
SENATE BILL 5518

State of Washington

52nd Legislature

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By Senators Thorsness, Sutherland, Patterson, Jesernig, Stratton and Roach; by request of Attorney General.

Read first time February 4, 1991. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to telephone information delivery services;
2 amending RCW 80.36.500; and adding a new chapter to Title 19 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
5 deceptive use of pay-per-call information delivery services is a matter
6 vitally affecting the public interest for the purpose of applying the
7 Consumer Protection Act, chapter 19.86 RCW.

8 (2) The deceptive use of pay-per-call information delivery services
9 is not reasonable in relation to the development and preservation of
10 business. A violation of this chapter is an unfair or deceptive act in
11 trade or commerce for the purpose of applying the Consumer Protection
12 Act, chapter 19.86 RCW, and constitutes an act of deceptive pay-per-
13 call information delivery service.

14 (3) This chapter applies to a communication made by a person in
15 Washington or to a person in Washington.

1 NEW SECTION. **Sec. 2.** Unless the context clearly requires
2 otherwise, the definitions in this section apply throughout this
3 chapter.

4 (1) "Person" means an individual, corporation, the state or its
5 subdivisions or agencies, business trust, estate, trust, partnership,
6 association, cooperative, or any other legal entity.

7 (2) "Information delivery services" means telephone-recorded
8 messages, interactive programs, or other information services that are
9 provided for a charge to a caller through an exclusive telephone number
10 prefix or area code.

11 (3) "Information provider" means the person who provides the
12 information, prerecorded message, or interactive program for the
13 information delivery service. The information provider generally
14 receives a portion of the revenue from the calls.

15 (4) "Interactive program" means a program that allows an
16 information delivery service caller, once connected to the information
17 provider's delivery service, to use the caller's telephone device to
18 access more specific information or further information.

19 (5) "Telecommunications company" includes every corporation,
20 company, association, joint stock association, partnership, and person,
21 their lessees, trustees, or receivers appointed by any court
22 whatsoever, and every city or town owning, operating, or managing any
23 facilities used to provide telecommunications for hire, sale, or resale
24 to the general public within the state of Washington.

25 (6) "Interexchange carrier" means a carrier registered with the
26 federal communications commission that is authorized to carry customer
27 transmissions between local access and transport areas interstate or
28 intrastate.

1 (7) "Billing services" means billing and collection services
2 provided to information providers whether by the local exchange company
3 or the interexchange carrier.

4 (8) "Program message" means the information that a caller hears or
5 receives upon placing a call to an information provider.

6 (9) "Advertisement" includes all radio, television, or other
7 broadcast, video, newspaper, magazine, or publication, billboard,
8 direct mail, print media, telemarketing, or any promotion of an
9 information delivery service, program, or number, and includes
10 brochures, pamphlets, fliers, coupons, promotions, or the labeling of
11 products or in-store communications circulated or distributed in any
12 manner whatsoever.

13 (10) "Subscriber" means the person in whose name an account is
14 billed.

15 (11) "Does business in Washington" includes providing information
16 delivery services to Washington citizens, advertising information
17 delivery services in Washington, entering into a contract for billing
18 services in Washington, entering into a contract in Washington with a
19 telecommunications company or interexchange carrier for transmission
20 services, or having a principal place of business in Washington.

21 NEW SECTION. **Sec. 3.** When the classification of service under
22 which an information provider is to be served by a telecommunications
23 company requires that the service must be taken for a specified minimum
24 period, a contract must be executed between a telecommunications
25 company and the information provider. A contract with an information
26 provider must require that the information provider comply with
27 sections 5 through 8 of this act.

1 NEW SECTION. **Sec. 4.** A contract executed between an
2 information provider that does business in Washington and an
3 interexchange carrier, providing for billing services or the carrying
4 of transmissions between local access and transport areas interstate or
5 intrastate, must require that the information provider comply with
6 sections 5 through 8 of this act.

7 NEW SECTION. **Sec. 5.** An information provider that does
8 business in Washington must include a preamble in its program messages
9 that:

10 (1) In the case of programs with a set price per call:

11 (a) Describes the service that will be provided by the program;

12 (b) Advises the caller of the price of the call; and

13 (c) States that the caller has three seconds from the end of the
14 preamble to hang up without incurring a charge for the call;

15 (2) In the case of interactive programs:

16 (a) Describes the service that will be provided by the program;

17 (b) Advises the caller of the average price and length of the call,
18 or if the average length and price of the call cannot reasonably be
19 determined, the total length of any prerecorded messages contained in
20 the call and the total cost that will result from listening to the
21 prerecorded messages; and

22 (c) States that the caller has three seconds from the end of the
23 preamble to hang up without incurring a charge;

24 (3) Is clearly articulated, at a volume equal to that of the
25 program message, in plain English or the language used to promote the
26 information delivery service, and spoken in a normal cadence.

1 (4) The price or cost of the information delivery service must be
2 disclosed in advertisements as set forth in subsections (1) through (3)
3 of this section, and must represent the total cost of placing the call
4 to the information delivery service. The statement of a price per
5 minute is not sufficient disclosure under this chapter, except under
6 the following conditions:

7 (a) If the advertised call is interactive, in that the caller is
8 communicating on the call and thereby affecting the length of the call,
9 and the flat rate or number of minutes a call will last cannot be
10 determined, the advertisement must include, along with disclosure of a
11 price per minute, a projection of the average total price of the call;

12 (b) If a projection of the average length or total price of the
13 call cannot reasonably be made, the advertisement must disclose, along
14 with disclosure of a price per minute, the total length of any
15 prerecorded messages contained in the call, and the total cost that
16 will result from listening to the prerecorded messages.

17 NEW SECTION. **Sec. 7.** An information provider that does
18 business in the state of Washington shall not provide information
19 delivery services directed at children under the age of twelve years.

20 NEW SECTION. **Sec. 8.** An information provider that does
21 business in the state of Washington shall not direct information
22 delivery services to children under the age of eighteen years unless
23 the information provider complies with the following provisions:

24 (1) Interactive calls where children under the age of eighteen
25 years can speak to others are prohibited.

26 (2) Programs where children under the age of eighteen years are
27 asked to provide their names, addresses, telephone numbers, or other
28 identifying information are prohibited.

1 (3) Advertisements for information delivery services that are
2 directed to children under the age of eighteen years may not contain
3 imperative language, including but not limited to language such as
4 "call now" or "you must call."

5 (4) Advertisements for information delivery services that are
6 directed to children under the age of eighteen years must contain a
7 message that states that children under the age of eighteen years must
8 obtain parental consent before placing a call to the advertised number.

9 NEW SECTION. **Sec. 9.** (1) An information provider's failure to
10 comply with any of the provisions of sections 5 through 8 of this act
11 is a defense to the nonpayment of charges accrued as a result of using
12 the information provider's services, billed by any entity, including
13 but not limited to telecommunications companies and interexchange
14 carriers.

15 (2) Each time a subscriber is billed for information provider
16 services by a telecommunications company or interexchange carrier, the
17 bill must include the following statement, printed clearly and
18 conspicuously in direct proximity to the charges for information
19 delivery services:

20 "Long distance and local telephone service cannot be disconnected
21 for nonpayment of charges made for pay-per-call information delivery
22 services. A violation of Washington's law regarding information
23 delivery services (chapter 19.-- RCW (sections 1 through 10 of this
24 act)) may constitute a defense to nonpayment of those charges."

25 NEW SECTION. **Sec. 10.** A person who suffers damage from a
26 violation of this chapter may bring an action against an information
27 provider. In an action alleging a violation of this chapter, the court
28 may award the greater of three times the actual damages sustained by

1 the person or five hundred dollars; equitable relief, including but not
2 limited to an injunction and restitution of money and property;
3 attorneys' fees and costs; and any other relief that the court deems
4 proper. For purposes of this section, a telecommunications company or
5 interexchange carrier is a person.

6 **Sec. 11.** RCW 80.36.500 and 1988 c 123 s 2 are each amended to read
7 as follows:

8 (1) As used in this section:

9 (a) "Information delivery services" means telephone recorded
10 messages, interactive programs, or other information services that are
11 provided for a charge to a caller through an exclusive telephone number
12 prefix or area code.

13 (b) "Information providers" means the persons or corporations that
14 provide the information, prerecorded message, or interactive program
15 for the information delivery service. The information provider
16 generally receives a portion of the revenue from the calls.

17 (c) "Interactive program" means a program that allows an
18 information delivery service caller, once connected to the information
19 provider's announcement machine, to use the caller's telephone device
20 to access more specific information.

21 (2) The utilities and transportation commission shall by rule
22 require any local exchange company that offers information delivery
23 services to a local telephone exchange to provide each residential
24 telephone subscriber the opportunity to block access to all information
25 delivery services offered through the local exchange company. The rule
26 shall take effect by October 1, 1988.

27 (3) All costs of complying with this section shall be borne by the
28 information providers.

1 (4) The local exchange company shall inform subscribers of the
2 availability of the blocking service through a bill insert and by
3 publication in a local telephone directory.

4 NEW SECTION. **Sec. 12.** Sections 1 through 10 of this act
5 constitute a new chapter in Title 19 RCW.