

SENATE BILL REPORT

SSB 5518

AS PASSED SENATE, MARCH 14, 1991

Brief Description: Regulating pay-per-call services.

SPONSORS: Senate Committee on Energy & Utilities (originally sponsored by Senators Thorsness, Sutherland, Patterson, Jesernig, Stratton and Roach; by request of Attorney General).

SENATE COMMITTEE ON ENERGY & UTILITIES

Majority Report: That Substitute Senate Bill No. 5518 be substituted therefor, and the substitute bill do pass.

Signed by Senators Thorsness, Chairman; Jesernig, Nelson, Roach, Stratton, Sutherland, and Williams.

Staff: Phil Moeller (786-7445)

Hearing Dates: February 14, 1991; March 1, 1991

HOUSE COMMITTEE ON ENERGY & UTILITIES

BACKGROUND:

A wide variety of information is available to telephone customers by using pay-per-call telephone services. The services often use a dedicated prefix such as "900" followed by a seven-digit telephone number. Nationwide, this industry has been projected to grow from its present level of \$750 million in revenues to a level of \$1.6 billion by 1992.

Although many consumers appear satisfied with the value of information provided by these "900" type services, complaints have been registered against marketers who have used these services in conjunction with deceptive direct mail. Additional complaints have been registered by consumers who were unaware of the cost of these services, and by parents whose children incurred large telephone billings after calling these services.

SUMMARY:

Providers of information through pay-per-call services doing business in Washington are required to include a preamble in program messages if an information program costs more than \$5 per minute or has a potential cost of over \$10. The preamble is specified to include an accurate description of the call, the price of the call including any per minute charge, any flat rate charge, or any minimum charge and a statement that billing for the call will begin after the preamble.

Mechanisms for bypassing the preamble are allowed when the caller has made use of the service in the past, and if the cost of the call has not changed during the preceding 30 days.

Information providers are required to clearly specify the price of their services in any advertisement of these services.

Information providers are restricted in directing their services at children under 12 years old. These restrictions include: prohibiting services where children can speak to each other or are asked their names, addresses or other identifying information; requiring that advertising for these services contains an accurate description of the service offered and indicates that children must obtain parental consent before placing a call to an advertised number; prohibiting messages that encourage children to make a progressive number of calls; and prohibiting programs that employ an electronic tone signal that automatically dials the number for the program message.

Failure by the information provider to adhere to either the preamble disclosure requirements, the advertising requirements or the requirements related to directing information programming at children under 12 are all a defense for the consumer regarding nonpayment of the charges.

The deceptive use of pay-per-call information services is declared a matter vitally affecting the public interest for the purpose of applying the Consumer Protection Act, Chapter 19.86 RCW. In an action alleging a violation of the bill, the court may award the greater of three times the actual damages or \$500, in addition to other relevant costs.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

Disclosure is needed for consumers on pay-per-call programs so as to avoid many cases of citizens unknowingly being charged large sums for these services.

TESTIMONY AGAINST: None

TESTIFIED: Carol Monohon, WUTC (pro); Paula Selis, Attorney General's office (pro); Joan Beers (pro); Howard Smith (pro); Mike Woodin, AT&T

HOUSE AMENDMENT(S):

The definitions of "information provider" and "interexchange carrier" are clarified. Printed materials published not more than three times per year that advertise information services

must include a conspicuous disclosure that the call is a pay-per-call service.