

HB0728



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0728

Introduced 2/6/2009, by Rep. Kevin Joyce

SYNOPSIS AS INTRODUCED:

New Act
815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Creates the Calling Card Consumer Protection Act. Sets forth the findings of the General Assembly. Contains required disclosures for prepaid telephone calling cards and services. Specifies what qualifies as unlawful conduct related to prepaid telephone calling cards and that a violation of specified provisions is an unlawful practice within the meaning of the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB096 04149 MJR 14191 b

A BILL FOR

1 AN ACT concerning utilities.

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

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:

16 "Prepaid telephone calling service provider" means any
17 entity, corporation, company, association, firm, partnership,
18 or person providing prepaid telephone calling service to the
19 public using its own, or a resold telecommunications network or
20 voice over Internet technology.

21 "Prepaid telephone calling service" or "service" means any
22 prepaid telecommunications service that allows consumers to

1 originate calls through a local, long distance, or toll-free
2 access number and authorization code, whether manually or
3 electronically dialed. "Prepaid telephone calling service" or
4 "service" does not include any service that provides access to
5 a wireless telecommunications service account wherein the
6 purchaser has a pre-existing relationship with the wireless
7 service provider or establishes a carrier-customer
8 relationship via the purchase of the object.

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

21 (1) a telecommunications service wherein the card or
22 other rights of use and telecommunications service are
23 provided for free or at no additional charge as a
24 promotional item accompanying a product or service
25 purchased by a consumer; or

26 (2) a wireless telecommunications service account

1 wherein the purchaser has a pre-existing relationship with
2 the wireless service provider or establishes a
3 carrier-customer relationship via the purchase of the
4 object.

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

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

17 (a) Any prepaid telephone calling service provider or
18 prepaid telephone calling card distributors shall disclose all
19 of the following information relating to the terms and
20 conditions of the prepaid telephone calling card or service:

21 (1) The total value in dollars or the number of calling
22 minutes available of the prepaid telephone calling card or
23 service at the time of purchase.

24 (2) A description of any and all terms and conditions
25 pertaining to, and associated with, the use of the prepaid

1 telephone calling service and prepaid telephone calling
2 card, including all fees, limitations on the use of minutes
3 available, and surcharges and applicable policies relating
4 to refund, recharge, decrement, and expiration.

5 (3) The name of the prepaid telephone calling service
6 provider.

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

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

11 (1) In the case of a prepaid telephone calling card,
12 the disclosures required under subsection (a) of this
13 Section shall be printed in plain English language in a
14 clear and conspicuous location on the prepaid telephone
15 calling card or its packaging. If the card is enclosed in
16 opaque packaging, the disclosures shall be printed on the
17 outside packaging of the card.

18 (2) In the case of a prepaid telephone calling service
19 that consumers access and purchase via the Internet, the
20 disclosures required under subsection (a) of this Section
21 shall be displayed in plain English language in a clear and
22 conspicuous location on the Internet site that the consumer
23 must access prior to purchasing the service.

24 (3) The disclosures required under subsection (a) of
25 this Section shall also be printed on any advertising for
26 the prepaid telephone calling card or service, including on

1 any signs for display by retail merchants, any promotional
2 emails, any Internet site used to promote the card or
3 service, and on any other promotional material.

4 (4) If a language other than English is predominantly
5 used on a prepaid telephone calling card, its packaging, or
6 in point of sale advertising, or promotional material of a
7 prepaid telephone calling card or prepaid telephone
8 calling service, then the disclosures required by this
9 Section shall be disclosed in that language on the card,
10 packaging, advertisement, or promotional material.

11 Section 20. Unlawful conduct related to prepaid telephone
12 calling cards.

13 (a) It shall be a violation of the Consumer Fraud and
14 Deceptive Business Practices Act for any prepaid telephone
15 calling service provider or prepaid telephone calling card
16 distributor to assess any fee associated with the prepaid
17 telephone calling card or prepaid telephone calling service, or
18 impose any charge for any permitted use of the prepaid
19 telephone calling card or prepaid telephone calling service if
20 the fee or charge is not disclosed as required under Section 15
21 of this Act.

22 (b) It shall be a violation of the Consumer Fraud and
23 Deceptive Business Practices Act for any prepaid telephone
24 calling service provider to provide fewer minutes than the
25 number of minutes promoted or advertised on any prepaid

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

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

23 (d) It shall be a violation of the Consumer Fraud and
24 Deceptive Business Practices Act for any prepaid telephone
25 calling service provider to provide fewer minutes than the
26 number of minutes promoted or advertised through any voice

1 prompt given to a customer at the time the customer places a
2 call to a dialed destination with the prepaid telephone calling
3 card or service.

4 (e) It shall be a violation of the Consumer Fraud and
5 Deceptive Business Practices Act for any prepaid telephone
6 calling card distributor to distribute prepaid telephone
7 calling cards that it knows provide fewer minutes than the
8 number of minutes promoted or advertised through any voice
9 prompt given to a customer at the time the customer places a
10 call to a dialed destination with the prepaid telephone calling
11 card or service.

12 (f) Unless a different expiration date is clearly disclosed
13 pursuant to the disclosure requirements under Section 15 of
14 this Act, it shall be unlawful for any prepaid telephone
15 calling service provider or prepaid telephone calling card
16 distributor to provide, issue, resell, or distribute a prepaid
17 telephone calling card or service that expires (i) less than 1
18 year from the date on which the card or service is first used;
19 or (ii) in the case of a prepaid telephone calling card or
20 service that permits the consumer to purchase additional usage
21 minutes or add additional value to the card or service, less
22 than 1 year from the date on which the consumer last purchased
23 additional usage minutes or added additional value to the card
24 or service.

25 (g) It shall be a violation of the Consumer Fraud and
26 Deceptive Business Practices Act for any prepaid telephone

1 calling service provider or service to assess any fee or charge
2 for any unconnected telephone call. For purposes of this
3 subsection (g), a telephone call shall not be considered
4 connected if the person placing the call receives a busy signal
5 or if the call is unanswered.

6 (h) Liability under this Section may not be avoided by
7 stating that the displayed, promoted, or advertised minutes are
8 subject to fees or charges, or by utilizing other disclaimers
9 or limitations.

10 (i) A violation of this Section is an unlawful practice
11 within the meaning of the Consumer Fraud and Deceptive Business
12 Practices Act.

13 Section 90. The Consumer Fraud and Deceptive Business
14 Practices Act is amended by changing Section 2Z as follows:

15 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

16 Sec. 2Z. Violations of other Acts. Any person who knowingly
17 violates the Automotive Repair Act, the Automotive Collision
18 Repair Act, the Home Repair and Remodeling Act, the Dance
19 Studio Act, the Physical Fitness Services Act, the Hearing
20 Instrument Consumer Protection Act, the Illinois Union Label
21 Act, the Job Referral and Job Listing Services Consumer
22 Protection Act, the Travel Promotion Consumer Protection Act,
23 the Credit Services Organizations Act, the Automatic Telephone
24 Dialers Act, the Pay-Per-Call Services Consumer Protection

1 Act, the Telephone Solicitations Act, the Illinois Funeral or
2 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
3 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
4 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
5 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
6 Act, the Payday Loan Reform Act, subsection (a) or (b) of
7 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
8 Act, the Internet Caller Identification Act, paragraph (6) of
9 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
10 Section 18d-115, 18d-120, 18d-125, 18d-135, or 18d-150 of the
11 Illinois Vehicle Code, Article 3 of the Residential Real
12 Property Disclosure Act, the Automatic Contract Renewal Act,
13 the Calling Card Consumer Protection Act, or the Personal
14 Information Protection Act commits an unlawful practice within
15 the meaning of this Act.

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

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.