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HOUSE BILL 2087

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State of Washington

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1999 Regular Session

By Representatives Ruderman, Poulsen, Kastama, Cooper, Reardon, Morris, Wolfe, Kessler, Murray, O'Brien, Romero, Rockefeller, Linville, Kenney, Dunshee, Kagi, McIntire, Keiser, Constantine and Lantz

Read first time 02/15/1999. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to unauthorized services and charges of a  
2 telecommunications company; adding new sections to chapter 80.36 RCW;  
3 creating new sections; prescribing penalties; and declaring an  
4 emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that changes in the  
7 rapidly changing telecommunications market are resulting in new  
8 consumer problems. The legislature further finds that unauthorized  
9 changes in telecommunications service, known commonly as slamming, and  
10 unauthorized billing for service on telecommunications bills, known  
11 commonly as cramming, are unfair and deceptive consumer practices. The  
12 legislature further finds that consumers should have options available  
13 to protect themselves against unauthorized service changes and  
14 billings. In addition, current penalties and remedies need to be  
15 increased to provide a more effective deterrent to these practices.

16 NEW SECTION. **Sec. 2.** (1) Every local exchange telecommunications  
17 company must offer to its customers, as a part of basic local service  
18 and at no additional cost, the following optional services:

1 (a) Account freeze service. If a customer has subscribed to  
2 account freeze service, the local exchange company may not make changes  
3 to the customer's local or long-distance service except on direct oral  
4 or written direction of the customer and shall reject any orders for  
5 change in service that are purported to be submitted on behalf of the  
6 customer; and

7 (b) Bill block service. If a customer has subscribed to bill block  
8 service, the local exchange company may not bill the customer for  
9 nontelecommunications services.

10 (2) Each local exchange telecommunications company must notify its  
11 customers of the services described in this section at the time service  
12 is established and at least once per year thereafter. The commission  
13 may prescribe the form of notice by rule.

14 NEW SECTION. **Sec. 3.** All lists of charges for services that  
15 appear on a consumer's bill shall be clear, separate, and distinct. At  
16 a minimum, any local exchange company that bills for  
17 nontelecommunications services must clearly identify on the bill the  
18 actual name of the company making the charge, the specific product or  
19 service being billed for, and a toll-free contact number for disputing  
20 a charge. The commission may prescribe the form of bill disclosure by  
21 rule.

22 NEW SECTION. **Sec. 4.** Telecommunications companies shall not offer  
23 telecommunications services in the form of a sweepstakes entry, contest  
24 entry form, calling card service, club membership, or combined with any  
25 other inducement where the advertisements and details of charges for  
26 the telecommunications services are not clear, separate, and distinct.

27 NEW SECTION. **Sec. 5.** A customer may notify their local exchange  
28 company of an unauthorized service change or billing by telephone to a  
29 customer service area, to a designated customer service electronic mail  
30 address, or in writing.

31 NEW SECTION. **Sec. 6.** (1) In addition to any penalty imposed by  
32 other provisions of law, any person who violates sections 2 through 7  
33 of this act or any rule of the commission (a) defining conditions and  
34 processes for the switching of local or long-distance  
35 telecommunications service; or (b) limiting the authority of

1 telecommunications companies to bill for nontelecommunications services  
2 shall be liable for a civil penalty in the amount of one thousand  
3 dollars per day. Each day shall be considered a separate violation.  
4 For subsequent violations the amount of the civil penalty shall be  
5 increased to five thousand dollars per day.

6 (2) Penalties imposed under this section shall be imposed in the  
7 manner as penalties in RCW 80.04.405.

8 (3) If the commission finds a company has violated any rule of the  
9 commission defining conditions and processes for the switching of local  
10 or long-distance telecommunications service, it may require that all  
11 future service changes submitted by the company be in writing.

12 NEW SECTION. **Sec. 7.** (1) A customer who has had their local or  
13 long-distance telecommunications service switched without proper  
14 authorization, as defined by the commission, is not liable for any  
15 payments to the unauthorized carrier and shall not be charged for  
16 having their service restored to their authorized carrier. The  
17 customer may be charged for service at a rate no greater than what  
18 would have been charged by his or her authorized telecommunications  
19 company.

20 (2) If a customer disputes a charge for nontelecommunications  
21 service, the local exchange company shall remove the charge from the  
22 bill. This provision does not affect the ability of the charging  
23 company to independently collect legitimate charges.

24 (3) The commission may adopt rules to enforce this section.

25 NEW SECTION. **Sec. 8.** The legislature finds that the practices  
26 covered by sections 2 through 7 of this act are matters vitally  
27 affecting the public interest for the purpose of applying the consumer  
28 protection act, chapter 19.86 RCW. A violation of sections 2 through  
29 7 of this act is not reasonable in relation to the development and  
30 preservation of business and is an unfair or deceptive act in trade or  
31 commerce and an unfair method of competition for the purpose of  
32 applying the consumer protection act, chapter 19.86 RCW. In any action  
33 under chapter 19.86 RCW, a person has a presumption of injury and  
34 statutory damages in the amount of two thousand five hundred dollars.  
35 For purposes of this section, a person bringing the action must prove:

36 (1) A violation of sections 2 through 7 of this act;

1 (2) A violation of any rule of the commission that: (a) Defines  
2 conditions and processes for the switching of local or long-distance  
3 telecommunications service; or (b) limits the authority of  
4 telecommunications companies to bill for services; or

5 (3) That the switching of local or long-distance telecommunications  
6 service or wrongful inclusion on a bill is an unfair or deceptive act.

7 NEW SECTION. **Sec. 9.** The Washington utilities and transportation  
8 commission and the attorney general shall assess and report to the  
9 legislature by June 2000 whether the practices of unauthorized service  
10 changes and billing have been deterred by this legislation and may make  
11 recommendations to the legislature with regard to enforcement.

12 NEW SECTION. **Sec. 10.** Sections 2 through 7 of this act are each  
13 added to chapter 80.36 RCW.

14 NEW SECTION. **Sec. 11.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 12.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and takes effect  
21 immediately.

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