

1 AN ACT concerning regulation.

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 2HHH as follows:

6 (815 ILCS 505/2HHH new)

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

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

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

13 "Billing carrier" means any telecommunications carrier, as
14 defined in Section 13-202 of the Public Utilities Act, that
15 issues a bill directly to a customer for any product or service
16 not provided by a telecommunications carrier.

17 "Service provider" means any entity that offers a product
18 or service to a consumer and that directly or indirectly
19 charges to or collects from a consumer's bill received from a
20 billing carrier an amount for the product or service.

21 (b) This Section does not apply to the provision of
22 services and products by a telecommunications carrier subject
23 to the provisions of Section 13-903 of the Public Utilities

1 Act, by a telecommunications carrier's affiliates, or an
2 affiliated cable or video provider, as that term is defined in
3 Section 22-501 of the Public Utilities Act, or by a provider of
4 public mobile services, as defined in Section 13-214 of the
5 Public Utilities Act.

6 (c) Requirements for submitting charges.

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

11 (A) the service provider offering the product or
12 service has clearly and conspicuously disclosed all
13 material terms and conditions of the product or service
14 being offered, including, but not limited to, all
15 charges; and the fact that the charges for the product
16 or service shall appear on the consumer's telephone
17 bill;

18 (B) after the clear and conspicuous disclosure of
19 all material terms and conditions as described in
20 paragraph (A) of this item (1), the consumer has
21 expressly consented to obtain the product or service
22 offered and to have the charges appear on the
23 consumer's telephone bill and the consent has been
24 verified as provided in item (2) of this subsection

25 (c);

26 (C) the service provider offering the product or

1 service or any billing agent for the service provider
2 has provided the consumer with a toll-free telephone
3 number the consumer may call and an address to which
4 the consumer may write to resolve any billing dispute
5 and to answer questions; and

6 (D) the service provider offering the product or
7 service or the billing agent has taken effective steps
8 to determine that the consumer who purportedly
9 consented to obtain the product or service offered is
10 authorized to incur charges for the telephone number to
11 be billed.

12 (2) The consumer consent required by item (1) of this
13 subsection (c) must be verified by the service provider
14 offering the product or service before any charges are
15 submitted for billing on a consumer's telephone bill. A
16 record of the consumer consent and verification must be
17 maintained by the service provider offering the product or
18 service for a period of at least 24 months immediately
19 after the consent and verification have been obtained. The
20 method of obtaining consumer consent and verification must
21 include one or more of the following:

22 (A) A writing signed and dated by the consumer to
23 be billed that clearly and conspicuously discloses the
24 material terms and conditions of the product or service
25 being offered in accordance with paragraph (A) of item
26 (1) of this subsection (c) and clearly and

1 conspicuously states that the consumer expressly
2 consents to be billed in accordance with paragraph (B)
3 of item (1) of this subsection (c) as follows:

4 (i) if the writing is in electronic form, then
5 it shall contain the consumer disclosures required
6 by Section 101(c) of the federal Electronic
7 Signatures in Global and National Commerce Act;
8 and

9 (ii) the writing shall be a separate document
10 or easily separable document or located on a
11 separate screen or webpage containing only the
12 disclosures and consent described in item (1) of
13 this subsection (c).

14 (B) Third party verification by an independent
15 third party that:

16 (i) clearly and conspicuously discloses to the
17 consumer to be billed all of the information
18 required by paragraph (A) of item (1) of this
19 subsection (c);

20 (ii) operates from a facility physically
21 separate from that of the service provider
22 offering the product or service;

23 (iii) is not directly or indirectly managed,
24 controlled, directed, or owned wholly or in part by
25 the service provider offering the product or
26 service;

1 (iv) does not derive commissions or
2 compensation based upon the number of sales
3 confirmed;

4 (v) tape records the entire verification
5 process, with prior consent of the consumer to be
6 billed; and

7 (vi) obtains confirmation from the consumer to
8 be billed that he or she authorized the purchase of
9 the offered good or service.

10 (C) All verifications must be conducted in the same
11 language that was used in the underlying sales
12 transaction.

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

18 (4) This Section does not apply to message
19 telecommunications service charges that are initiated by
20 dialing 1+, 0+, 0-, 1010XXX, or collect calls and charges
21 for video services if the service provider has the
22 necessary records to establish the billing for the call or
23 service.

24 (d) Records of disputed charges.

25 (1) Every service provider or billing agent shall
26 maintain records of every disputed charge for a product or

1 service placed on a consumer's bill.

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

4 (A) any affected telephone numbers and, if
5 available, addresses;

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

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

10 (D) the date action was taken to refund or credit
11 to the consumer any money that the consumer paid for
12 the disputed charges.

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

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

19 (f) Any service provider or billing agent who violates this
20 Section commits an unlawful practice within the meaning of this
21 Act.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.