



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0827

Introduced 2/2/2005, by Rep. James D. Brosnahan - Kevin A. McCarthy - Kevin Joyce - Richard T. Bradley - Dan Reitz

SYNOPSIS AS INTRODUCED:

New Act
815 ILCS 505/2Z

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

Creates the Wireless Telephone Users Consumer Protection Act. Requires wireless telephone service providers to provide the terms of a plan or contract for wireless telephone service and other specified information to consumers before any service is offered and to include the information in a publication and advertising. Provides requirements for extension, modification, or rescission of wireless telephone service contracts. Provides for enforcement by the Illinois Commerce Commission. Allows the Attorney General and State's Attorneys to bring a civil action and obtain injunctive relief to enforce the provisions of the Act. Amends the Consumer Fraud and Deceptive Business Practices Act to make a violation of the Wireless Telephone Users Consumer Protection Act an unlawful practice within the meaning of the Act. Effective immediately.

LRB094 06113 RXD 36176 b

FISCAL NOTE ACT
MAY APPLY

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 1. Short title. This Act may be cited as the
5 Wireless Telephone Users Consumer Protection Act.

6 Section 5. Findings and purposes.

7 (a) The Illinois General Assembly makes the following
8 findings:

9 (1) Consumers rely increasingly on wireless telephone
10 service for personal, business, and emergency
11 communications.

12 (2) Consumers cannot easily compare offers for
13 wireless telephone service because information on terms,
14 pricing, and service plans for such service is not
15 presented in a uniform manner. Current wireless telephone
16 service contracts do not clearly display the information
17 consumers need to make an informed choice regarding a
18 wireless telephone service contract. Consumers may not be
19 aware of the deficiencies in wireless telephone service
20 quality until after they have signed a contract, and
21 exorbitant early termination penalties effectively lock
22 consumers into undesired, long-term contracts.

23 (b) The purposes of this Act are:

24 (1) to improve quality of wireless telephone service;

25 (2) to promote consumer choice in the wireless
26 telephone service market; and

27 (3) to protect consumers rights.

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

29 "Wireless telephone service" means any form of wireless
30 telephone service, including cellular telephone service,
31 broadband Personal Communication Service (PCS) telephone

1 service, Covered Specialized Mobile Radio (SMR) service, and
2 any successor service to such service (including so-called next
3 generation or third generations service).

4 "Wireless telephone service provider" means a
5 telecommunications carrier that provides wireless telephone
6 service in the State of Illinois.

7 Section 15. Disclosure requirements.

8 (a) The Illinois Commerce Commission shall require that
9 providers of wireless telephone service provide to consumers
10 before any service is offered and in any publication, including
11 publication on the Internet, of a wireless telephone service
12 provider the terms of a plan or contract for wireless telephone
13 service. The plan or contract shall set forth, in a plain and
14 conspicuous manner, all of the following information:

15 (1) Information on charges, including calling-from
16 area, monthly base charge, per-minute charges for minutes
17 not included in the plan, charges for the sending or
18 receiving of text messaging, charges for Internet access,
19 charges for photographs or music, and the method of
20 calculating minutes charged.

21 (2) Information on minutes included in the plan,
22 including weekday/daytime, nights/weekends, long-distance,
23 roaming, incoming, and directory assistance.

24 (3) Information on the plan or contract terms,
25 including length of contract, early or other termination
26 fees, trial periods, and start-up fees.

27 (4) Information on taxes to be collected by the carrier
28 for, and paid to, a State, local, or other governmental
29 agency.

30 (5) Information on surcharges imposed by the carrier
31 for the costs of compliance with regulations or for other
32 purposes.

33 (6) Any other information the Illinois Commerce
34 Commission considers appropriate to ensure that consumers
35 of wireless telephone service are fully informed of the

1 terms of the plan or contract.

2 (b) Wireless telephone service providers shall meet the
3 disclosure requirements in this Section in any advertising to
4 the extent the medium allows. Any advertising is also subject
5 to enforcement under the Consumer Fraud and Deceptive Business
6 Practices Act.

7 (c) Not later than 6 months after the effective date of
8 this Act, the Illinois Commerce Commission shall adopt rules
9 requiring that the information required by subsection (a) be
10 published by wireless telephone service providers in a tabular
11 format, in a clear and uniform manner, and in at least 10-point
12 font.

13 Section 20. Contract extension, modification, or
14 rescission.

15 (a) An extension of a contract for wireless telephone
16 service shall not be valid unless the contract is in writing or
17 confirmed in writing within 7 days.

18 (b) A modification to the terms of a contract shall be
19 provided to the consumer in writing. The consumer shall have 30
20 days to cancel the contract without any penalty or other cost
21 to the consumer, except the consumer shall be responsible for
22 the cost of the service used during the time period the
23 contract was in effect.

24 (c) A contract for wireless service and the accompanying
25 phones and accessories may be canceled upon the request of the
26 consumer for any reason during the first 30 days. There shall
27 be no penalty or other costs to the consumer for any
28 cancellation during these 30 days, except the consumer shall be
29 responsible for the cost of the service used during the time
30 period the contract was in effect.

31 Section 25. Privacy of wireless phone numbers.

32 (a) A wireless telephone service provider or any direct or
33 indirect affiliate or agent of such provider shall not disclose
34 a subscribers name or number without the subscribers consent

1 and shall not provide the subscribers name or number for the
2 inclusion in any directory assistance database or other
3 database without the express written consent of that
4 subscriber.

5 (b) This Section does not apply:

6 (1) when a lawful process under State or federal law is
7 issued; or

8 (2) to any law enforcement agency, fire protection
9 agency, public health agency, public environmental health
10 agency, city or county emergency services planning agency,
11 or any agency acting under contract with and at the
12 direction of one or more of these agencies for the purpose
13 of responding to a 911 call or communicating an imminent
14 threat to life or property or other law enforcement
15 purpose.

16 (c) A wireless telephone service provider shall not contact
17 a consumers wireless phone on behalf of a third party for the
18 purpose of providing advertising or promotional messages on
19 behalf of that third party unless the consumer has previously
20 consented to receiving such advertising or promotional
21 messages.

22 Section 30. Provision of information on wireless telephone
23 service coverage and quality to consumers.

24 (a) Each wireless telephone service provider shall make
25 available a map showing the wireless telephone service area of
26 such provider. The map shall contain the maximum practicable
27 level of granularity and shall be updated at least quarterly.

28 The consumer shall be provided with the predicted signal
29 strength and known dead zones at or near the consumers home and
30 business address.

31 A map of the service area of a wireless telephone service
32 provider shall be provided to a consumer (i) upon the request
33 of the consumer and (ii) prior to or whenever a plan or
34 contract for the service is entered into.

35 The service area map shall be available on the Internet web

1 site of the provider concerned.

2 (b) The Illinois Commerce Commission shall monitor the
3 quality of wireless telephone service provided in the State of
4 Illinois by requiring semiannual service quality reports by
5 wireless telephone service providers on the following:

6 (A) Dropped calls.

7 (B) Blocked calls.

8 (C) Known coverage gaps (including average signal
9 strength) or dead zones.

10 (D) Predicted street level signal strength.

11 (E) Any other matters the Commission considers
12 appropriate.

13 The wireless service quality information shall be made
14 public and provided in the format and reported by geographic
15 area as required by the Commission.

16 Section 35. Enforcement.

17 (a) The Illinois Commerce Commission shall have the power
18 and authority to enforce the provisions of this Act as if these
19 provisions were provisions of the Public Utilities Act.

20 (b) The Attorney General and or the State's Attorney may
21 bring a civil action as well as obtain injunctive relief on
22 behalf of the residents of the State in the Circuit Court of
23 the county of appropriate jurisdiction to enforce the
24 provisions of this Act.

25 (c) A person who violates any provision of this Act commits
26 an unlawful practice within the meaning of the Consumer Fraud
27 and Deceptive Business Practices Act.

28 (d) Any person that violates or fails to comply with any
29 provisions of this Act shall be subject to a civil penalty of
30 no more than \$50,000 or 0.00825% of the carrier's gross
31 intrastate annual wireless telecommunications revenue,
32 whichever is greater, for each offense.

33 (e) Notwithstanding any other provision of law, the
34 provisions of this Act are in addition to any other legal
35 remedies available, including those under the Public Utilities

1 Act.

2 Section 90. The Consumer Fraud and Deceptive Business
3 Practices Act is amended by changing Section 2Z as 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 Home Repair and
7 Remodeling Act, the Dance Studio Act, the Physical Fitness
8 Services Act, the Hearing Instrument Consumer Protection Act,
9 the Illinois Union Label Act, the Job Referral and Job Listing
10 Services Consumer Protection Act, the Travel Promotion
11 Consumer Protection Act, the Credit Services Organizations
12 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call
13 Services Consumer Protection Act, the Telephone Solicitations
14 Act, the Illinois Funeral or Burial Funds Act, the Cemetery
15 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery
16 Sales Act, the High Risk Home Loan Act, the Wireless Telephone
17 Users Consumer Protection Act, subsection (a) or (b) of Section
18 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section
19 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act,
20 paragraph (6) of subsection (k) of Section 6-305 of the
21 Illinois Vehicle Code, or the Automatic Contract Renewal Act
22 commits an unlawful practice within the meaning of this Act.

23 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04; 93-950,
24 eff. 1-1-05.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.