



Consumer Protection Committee

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LRB096 04149 MJR 23120 a

1 AMENDMENT TO HOUSE BILL 728

2 AMENDMENT NO. _____. Amend House Bill 728 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Calling Card Consumer Protection Act.

6 Section 5. Findings. The General Assembly finds that:

7 (1) the prepaid telephone calling card industry in the
8 United States is plagued by fraudulent and deceptive business
9 practices; and

10 (2) the necessary protections relating to prepaid
11 telephone calling cards must ensure that all advertising is
12 truthful, accurate, and reasonably discloses the terms and
13 conditions of prepaid telephone calling cards and prepaid
14 telephone calling services.

15 Section 10. Definitions. As used in this Act:

1 "Prepaid telephone calling service provider" means any
2 entity, corporation, company, association, firm, partnership,
3 or person providing prepaid telephone calling service to the
4 public using its own, or a resold telecommunications network or
5 voice over Internet technology.

6 "Prepaid telephone calling service" or "service" means any
7 prepaid telecommunications service that allows consumers to
8 originate calls through a local, long distance, or toll-free
9 access number and authorization code, whether manually or
10 electronically dialed. "Prepaid telephone calling service" or
11 "service" does not include any service that provides access to
12 a wireless telecommunications service account wherein the
13 purchaser has a pre-existing relationship with the wireless
14 service provider or establishes a carrier-customer
15 relationship via the purchase of the object.

16 "Prepaid telephone calling card" or "card" means any right
17 of use purchased for a sum certain that contains an access
18 number and authorization code that enables a consumer to use a
19 prepaid telephone calling service. The rights of use may be
20 embodied on a card or other physical object or may be purchased
21 by an electronic or telephonic means through which the
22 purchaser obtains access numbers and authorization codes that
23 are not physically located on a card, its packaging, an
24 Internet website, or other promotional materials. "Prepaid
25 telephone calling card" or "card" does not include cards or
26 other rights of use that provide access to any of the

1 following:

2 (1) a telecommunications service wherein the card or
3 other rights of use and telecommunications service are
4 provided for free or at no additional charge as a
5 promotional item accompanying a product or service
6 purchased by a consumer; or

7 (2) a wireless telecommunications service account
8 wherein the purchaser has a pre-existing relationship with
9 the wireless service provider or establishes a
10 carrier-customer relationship via the purchase of the
11 object.

12 "Prepaid telephone calling card distributor" means any
13 entity, corporation, company, association, firm, partnership,
14 or person that purchases prepaid telephone calling cards from a
15 prepaid telephone calling card provider or distributor and
16 sells, re-sells, issues, or distributes cards to one or more
17 distributors of such cards or to one or more retail sellers of
18 cards. "Prepaid telephone calling card distributor" does not
19 include any retail merchants or sellers of prepaid telephone
20 calling cards exclusively engaged in point-of-sale
21 transactions with end-user customers.

22 Section 15. Required disclosures of prepaid telephone
23 calling cards or services.

24 (a) Any prepaid telephone calling service provider or
25 prepaid telephone calling card distributors shall disclose all

1 of the following information relating to the terms and
2 conditions of the prepaid telephone calling card or service:

3 (1) The total value in dollars or the number of calling
4 minutes available of the prepaid telephone calling card or
5 service at the time of purchase.

6 (2) The total value in dollars or the number of calling
7 minutes charged or deducted specifically for the use of the
8 card on a payphone. The prepaid telephone calling service
9 provider or prepaid telephone calling service distributor
10 shall separately state the total value in dollars or the
11 number of calling minutes charged or deducted for any of
12 the following:

13 (A) for the amount of money paid by the prepaid
14 calling service provider to the payphone service
15 provider for the use of the payphone; and

16 (B) by the prepaid telephone calling service
17 provider in addition to those in provision (A) of this
18 item (2) for the use of the card on the payphone.

19 (3) The name of the prepaid telephone calling service
20 provider.

21 (4) The prepaid telephone calling service provider's
22 customer service telephone number and hours of service.

23 (b) The location of the disclosure and language requirement
24 shall be as follows:

25 (1) In the case of a prepaid telephone calling card,
26 the disclosures required under subsection (a) of this

1 Section shall be printed in plain English language in a
2 clear and conspicuous location on the prepaid telephone
3 calling card or its packaging. If the card is enclosed in
4 opaque packaging, the disclosures shall be printed on the
5 outside packaging of the card.

6 (2) In the case of a prepaid telephone calling service
7 that consumers access and purchase via the Internet, the
8 disclosures required under subsection (a) of this Section
9 shall be displayed in plain English language in a clear and
10 conspicuous location on the Internet site that the consumer
11 must access prior to purchasing the service.

12 (3) The disclosures required under subsection (a) of
13 this Section shall also be printed on any advertising for
14 the prepaid telephone calling card or service, including on
15 any signs for display by retail merchants, any promotional
16 emails, any Internet site used to promote the card or
17 service, and on any other promotional material.

18 (4) If a language other than English is predominantly
19 used on a prepaid telephone calling card, its packaging, or
20 in point of sale advertising, or promotional material of a
21 prepaid telephone calling card or prepaid telephone
22 calling service, then the disclosures required by this
23 Section shall be disclosed in that language on the card,
24 packaging, advertisement, or promotional material.

25 Section 20. Unlawful conduct related to prepaid telephone

1 calling cards.

2 (a) It shall be a violation of the Consumer Fraud and
3 Deceptive Business Practices Act for any prepaid telephone
4 calling service provider or prepaid telephone calling card
5 distributor to assess any fee associated with the prepaid
6 telephone calling card or prepaid telephone calling service, or
7 impose any charge for any permitted use of the prepaid
8 telephone calling card or prepaid telephone calling service if
9 the fee or charge is not disclosed as required under Section 15
10 of this Act.

11 (b) It shall be a violation of the Consumer Fraud and
12 Deceptive Business Practices Act for any prepaid telephone
13 calling service provider to provide fewer minutes than the
14 number of minutes promoted or advertised on any prepaid
15 telephone calling card, any point of sale material relating to
16 the card or the other advertising related to any prepaid
17 telephone calling card or service. Any limitation on the period
18 of time for which the displayed, promoted, or advertised
19 minutes will be available to the customer shall be
20 conspicuously displayed on the card, packaging, and
21 promotional material that lists the minutes, consistent with
22 Section 15 of this Act.

23 (c) It shall be a violation of the Consumer Fraud and
24 Deceptive Business Practices Act for any prepaid telephone
25 calling card distributor to distribute any prepaid telephone
26 calling card that the distributor knows that the prepaid

1 telephone calling card provides fewer minutes than the number
2 of minutes promoted or advertised on any prepaid telephone
3 calling card, any point of sale material relating to such card,
4 any voice prompt indicating the number of minutes available, or
5 other advertising relating to any prepaid telephone calling
6 card or service. Any limitations on the period of time for
7 which the displayed, promoted, or advertised minutes will be
8 available to the customer shall be conspicuously displayed on
9 the card, packaging, and promotional material that lists the
10 minutes, consistent with Section 15 of this Act.

11 (d) It shall be a violation of the Consumer Fraud and
12 Deceptive Business Practices Act for any prepaid telephone
13 calling service provider to provide fewer minutes than the
14 number of minutes promoted or advertised through any voice
15 prompt given to a customer at the time the customer places a
16 call to a dialed destination with the prepaid telephone calling
17 card or service.

18 (e) It shall be a violation of the Consumer Fraud and
19 Deceptive Business Practices Act for any prepaid telephone
20 calling card distributor to distribute prepaid telephone
21 calling cards that it knows provide fewer minutes than the
22 number of minutes promoted or advertised through any voice
23 prompt given to a customer at the time the customer places a
24 call to a dialed destination with the prepaid telephone calling
25 card or service.

26 (f) Unless a different expiration date is clearly disclosed

1 pursuant to the disclosure requirements under Section 15 of
2 this Act, it shall be unlawful for any prepaid telephone
3 calling service provider or prepaid telephone calling card
4 distributor to provide, issue, resell, or distribute a prepaid
5 telephone calling card or service that expires (i) less than 1
6 year from the date on which the card or service is first used;
7 or (ii) in the case of a prepaid telephone calling card or
8 service that permits the consumer to purchase additional usage
9 minutes or add additional value to the card or service, less
10 than 1 year from the date on which the consumer last purchased
11 additional usage minutes or added additional value to the card
12 or service.

13 (g) It shall be a violation of the Consumer Fraud and
14 Deceptive Business Practices Act for any prepaid telephone
15 calling service provider or service to assess any fee or charge
16 for any unconnected telephone call. For purposes of this
17 subsection (g), a telephone call shall not be considered
18 connected if the person placing the call receives a busy signal
19 or if the call is unanswered.

20 (h) Liability under this Section may not be avoided by
21 stating that the displayed, promoted, or advertised minutes are
22 subject to fees or charges, or by utilizing other disclaimers
23 or limitations.

24 (i) A violation of this Section is an unlawful practice
25 within the meaning of the Consumer Fraud and Deceptive Business
26 Practices Act.

1 Section 90. The Consumer Fraud and Deceptive Business
2 Practices Act is amended by changing Sections 2Z and 2TT as
3 follows:

4 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

5 Sec. 2Z. Violations of other Acts. Any person who knowingly
6 violates the Automotive Repair Act, the Automotive Collision
7 Repair Act, the Home Repair and Remodeling Act, the Dance
8 Studio Act, the Physical Fitness Services Act, the Hearing
9 Instrument Consumer Protection Act, the Illinois Union Label
10 Act, the Job Referral and Job Listing Services Consumer
11 Protection Act, the Travel Promotion Consumer Protection Act,
12 the Credit Services Organizations Act, the Automatic Telephone
13 Dialers Act, the Pay-Per-Call Services Consumer Protection
14 Act, the Telephone Solicitations Act, the Illinois Funeral or
15 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
16 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
17 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
18 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
19 Act, the Payday Loan Reform Act, subsection (a) or (b) of
20 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
21 Act, the Internet Caller Identification Act, paragraph (6) of
22 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
23 Section 18d-115, 18d-120, 18d-125, 18d-135, or 18d-150 of the
24 Illinois Vehicle Code, Article 3 of the Residential Real

1 Property Disclosure Act, the Automatic Contract Renewal Act,
2 the Calling Card Consumer Protection Act, or the Personal
3 Information Protection Act commits an unlawful practice within
4 the meaning of this Act.

5 (Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280,
6 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,
7 eff. 1-1-08; 95-562, eff. 7-1-08; 95-876, eff. 8-21-08.)

8 (815 ILCS 505/2TT)

9 Sec. 2TT. Prepaid calling service.

10 (a) For purposes of this Section, the terms "Prepaid
11 Calling Service", "Prepaid Calling Service Provider", "Prepaid
12 Calling Service Retailer", and "Prepaid Calling Service
13 Reseller" shall have the same definitions as those in Sections
14 13-230, 13-231, 13-232, and 13-233, respectively, of the Public
15 Utilities Act.

16 For the purposes of this Section, "international preferred
17 destination" means a prepaid calling service that advertises a
18 specific international destination either on the card, the
19 packaging material accompanying the card, or through an
20 offering of sale of the service.

21 (b) On and after July 1, 2005, it is an unlawful practice
22 under this Act for any prepaid calling service provider or
23 prepaid calling service reseller to sell or offer to sell
24 prepaid calling service to any prepaid calling service retailer
25 unless the prepaid calling service provider has applied for and

1 received a Certificate of Prepaid Calling Service Provider
2 Authority from the Illinois Commerce Commission pursuant to the
3 Public Utilities Act and the prepaid calling service provider
4 or prepaid calling service reseller shows proof of the prepaid
5 calling service provider's Certificate of Prepaid Calling
6 Service Provider Authority to the prepaid calling service
7 retailer.

8 (c) On and after July 1, 2005, it is an unlawful practice
9 under this Act for any prepaid calling service retailer to sell
10 or offer to sell prepaid calling service to any consumer unless
11 the prepaid calling service retailer retains proof of
12 certification of the prepaid calling service provider by the
13 Illinois Commerce Commission pursuant to the Public Utilities
14 Act. The prepaid calling service retailer must retain proof of
15 certification for one year or the duration of the contract with
16 the reseller, whichever is longer. A prepaid calling service
17 retailer with multiple locations selling prepaid calling cards
18 under contract with a prepaid calling service provider may keep
19 the certification at a central location provided, however, that
20 the prepaid calling service retailer make a copy of the
21 certification available upon reasonable request within 48
22 hours.

23 (d) On and after July 1, 2005, no prepaid calling service
24 provider or prepaid calling service reseller shall sell or
25 offer to sell prepaid calling service, as those terms are
26 defined in Article XIII of the Public Utilities Act, to any

1 Illinois consumer, either directly or through a prepaid calling
2 service retailer, unless the following disclosures are made
3 clearly and conspicuously:

4 (1) At a minimum, the following terms and conditions
5 shall be disclosed clearly and conspicuously on the prepaid
6 calling card, if applicable:

7 (A) the full name of the Prepaid Calling Service
8 Provider as certificated by the Illinois Commerce
9 Commission;

10 (B) the toll-free customer service number, and if
11 such service is not provided 24 hours per day, 7 days
12 per week, then the hours of service;

13 (C) an access number that is toll-free or a number
14 local to the prepaid calling retailer; and

15 (D) the refund policy or a statement that the
16 refund policy is located on the packaging materials.

17 (2) At a minimum, all the material terms and conditions
18 pertaining to the specific prepaid calling card shall be
19 disclosed in plain English clearly and conspicuously on the
20 prepaid calling card, on the packaging materials
21 accompanying the prepaid calling card, or visibly
22 displayed at the point of sale, including, but not limited
23 to, the following, if applicable:

24 (A) the value of the card in minutes or the
25 domestic rate per minute of the card;

26 (B) all surcharges, limitations on the use of

1 minutes available, and fees applicable to the use of
2 the domestic prepaid calling service;

3 (C) all applicable rates for international
4 preferred destinations;

5 (D) all applicable surcharges and fees for
6 international preferred destinations;

7 (E) a disclosure statement indicating that all
8 rates, surcharges, and fees applicable to
9 international calls are available through the
10 toll-free customer service number and a statement
11 disclosing if international rates vary from domestic
12 rates; ~~and~~

13 (F) the expiration policy; ~~and~~

14 (G) applicable policies relating to refund,
15 recharge, decrement, and expiration. If the card is
16 enclosed in opaque packaging, then the disclosures
17 shall be printed on the outside of the packing of the
18 card.

19 (3) At a minimum, the following information shall be
20 disclosed clearly and conspicuously and accurately through
21 the toll-free customer service telephone number through
22 which the customer is able to speak with a live customer
23 service representative:

24 (A) the Illinois Commerce Commission certificate
25 number of the Prepaid Calling Service Provider;

26 (B) all applicable rates, terms, surcharges, and

1 fees for domestic and international calls;

2 (C) all information necessary to determine the
3 cost of a given call;

4 (D) the balance of use in the consumer's account;
5 and

6 (E) the applicable expiration date or period.

7 (4) In the case of a prepaid calling service that
8 consumers access and purchase via the Internet, the
9 disclosures required under this subsection (d) shall be
10 displayed in plain English language in a clear and
11 conspicuous location, including conspicuous instructions
12 and directions to any link to such disclosures, on the
13 Internet site that the consumer must access prior to
14 purchasing service.

15 (5) With respect to prepaid calling service, the
16 disclosures required in this subsection (d) shall also be
17 printed on any signs for display by retail merchants and on
18 any other promotional material used at the point of sale
19 that is prepared by, or at the direction of, a prepaid
20 calling service provider, prepaid calling service
21 reseller, or prepaid calling service retailer.

22 (6) If a language other than English is predominately
23 used on a prepaid telephone calling card or its packaging
24 or in point of sale advertising or promotional material of
25 a prepaid calling service provider, prepaid calling
26 service reseller, or prepaid calling service retailer,

1 then the disclosures required by this Section shall be
2 disclosed in that language on the card, packaging,
3 advertisement, or promotional material.

4 (e) It shall be a violation of this Act for any prepaid
5 calling service provider, prepaid calling service reseller, or
6 prepaid calling service retailer to assess any fee associated
7 with the prepaid telephone calling card or prepaid telephone
8 calling service, or impose any charge for any permitted use of
9 the prepaid telephone calling card or prepaid telephone calling
10 service if the fee or charge is not disclosed as required under
11 subsection (d) of this Section.

12 (f) Except with regard to lawful charges or deductions that
13 are fully disclosed prior to purchase, it shall be a violation
14 of this Act for any prepaid calling service provider, prepaid
15 calling service reseller, or prepaid calling service retailer
16 to provide fewer minutes than the number of minutes promoted or
17 advertised on any prepaid telephone calling card, any point of
18 sale material relating to the card, or the other advertising
19 related to any prepaid telephone calling card or service. Any
20 limitation on the period of time for which the displayed,
21 promoted, or advertised minutes will be available to the
22 customer shall be conspicuously displayed on the card,
23 packaging, and promotional material that lists the minutes, and
24 be consistent with subsection (d) of this Section.

25 (g) It shall be a violation of this Act for any prepaid
26 telephone prepaid calling service provider, prepaid calling

1 service reseller, or prepaid calling service retailer to
2 distribute any prepaid telephone calling card that the prepaid
3 calling service provider, prepaid calling service reseller, or
4 prepaid calling service retailer knows provides fewer minutes
5 than the number of minutes promoted or advertised on any
6 prepaid telephone calling card, any point of sale material
7 relating to such card, any voice prompt indicating the number
8 of minutes available, or other advertising relating to any
9 prepaid telephone calling card or service. Any limitations on
10 the period of time for which the displayed, promoted, or
11 advertised minutes will be available to the customer shall be
12 conspicuously displayed on the card, packaging, and
13 promotional material that lists the minutes, and be consistent
14 with subsection (d) of this Section.

15 (h) It shall be a violation of this Act for any prepaid
16 calling service provider to provide fewer minutes than the
17 number of minutes promoted or advertised through any voice
18 prompt given to a customer at the time the customer places a
19 call to a dialed destination with the prepaid telephone calling
20 card or service.

21 (i) It shall be a violation of this Act for any prepaid
22 calling service reseller or prepaid calling service retailer to
23 distribute prepaid telephone calling cards that it knows
24 provide fewer minutes than the number of minutes promoted or
25 advertised through any voice prompt given to a customer at the
26 time the customer places a call to a dialed destination with

1 the prepaid telephone calling card or service.

2 (j) Unless a different expiration date is clearly disclosed
3 pursuant to the disclosure requirements under subsection (d) of
4 this Section, it shall be unlawful for any prepaid calling
5 service provider, prepaid calling service reseller, or prepaid
6 calling service retailer to provide, issue, resell, or
7 distribute a prepaid telephone calling card or service that
8 expires (i) less than one year after the date on which the card
9 or service is first used or (ii) in the case of a prepaid
10 telephone calling card or service that permits the consumer to
11 purchase additional usage minutes or add additional value to
12 the card or service, less than one year from the date on which
13 the consumer last purchased additional usage minutes or added
14 additional value to the card or service.

15 (k) It shall be a violation of this Act for any prepaid
16 telephone calling service provider to assess any fee or charge
17 for any unconnected telephone call. For purposes of this
18 subsection (k), a telephone call shall not be considered
19 connected if the person placing the call receives a busy signal
20 or if the call is unanswered.

21 (l) Liability under this Section may not be avoided by
22 simply stating that the displayed, promoted, or advertised
23 minutes are subject to fees or charges. A prepaid calling
24 service provider, prepaid calling service reseller, or prepaid
25 calling service retailer shall not be liable for lawful fees,
26 charges, and limitations, including lawful conditions of use,

1 that are disclosed.

2 ~~The disclosures required under this subsection (d) do not~~
3 ~~apply to the recharging of dollars or minutes to a previously~~
4 ~~purchased card allowing prepaid calling service.~~

5 (Source: P.A. 95-331, eff. 8-21-07.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.".