

**ASSEMBLY, No. 643**

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**STATE OF NEW JERSEY**

**214th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Assemblyman PAUL D. MORIARTY**

**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**

Introduced Pending Technical Review by Legislative Counsel



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.).