

HOUSE BILL ANALYSIS

HB 2087

Title: An Act relating to unauthorized services and charges of a telecommunications company.

Brief Description: Prohibiting the practices of authorized changes in telecommunications services and unauthorized billing for services on telecommunications bills.

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

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

Meeting Date: February 19, 1999.

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Background:

Slamming

Slamming is the switching of a customer's telephone service to another company without the customer's request.

Slamming can occur for both long distance and local service. While most complaints to date have involved long distance service, as competition increases so may slamming complaints.

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 is the single biggest category of telephone complaints handled by the FCC.

In Washington state the most severe slamming case occurred in March 1998 when a Tampa, Florida based company attempted to slam over 4500 customers in Colville, Washington. The telephone company blamed a sales agency for the slam, but agreed to pay for calls made by slammed customers.

The WUTC recently adopted anti slamming rules in November of 1997. Current WUTC practice is to return a customer to their original carrier immediately without charge, and

that the customer is not liable for the time period of having been 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

Unauthorized, Misleading, Or Deceptive Charges, Placed 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 by telephone bills that do not clearly state what services were provided or clearly identify the entities providing those services.

"Cramming" is a term used to describe the practice of placing unauthorized, misleading, or deceptive charges on consumers' telephone bills. Entities that engage in cramming appear to rely heavily on consumer confusion over telephone bills to mislead consumers into paying for services that were not authorized or received.

Examples of Cramming Charges

Cramming can come in many forms and is often hard to detect unless consumers closely review their telephone bills. Here are some examples of possible cramming charges: Charges for services that were not requested or authorized by the consumer; charges for services that are explained on the telephone bill in general terms -- such as "service fee," "service charge," "other fees," "voicemail," "mail server," "calling plan," "psychic," and "membership--; and charges that are added to consumers' telephone bills every month without a clear explanation of the services provided -- such as "monthly fee" or "minimum monthly usage fee." Such charges may be for legitimate services, but only if they have been authorized by the consumer billed for the services.

How Cramming Charges Occur

In addition to providing local telephone service, local telephone companies often bill their customers for services 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, whether through oversight or intentionally, 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 a service provided by the local telephone company that was not authorized by the customer.

Cramming also occurs when a local or long distance telephone company or another type of service provider imposes a charge for services authorized by a consumer but does not clearly or accurately describe all of the applicable charges to the consumer when marketing the service.

While cramming charges typically appear on consumers' local telephone bills, cramming charges may also be included with bills issued by long distance telephone companies and companies providing other types of services such as cellular telephone, digital telephone, beeper and pager services.

Complaints

Telephone-Related Services Provided Within Washington State (Intrastate)

For complaints about telephone-related services provided within Washington, consumers can contact the Washington Utilities and Transportation Commission and their authorized telephone company.

Non-Telephone Related Services

The Washington attorney general receives and takes action on complaints of non-telephone related services.

Federal Law

Truth-in-Billing Proposals

The Federal Communications Commission has proposed guidelines to make telephone bills more consumer-friendly by providing consumers with the information they need to determine 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. An example of non-telephone services are "content" services such as psychic hotlines.

Summary:

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.

This bill requires every local exchange company to offer at no cost, optional 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. These services are an account freeze service and bill block service.

Account Freeze Service

Only the customer may make changes to their local or long distance service. Changes ordered by other telephone or non telephone companies will be rejected or simply not made.

Bill Block Service

The customer can choose not to be billed for non telecommunications services.

Charges

Charges that appear on a telephone bill will be clear separate and distinct. At a minimum, the 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.

Offer of Services

Unless the advertisements are detailed are clear, separate and distinct, telephone companies will not combine an offer for telecommunication services with any sweepstakes entry, contest entry, calling card service, club membership.

Notice of Unauthorized Charges

Customers' may notify telephone companies of unauthorized charges on their bills by telephone, e-mail, or in writing.

Liability of Customers

Customers are not liable for payments to unauthorized carriers and nor for any switch back fees. The customer may pay the same amount they would have paid to their original carrier. If a customer disputes a charge, the charge will be removed, without limiting the ability of the authorized carrier to collect unpaid charges.

Penalties

Violations will result in penalties of \$1,000.00 per day payable into the public service revolving fund. Each day is a separate violation. Subsequent violations will be increased to \$5,000.00. It is not clear from the bill what constitutes subsequent violations.

Consumer Protection Act

A violation of this act is an unfair or deceptive act and invokes the protection of the Consumer Protection Act (CPA). In any action under this act and the CPA, or for a violation of a commission rule with regard to slamming and cramming, a customer has a presumption of injury and statutory damages of \$2,500.00. Under the CPA, a customer may also have access to treble (triple) damages.

Washington Utilities and Transportation Commission

The commission and the attorney general will report and make recommendations to the Legislature by June 2000 whether slamming and cramming have been, or could be deterred. The commission may also prescribe rules with regard to the form of notice to consumers, telephone bill disclosures, and enforcement of this act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Bill: Takes effect immediately.