H-4035.1

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**SUBSTITUTE HOUSE BILL 2718**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** House Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Kilduff, McCabe, Muri, Wilson, Stanford, and Jinkins)

AN ACT Relating to consumer protections for military members on active duty; adding a new section to chapter 38.40 RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  A new section is added to chapter 38.40 RCW to read as follows:

(1) A service member who has obtained the following services may terminate or suspend the provision of such services upon written notice, including electronic mail, to the service provider as provided in subsection (2) of this section:

(a) Telecommunication services from a telecommunications company, as defined in RCW 80.04.010, except as provided in subsection (6) of this section;

(b) Internet services provided from an internet service provider;

(c) Health studio services from a health studio, as defined in RCW 19.142.010; and

(d) Subscription television services, as defined in RCW 9A.56.010, from a television service provider.

(2) The service member must provide written proof to the service provider of the official orders showing that the service member has been called into active service:

(a) At the time written notice is given; or

(b) If precluded by military necessity or circumstances that make the provision of proof at the time of giving written notice unreasonable or impossible, within ninety days after written notice has been given.

(3) A termination or suspension of services under this section is effective on the day written notice is given under subsection (2) of this section. The termination or suspension of services may not eliminate or alter any contractual obligation to pay for services rendered before the effective date of the written notice, subject to any applicable provision under chapter 38.42 RCW.

(4)(a) A service member who terminates or suspends the provisions of services under this section may upon giving written notice, including electronic mail, to the provider within ninety days after termination of the service member's active service, reinstate the provision of services:

(i) On the same terms and conditions as originally agreed upon with the service provider before the termination or suspension, if the service member was in active service no longer than twelve consecutive months; or

(ii) On the same terms and conditions that have been offered by the provider to any consumer at the lowest discounted or promotional rate within the previous twelve-month period immediately before termination of the service member's active service, if the service member was in active service longer than twelve consecutive months.

(b) Upon receipt of the written notice of reinstatement, the service provider must resume the provision of services or, if the services are no longer available, provide substantially similar services within a reasonable period of time not to exceed thirty days from the date of receipt of the written notice of reinstatement.

(5) A service member who terminates, suspends, or reinstates the provision of services under this section:

(a) May not be charged a penalty, fee, loss of deposit, or any other additional cost because of the termination, suspension, or reinstatement; and

(b) Is not liable for payment for any services after the effective date of the termination or suspension, or until the effective date of a reinstatement of services as described in subsection (4) of this section.

(6) A service member may terminate a contract for any service provided by a commercial mobile radio services provider in accordance with 50 U.S.C. Sec. 3956.

(7) Civil proceedings to enforce this section may be brought by the attorney general against any person that:

(a) Engages in a pattern or practice of violating this section; or

(b) Engages in a violation of this section that raises an issue of significant public importance.

(8) In a civil action commenced under subsection (7)(a) of this section, the court may:

(a) Grant any appropriate equitable or declaratory relief with respect to the violation of this section;

(b) Award all other appropriate relief, including monetary damages, to any person aggrieved by the violation; and

(c) May, to vindicate the public interest, assess a civil penalty:

(i) In an amount not exceeding fifty-five thousand dollars for a first violation; and

(ii) In an amount not exceeding one hundred ten thousand dollars for any subsequent violation.

(9) The legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(10) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Active service" means a service member who is:

(i) Under a call to active service authorized by the president of the United States or the secretary of defense under either Title 10 or Title 32 of the United States Code for a period of more than thirty consecutive days; or

(ii) Under a call to active state service authorized by the governor under RCW 38.08.040 for a period of more than thirty consecutive days.

(b) "Service member" means any United States military active or reserve component member, or any Washington national guard member.

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