



Rep. John E. Bradley

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09600SB1421ham002

LRB096 04339 MJR 27847 a

1 AMENDMENT TO SENATE BILL 1421

2 AMENDMENT NO. _____. Amend Senate Bill 1421, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Consumer Fraud and Deceptive Business
6 Practices Act is amended by adding Section 2HHH as follows:

7 (815 ILCS 505/2HHH new)

8 Sec. 2HHH. Authorization and verification for product and
9 service charges to be billed on a telephone bill.

10 (a) Definitions. For purposes of this Section:

11 "Billing agent" means any entity that submits charges to
12 the billing carrier on behalf of itself or any service
13 provider.

14 "Billing carrier" means any telecommunications carrier, as
15 defined in Section 13-202 of the Public Utilities Act, that
16 issues a bill directly to a customer for any product or service

1 not provided by a telecommunications carrier.

2 "Service provider" means any entity that offers a product
3 or service to a consumer and that directly or indirectly
4 charges to or collects from a consumer's bill received from a
5 billing carrier an amount for the product or service.

6 (b) This Section does not apply to the provision of
7 services and products by a telecommunications carrier subject
8 to the provisions of Section 13-903 of the Public Utilities
9 Act, by a telecommunications carrier's affiliates, or an
10 affiliated cable or video provider, as that term is defined in
11 Section 22-501 of the Public Utilities Act, or by a provider of
12 public mobile services, as defined in Section 13-214 of the
13 Public Utilities Act.

14 (c) Requirements for submitting charges.

15 (1) A service provider or billing agent may submit
16 charges for a product or service to be billed on a
17 consumer's telephone bill on or after the effective date of
18 this amendatory Act of the 96th General Assembly only if:

19 (A) the service provider offering the product or
20 service has clearly and conspicuously disclosed all
21 material terms and conditions of the product or service
22 being offered, including, but not limited to, all
23 charges; and the fact that the charges for the product
24 or service shall appear on the consumer's telephone
25 bill;

26 (B) after the clear and conspicuous disclosure of

1 all material terms and conditions as described in
2 paragraph (A) of this item (1), the consumer has
3 expressly consented to obtain the product or service
4 offered and to have the charges appear on the
5 consumer's telephone bill and the consent has been
6 verified as provided in item (2) of this subsection
7 (c);

8 (C) the service provider offering the product or
9 service or any billing agent for the service provider
10 has provided the consumer with a toll-free telephone
11 number the consumer may call and an address to which
12 the consumer may write to resolve any billing dispute
13 and to answer questions; and

14 (D) the service provider offering the product or
15 service or the billing agent has taken effective steps
16 to determine that the consumer who purportedly
17 consented to obtain the product or service offered is
18 authorized to incur charges for the telephone number to
19 be billed.

20 (2) The consumer consent required by item (1) of this
21 subsection (c) must be verified by the service provider
22 offering the product or service before any charges are
23 submitted for billing on a consumer's telephone bill. A
24 record of the consumer consent and verification must be
25 maintained by the service provider offering the product or
26 service for a period of at least 24 months immediately

1 after the consent and verification have been obtained. The
2 method of obtaining consumer consent and verification must
3 include one or more of the following:

4 (A) A writing signed and dated by the consumer to
5 be billed that clearly and conspicuously discloses the
6 material terms and conditions of the product or service
7 being offered in accordance with paragraph (A) of item
8 (1) of this subsection (c) and clearly and
9 conspicuously states that the consumer expressly
10 consents to be billed in accordance with paragraph (B)
11 of item (1) of this subsection (c) as follows:

12 (i) if the writing is in electronic form, then
13 it shall contain the consumer disclosures required
14 by Section 101(c) of the federal Electronic
15 Signatures in Global and National Commerce Act;
16 and

17 (ii) the writing shall be a separate document
18 or easily separable document or located on a
19 separate screen or webpage containing only the
20 disclosures and consent described in item (1) of
21 this subsection (c).

22 (B) Third party verification by an independent
23 third party that:

24 (i) clearly and conspicuously discloses to the
25 consumer to be billed all of the information
26 required by paragraph (A) of item (1) of this

1 subsection (c);

2 (ii) operates from a facility physically
3 separate from that of the service provider
4 offering the product or service;

5 (iii) is not directly or indirectly managed,
6 controlled, directed, or owned wholly or in part by
7 the service provider offering the product or
8 service;

9 (iv) does not derive commissions or
10 compensation based upon the number of sales
11 confirmed;

12 (v) tape records the entire verification
13 process, with prior consent of the consumer to be
14 billed; and

15 (vi) obtains confirmation from the consumer to
16 be billed that he or she authorized the purchase of
17 the offered good or service.

18 (C) All verifications must be conducted in the same
19 language that was used in the underlying sales
20 transaction.

21 (3) Unless verification is required by federal law or
22 rules implementing federal law, item (2) of this subsection
23 (c) does not apply to customer-initiated transactions with
24 a certificated telecommunications carrier for which the
25 service provider has the appropriate documentation.

26 (4) This Section does not apply to message

1 telecommunications service charges that are initiated by
2 dialing 1+, 0+, 0-, 1010XXX, or collect calls and charges
3 for video services if the service provider has the
4 necessary records to establish the billing for the call or
5 service.

6 (d) Records of disputed charges.

7 (1) Every service provider or billing agent shall
8 maintain records of every disputed charge for a product or
9 service placed on a consumer's bill.

10 (2) The record required under this subsection (d) shall
11 contain for every disputed charge all of the following:

12 (A) any affected telephone numbers and, if
13 available, addresses;

14 (B) the date the consumer requested that the
15 disputed charge be removed from the consumer's bill;

16 (C) the date the disputed charge was removed from
17 the consumer's telephone bill; and

18 (D) the date action was taken to refund or credit
19 to the consumer any money that the consumer paid for
20 the disputed charges.

21 (3) The record required by this subsection (d) shall be
22 maintained for at least 24 months.

23 (e) Billing agents shall take reasonable steps designed to
24 ensure that service providers on whose behalf they submit
25 charges to a billing carrier comply with the requirements of
26 this Section.

1 (f) Any service provider or billing agent who violates this
2 Section commits an unlawful practice within the meaning of this
3 Act.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".