

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2ZZ as follows:

6 (815 ILCS 505/2ZZ new)

7 Sec. 2ZZ. Wireless telephones and contracts.

8 (a) This Section may be cited as the Cell Phone Lemon Law.

9 (b) As used in this Section:

10 "Wireless telephone" means a telephone that operates
11 without a physical wireline connection to the provider's
12 equipment. The term includes, but is not limited to, cellular
13 and mobile telephones.

14 "Wireless telephone service provider" includes a wireless
15 telephone service provider and its dealers, distributors, and
16 agents.

17 (c) This Section applies to any retail sale of a new
18 wireless telephone on or the effective date of this amendatory
19 Act of the 95th General Assembly to a consumer in this State by
20 a wireless telephone service provider in conjunction with a
21 contract for wireless telephone service.

22 (d) If, within the period of a contract for wireless
23 telephone service, the wireless telephone sold in conjunction

1 with a contract for wireless telephone service requires repair
2 or replacement on 3 or more occasions, the consumer may, in
3 lieu of having the telephone repaired or replaced on the third
4 or subsequent occasion, choose either of the following options:

5 (1) The consumer may choose to cancel the contract for
6 wireless telephone service without paying any early
7 termination fee, penalty, or charge.

8 (2) The consumer may elect to upgrade or downgrade his
9 or her telephone. If the consumer chooses to upgrade his or
10 her telephone, then the consumer shall pay the difference
11 between the price of his or her current telephone and the
12 "best promotional price" of the telephone to which he or
13 she is upgrading. If the consumer chooses to downgrade his
14 or her telephone, then the consumer shall receive a credit
15 for the difference between the price of his or her current
16 telephone and the "best promotional price" of the telephone
17 to which he or she is downgrading. If the consumer chooses
18 the option of downgrading or upgrading his or her
19 telephone, the consumer must be allowed to do so without
20 the action automatically renewing his or her contract for
21 wireless telephone service or extending it. The consumer
22 must be allowed to change his or her telephone and continue
23 with his or her current contract.

24 (e) The wireless telephone service provider shall give a
25 consumer a written statement of the consumer's rights under
26 this Section when a sale is made to which this Section applies.

1 (f) This Section does not apply to any repair to or
2 replacement of a phone that was damaged or failed to work
3 properly as a result of some action by the consumer. The types
4 of damage creating an inference of consumer action include, but
5 are not limited to, the following: equipment showing signs of
6 water (or other liquid) damage; equipment showing signs of
7 physical impact; a scratched or broken casing; forced
8 components or buttons; and other external damage.

9 (g) This Section does not apply to the quality or lack of
10 services, including, but not limited to, cellular or other
11 subscribed services available to the consumer, contractually
12 agreed upon rates, and equipment compatibility issues.

13 (h) A person who violates this Section commits an unlawful
14 practice within the meaning of this Act.