

ASSEMBLY, No. 2248

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED FEBRUARY 25, 2008

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblywoman SANDRA LOVE

District 4 (Camden and Gloucester)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

SYNOPSIS

Wireless Telephone Consumer Protection Act; establishes certain consumer protections for wireless telephone subscribers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/9/2009)

1 AN ACT concerning wireless telephone service providers,
2 designating the act as “Wireless Telephone Consumer Protection
3 Act,” and supplementing Title 48 of the Revised Statutes.
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. As used in this act:

9 "Act" means the "Wireless Telephone Consumer Protection Act."

10 "Board" means the Board of Public Utilities.

11 "Internet" means the international computer network of both
12 federal and non-federal interoperable packet switched data
13 networks.

14 "Wireless telephone service" means commercial mobile radio
15 service, as defined in 47 U.S.C.s.332(d).

16 "Wireless telephone service provider" or "provider" means any
17 entity that provides wireless telephone service within this State.

18 "Wireless telephone number information" means the telephone
19 number, electronic address and any other identifying information by
20 which a calling party may reach a subscriber to commercial mobile
21 services, and which is assigned by a wireless telephone service
22 provider to such subscriber.
23

24 2. a. Within 180 days following the effective date of this act,
25 the board shall adopt rules and regulations pursuant to the
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.) requiring that any publication, including publication on the
28 Internet, of a wireless telephone service provider concerning the
29 terms of its plans or contracts for wireless telephone service shall
30 set forth, in a plain and conspicuous manner, the following
31 information:

32 (1) Information on charges, including the originating location of
33 the call, monthly base charge, per-minute charges for minutes not
34 included in the plan, and the method of calculating minutes
35 charged;

36 (2) Information on the minutes included in the plan, including
37 allowable minutes during daytime on weekdays, allowable minutes
38 during nights and weekends, or any other differing charges for long-
39 distance, roaming, incoming and directory assistance;

40 (3) Information on plan or contract terms, including length of
41 contract, early or other termination fees, trial periods, and start-up
42 fees;

43 (4) Information on taxes to be collected by the provider for, and
44 paid to, a State, local, or other governmental agency;

45 (5) Information on surcharges imposed by the provider for the
46 costs of compliance with regulations or for other purposes; and

47 (6) Any other information that the board considers appropriate
48 to ensure that consumers of wireless telephone service are fully

1 informed of the terms of the plan or contract.

2 b. Wireless telephone service providers shall provide the
3 information required by this section to a consumer prior to entering
4 into any contract with a consumer for wireless telephone service.

5 c. The board shall adopt rules and regulations directing
6 providers to publish the information required by this section in a
7 tabular format, in a clear and uniform manner, and in at least 10
8 point font. This format shall be designed to ensure that consumers
9 may accurately compare the true cost of services among providers.

10 d. Wireless telephone service providers shall meet the disclosure
11 requirements in this section in advertising to the extent allowed by
12 the advertising medium.

13

14 3. a. Each wireless telephone service provider shall make
15 available maps showing the wireless telephone service area of such
16 provider and the wireless telephone service area of such provider
17 within this State. Such maps shall contain the maximum practicable
18 level of granularity and shall be updated quarterly.

19 b. Each map of a service area required under subsection a. of
20 this section shall be provided to a consumer:

21 (1) upon the request of the consumer; and

22 (2) whenever a plan or contract for the service is entered into.

23 c. Each map of a service area required under subsection a. of
24 this section shall be available:

25 (1) on the Internet website of the provider concerned; and

26 (2) on the Internet website of the board.

27

28 4. a. The board shall monitor the quality of wireless telephone
29 service providers based on the following standards:

30 (1) dropped calls;

31 (2) blocked calls;

32 (3) known coverage gaps (including average signal strength) or
33 dead zones;

34 (4) predicted street level signal strength; and

35 (5) any other matters the board considers appropriate.

36 b. In monitoring the quality of wireless telephone service under
37 subsection a. of this section, the board shall establish an Internet
38 website which allows members of the public to submit their
39 comments and views to the board on the quality of such service.
40 The board shall also accept written complaints by mail.

41 c. The board shall make information available to wireless
42 telephone service providers and the public on a semiannual basis
43 concerning the quality of wireless telephone service provided in this
44 State.

45

46 5. a. An extension of a contract for wireless telephone service
47 shall not be valid unless the extension of the contract is in writing
48 and is signed by the subscriber, or confirmed in writing and signed

1 by the subscriber within seven days of receipt by the subscriber.

2 b. A wireless telephone service provider shall provide
3 subscribers with written notice of any change in rates, terms, or
4 conditions of service at least 30 days before the change is to take
5 effect. If any such change will result in higher rates or more
6 restrictions on service or otherwise will result in a material, adverse
7 change for such subscriber, the subscriber may, within such 30-day
8 period, terminate the service without penalty and receive a pro rata
9 refund of the charges, if any, paid for the handset used for the
10 service. The notice of change shall inform the subscriber of the
11 right to terminate the contract, the right to a handset refund, and the
12 steps to take to implement such a termination.

13 c. A contract for wireless service may be canceled upon the
14 request of the subscriber for any reason during the first 30 days.
15 There shall be no penalty or other costs to the subscriber for any
16 cancellation during these 30 days, except that the subscriber shall
17 be responsible for the cost of the service used during the time
18 period that the contract was in effect.

19
20 6. a. A wireless telephone service provider shall provide bills
21 for wireless telephone services that are clearly organized and
22 clearly describe in plain language the products and services for
23 which charges are imposed, and that conform to format standards
24 established by the board.

25 b. Taxes and fees which are required by federal, State, or local
26 statute or regulation to be collected from the subscriber shall be set
27 forth in a separate section of the bill and shall be itemized
28 separately. This section of the bill shall only contain charges that
29 the provider is required to be recover from subscribers pursuant to
30 federal, State or local statute or regulation.

31 c. Roaming or off-network charges shall be itemized on the
32 subscriber's bill within 60 days of the call being placed, and such
33 roaming or off-network charges shall identify the date and
34 originating location of the call.

35 d. Upon the request of a subscriber, a wireless telephone service
36 provider shall provide an itemized bill to the subscriber at no cost to
37 the subscriber.

38 e. Charges associated with the use of wireless telephone
39 equipment or services shall not be the liability of the subscriber if
40 such use was unauthorized by the subscriber due to loss or theft,
41 provided that such loss or theft is promptly reported to the wireless
42 telephone service provider.

43 f. The board shall adopt rules and regulations pursuant to the
44 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
45 seq.) implementing this section and establishing such procedures as
46 may be necessary to allow subscribers to file complaints with the
47 board with regard to billing disputes between wireless telephone
48 service providers and subscribers.

1 g. A wireless telephone service provider shall refrain from
2 terminating a subscriber's service for nonpayment so long as the
3 subscriber's billing complaint is pending before the board and for 15
4 days thereafter, or for such period as the board for good cause shall
5 establish, provided that as a condition of continued service during
6 the pendency of any such dispute, the subscriber shall pay the
7 undisputed portions of any bill for service and any amounts the
8 board determines are necessary to fairly compensate the wireless
9 telephone provider for services rendered while the complaint is
10 pending and 15 days thereafter.

11

12 7. a. A wireless telephone service provider, or any direct or
13 indirect affiliate or agent of a provider, providing the name and
14 wireless telephone number information of a subscriber for inclusion
15 in any directory of any form, or selling, leasing, licensing or sharing
16 the contents of any directory database, or any portion or segment
17 thereof, shall not include the wireless telephone number information
18 of any subscriber without first obtaining the express consent of that
19 subscriber. The provider's form for obtaining the subscriber's
20 express consent shall meet all of the following requirements:

21 (1) it shall be a separate document that is not attached to any
22 other document;

23 (2) it shall be signed and dated by the subscriber;

24 (3) it shall be unambiguous and legible, and shall conspicuously
25 disclose that, by signing the form, the subscriber consents to having
26 the subscriber's wireless telephone number information sold or
27 licensed as part of a list of subscribers and having the subscriber's
28 wireless telephone number information included in a publicly
29 available directory; and

30 (4) if under the subscriber's calling plan the subscriber may be
31 billed for receiving unsolicited calls or text messaging from a
32 telemarketer, the provider's form shall be unambiguous and legible,
33 and shall conspicuously disclose that, by consenting to have the
34 subscriber's wireless telephone number information sold or licensed
35 as part of a list of subscribers or to be included in a publicly
36 available directory, the subscriber may incur additional charges for
37 receiving unsolicited calls or text messages.

38 b. A subscriber who provides express prior consent pursuant to
39 subsection a. of this section may revoke that consent at any time. A
40 wireless telephone service provider shall comply with the
41 subscriber's request to opt out within a reasonable period of time,
42 not to exceed 60 days.

43 c. A subscriber shall not be charged for making the choice not to
44 be listed in a directory.

45 d. This section shall not apply to the provision of wireless
46 telephone number information to the following parties for the
47 purposes indicated:

48 (1) to a collection agency, to the extent disclosures made by the

1 provider are exclusively for the collection of the subscriber's unpaid
2 debt to the provider;

3 (2) to any law enforcement agency, fire protection agency, public
4 health agency, public environmental health agency, city or county
5 emergency services planning agency, or private for-profit agency
6 operating under contract with, and at the direction of, one or more
7 of these agencies, for the exclusive purpose of responding to a 911
8 call or communicating an imminent threat to life or property;

9 (3) to a lawful process issued under State or federal law;

10 (4) to a telephone company providing service between service
11 areas for the provision to the subscriber of telephone service
12 between service areas, or to third parties for the limited purpose of
13 providing billing services;

14 (5) to a telephone company to effectuate a subscriber's request to
15 transfer the customer's assigned telephone number from the
16 customer's existing provider of telecommunications services to a
17 new provider of telecommunications services; and

18 (6) to the board pursuant to its jurisdiction and control over
19 wireless telephone providers.

20 e. No provider, nor any official or employee thereof, shall be
21 subject to criminal or civil liability for the release of subscriber
22 information as authorized by this section.

23
24 8. a. The board shall have the power and authority to enforce
25 the provisions of this act. The board shall have the power,
26 consistent with federal law, to assess a penalty not to exceed \$1,000
27 against any provider that neglects or knowingly fails to comply with
28 any requirement of this act.

29 b. Failure to comply with any provision of this act or any
30 regulation promulgated in accordance with this act shall constitute
31 an unlawful practice under P.L.1960, c.39 (C.56:8-1 et seq.).

32
33 9. The provisions of this act are severable. If any phrase, clause,
34 sentence, provision or section is declared to be invalid or preempted
35 by federal law or regulation, the validity of the remainder of this act
36 shall not be affected thereby.

37
38 10. This act shall take effect immediately.

41 STATEMENT

42
43 This bill requires wireless telephone providers to fully disclose
44 the following information to its subscribers:

45 (1) the terms and conditions of its contracts for wireless
46 telephone service including information on allowable minutes
47 during differing times of the day and week, the method used to
48 calculate minutes charged and any charges for long-distance,

1 roaming, incoming and directory assistance calls;

2 (2) the length of wireless telephone service contracts, any early
3 termination or other termination fees, trial periods, and start-up fees
4 and information on taxes to be collected by the provider for, and
5 paid to, a State, local, or other governmental agency; and

6 (3) information on surcharges imposed by the provider for the
7 costs of compliance with regulations or for other purposes, and any
8 other information that the board considers appropriate to ensure that
9 consumers of wireless telephone service are fully informed of the
10 terms of the plan or contract.

11 In addition, the bill also establishes other consumer protection
12 rights for subscribers of wireless telephone service including:

13 (1) making service coverage area maps available to consumers
14 on the provider's Internet web site and on the board's Internet
15 website;

16 (2) requiring the board to monitor the quality of wireless
17 telephone service providers based on various standards and to
18 receive input from the public on the quality of such service;

19 (3) requiring the board to make information available to wireless
20 telephone service providers and the public on a semiannual basis
21 concerning the quality of wireless telephone service provided in this
22 State;

23 (4) requiring any extension of a contract for wireless telephone
24 service to be in writing and to be signed by the subscriber, or
25 confirmed in writing and signed by the subscriber within seven days
26 of receipt by the subscriber; and

27 (5) requiring a wireless telephone service provider to give
28 written notice of any change in rates, terms, or conditions of service
29 at least 30 days before the change is to take effect.

30 The bill also requires that any taxes or fees mandated by federal,
31 State, or local law or regulation to be collected from the subscriber
32 shall be set forth in a separate section of the bill and shall be
33 itemized separately, that all roaming or off-network charges shall be
34 itemized on the subscriber's bill within 60 days of the call being
35 placed, and such roaming or off-network charges shall identify the
36 date and originating location of the call.

37 The bill further provides that, upon the request of a subscriber, a
38 wireless telephone service provider shall provide an itemized bill to
39 the subscriber at no cost to the subscriber, and that any charges
40 associated with the use of wireless telephone equipment or services
41 shall not be the liability of the subscriber if such use was
42 unauthorized by the subscriber due to loss or theft, provided that
43 such loss or theft is promptly reported to the wireless telephone
44 service provider.

45 The bill also requires the board to adopt rules and regulations
46 implementing the purposes of the bill and to establish such
47 procedures as may be necessary to allow subscribers to file
48 complaints with the board concerning billing disputes between

1 wireless telephone service providers and subscribers. The bill also
2 prohibits providers from terminating a subscriber's wireless
3 telephone service for nonpayment so long as the bill remains in
4 dispute.

5 In addition, the bill prohibits any agent of a provider from
6 providing the name and wireless telephone number information of a
7 subscriber for inclusion in any directory of any form, or selling,
8 leasing, licensing or sharing the contents of any directory database,
9 or any portion or segment thereof, without first obtaining the
10 express consent of that subscriber. The provider's form for
11 obtaining the subscriber's express consent shall meet all of the
12 following requirements:

13 (1) it shall be a separate document that is not attached to any
14 other document;

15 (2) it shall be signed and dated by the subscriber;

16 (3) it shall be unambiguous and legible, and shall conspicuously
17 disclose that, by signing the form, the subscriber consents to having
18 the subscriber's wireless telephone number information sold or
19 licensed as part of a list of subscribers and having the subscriber's
20 wireless telephone number information included in a publicly
21 available directory; and

22 (4) if under the subscriber's calling plan the subscriber may be
23 billed for receiving unsolicited calls or text messaging from a
24 telemarketer, the provider's form shall be unambiguous and legible,
25 and shall conspicuously disclose that, by consenting to have the
26 subscriber's wireless telephone number information sold or licensed
27 as part of a list of subscribers or to be included in a publicly
28 available directory, the subscriber may incur additional charges for
29 receiving unsolicited calls or text messages.

30 The bill allows a subscriber who provides express prior consent
31 to release wireless telephone information to a third party to revoke
32 that consent at any time. A wireless telephone service provider
33 shall comply with the subscriber's request to "opt out" within a
34 reasonable period of time, not to exceed 60 days.

35 The bill also prohibits the charging of a subscriber who chooses
36 not to be listed in a directory. The disclosure requirements of the
37 bill do not apply for the purposes of:

38 (1) a collection agency, to the extent disclosures made by the
39 provider are exclusively for the collection of the subscriber's unpaid
40 debt to the provider;

41 (2) any law enforcement agency, fire protection agency, public
42 health agency, public environmental health agency, city or county
43 emergency services planning agency, or private for-profit agency
44 operating under contract with, and at the direction of, one or more
45 of these agencies, for the exclusive purpose of responding to a 9-1-1
46 call or communicating an imminent threat to life or property;

47 (3) a lawful process issued under State or federal law; a
48 telephone company providing service between service areas for the

1 provision to the subscriber of telephone service between service
2 areas, or to third parties for the limited purpose of providing billing
3 services;

4 (4) any telephone company to effectuate a subscriber's request to
5 transfer the customer's assigned telephone number from the
6 customer's existing provider of telecommunications services to a
7 new provider of telecommunications services; and

8 (5) to the board pursuant to its jurisdiction and control over
9 wireless telephone providers.

10 The bill also provides that no provider, nor any official or
11 employee thereof, shall be subject to criminal or civil liability for
12 the release of subscriber information as authorized by the bill.

13 The bill gives the board the power and authority to enforce the
14 bill's provisions including the power, consistent with federal law, to
15 assess a penalty not to exceed \$1,000 against any provider that
16 neglects or knowingly fails to comply with any requirement of the
17 bill. The bill further provides that failure to comply with any
18 provision of this bill or any regulation adopted in accordance with
19 the provisions of this bill shall constitute an unlawful practice under
20 the State's consumer protection law, P.L.1960, c.39 (C.56:8-1 et
21 seq.).