalties should be placed squarely on the shoulders of unauthorized companies.

(Concerns on Related Bills) There is no provision that absolves consumers from liability for a period of time, which makes this bill weaker than the federal law. The majority of cramming prohibitions deal with telecommunication companies and thus do not combat the problem of cramming by non-telecommunications companies. The Consumer Protection Act is a very powerful tool, and it has a fiscal impact on the attorney general's office. Any slam bill should be self enforcing, like the new FCC rules.

Testimony Against on Related Bills: The FCC current rules represent the proper balance without impeding competition.

Testified: Representatives DeBolt, prime sponsor; and Representative Ruderman, secondary sponsor.

(In support on HB 1030 and HB 2087) Dana Smith, U.S. West; Majken Ryherd Kerra, Washington State Association of Community Action Agencies; and Rick Finnigan, Washington Independent Telephone Association.

(In support with modifications on HB 1030 and HB 2087) Trisha McArdle, Office of the Attorney General.

(In support with amendments on HB 1030) Ron Gayman, AT&T; and Bruce Shaull, Sprint.

(Against HB 2087) Bruce Shaull, Sprint.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Alexander, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Barlean; Benson; Boldt; Carlson; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Tokuda and Wensman.

Staff: Heather Flodstrom (786-7391).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Technology, Telecommunications & Energy: The substitute bill removes written authorization requirement for persons age 65 or older who wish to change their telecommunications company. Bill block services do not include dial-around long-distance services. The carrier making unauthorized changes is responsible for reversing changes, and the local exchange carrier is authorized to carry

out charge-back provisions. Specified coverage of the consumer protection act is restricted to do unauthorized subscriber changes and unauthorized charges on a bill.

Appropriation: None.

Fiscal Note: Requested on original bill, March 1, 1999.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Original bill) Slamming and cramming is an important issue to all citizens, especially small business owners. This bill contains positive elements that are critical to combating slamming and cramming. Under the Consumer Protection Act (CPA), slamming and cramming investigation has been taking resources from the Attorney General (AG). This bill will make it easier for the AG to address the issues with the CPA, because it makes slamming and cramming official violations of the CPA, and, will provide the AG with additional funding to handle these investigations.

(Bill with amendments) Phone companies and long distance carriers should not need to know the age of their consumers, and therefore the written consent section for persons over age 65 should be removed. In addition, phone companies should still be able to bill consumers who use the dial around services (such as 10-10-321), so some of the bill blocking section should be removed. Local phone companies have been assisting consumers who have been slammed, but have had no directive on how to handle the slamming cases. This bill will provide that direction. The state needs to take away the financial incentives for slamming and put penalties on the companies who are slamming customers, which will alleviate the private companies from policing the business. We need to make sure we're not punishing consumers for changing providers. The bill block section is defined differently than in the current system, and if it remains in this bill, smaller companies may not be able to afford this cost, unless they pass it along to the consumer. The bill does not offer flexibility with creating bill blocking service, and companies should be able to bill for the dial around services. Washington needs to make sure that they remain compliant with the new FCC rules that were recently adopted by the federal government.

Testimony Against: None.

Testified: (In support on original bill) Representative Ruderman, prime sponsor; and Trisha McArdle, Office of the Attorney General, Consumer Protection Division.

(In support with amendments) Greg Pierce, AT&T; Dana Smith, US West; and Rosemary Williamson, GTE.