

2 **ESHB 2254** - S COMM AMD

3 By Committee on Energy, Technology & Telecommunications

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 NEW SECTION. **Sec. 1.** The legislature finds that changes in the  
8 rapidly changing telecommunications market are resulting in new  
9 consumer problems. The legislature further finds that unauthorized  
10 changes in telecommunications service, known commonly as slamming, and  
11 unauthorized billing for service on telecommunications bills, known  
12 commonly as cramming, are unfair and deceptive consumer practices. The  
13 legislature further finds that consumers should have options available  
14 to protect themselves against unauthorized service changes and  
15 billings. In addition, current penalties and remedies need to be  
16 increased to provide a more effective deterrent to these practices.

17 NEW SECTION. **Sec. 2.** (1) Every local exchange telecommunications  
18 company must offer to its customers, as a part of basic local service  
19 and at no additional cost, the following optional services:

20 (a) Preferred carrier freeze. Preferred carrier freeze procedures,  
21 including any solicitation thereof, must clearly distinguish among  
22 telecommunications services subject to a preferred carrier freeze. The  
23 carrier offering the freeze must obtain separate authorization for each  
24 service for which a preferred carrier freeze is requested. If a  
25 customer has subscribed to preferred carrier freeze, the local exchange  
26 company may not make changes to the customer's telecommunications  
27 services including without limitation local exchange service,  
28 intraLATA, interLATA, intrastate toll, interstate toll, or  
29 international toll service except on direct oral or written direction  
30 of the customer and shall reject any orders for change in service that  
31 are submitted on behalf of the customer; and

32 (b) Bill block services must be offered by December 31, 1999.  
33 Customers may block the billing of nontelecommunication products or  
34 services or telecommunication services provided by a company other than  
35 the customer's local exchange carrier or authorized long distance

1 carrier. On request of bill block services by the customer, service  
2 providers that are not affiliated with the local exchange carrier shall  
3 not submit charges to the local exchange carrier for  
4 nontelecommunications products, services or nonpresubscribed intrastate  
5 or interstate toll services. For purposes of this subsection,  
6 nonpresubscribed intrastate or interstate toll services shall not  
7 include operator-assisted long distance, dial-around long distance,  
8 collect calls, or calling card services.

9 (2) Each local exchange telecommunications company must notify its  
10 customers of the services described in this section at the time service  
11 is established and at least once per year thereafter. The commission  
12 may prescribe the form of notice by rule.

13 NEW SECTION. **Sec. 3.** All lists of charges for services that  
14 appear on a customer's bill shall be clear, separate, and distinct. At  
15 a minimum, all bills must clearly identify on the bill the company  
16 making the charge, the specific product, service, or package of  
17 services being billed for, and a toll-free contact number for disputing  
18 a charge. The commission may prescribe the form of bill disclosure by  
19 rule.

20 NEW SECTION. **Sec. 4.** (1)(a) No person shall: (i) Cause a change  
21 in a customer's selection of telecommunications company without the  
22 customer's authorization as prescribed by the commission; and (ii)  
23 place or cause to be placed an unauthorized charge on a customer's  
24 telecommunications account.

25 (b) Any customer who is the victim of acts prohibited by this  
26 section is absolved of liability for (i) all charges imposed by the  
27 unauthorized carrier for products or services provided during the first  
28 thirty days after the unauthorized change, or for a longer period of  
29 time as permitted by the commission; (ii) all charges required to  
30 return the customer to his or her properly authorized carrier; and  
31 (iii) all other charges imposed in connection with the unauthorized  
32 change.

33 (2) The carrier that a customer contacts to report an unauthorized  
34 change, whether that entity is the customer's local exchange company,  
35 unauthorized carrier, or the customer's authorized carrier shall  
36 immediately take appropriate action to return the customer to his or  
37 her authorized carrier. The carrier that a customer calls to report an

1 unauthorized change, whether that entity is the customer's local  
2 exchange company, unauthorized carrier, or the customer's authorized  
3 carrier is required to inform the customer that he or she is not  
4 required to pay for any unauthorized charges incurred for the first  
5 thirty days after the unauthorized charge. The unauthorized carrier  
6 shall remove charges, if any, from the customer's bill for charges  
7 incurred within the first thirty days of the unauthorized change and  
8 any charges required to return the customer to his or her properly  
9 authorized carrier. The local exchange carrier, when serving as the  
10 billing agent, may independently carry out the provisions of this  
11 subsection.

12 (3) If a customer disputes a charge for nontelecommunications  
13 service, or telecommunications services provided by a company other  
14 than the customer's local exchange carrier or authorized long-distance  
15 carrier, the local exchange company shall remove the charge from the  
16 bill. This subsection does not affect the ability of the charging  
17 company to independently collect legitimate charges.

18 (4) The commission may adopt rules necessary to enforce this  
19 section.

20 NEW SECTION. **Sec. 5.** In addition to any penalties provided by  
21 law, the commission may take one or more of the following actions:

22 (1) Order payment by an unauthorized service provider to the  
23 service provider previously selected by the customer in an amount not  
24 to exceed all charges billed to the customer by the unauthorized  
25 service provider for services provided during the unauthorized service  
26 period; and

27 (2) Order the unauthorized service provider to refund all payments  
28 made by the customer for services provided during the unauthorized  
29 service period.

30 NEW SECTION. **Sec. 6.** The legislature finds that the practices  
31 covered by section 4(1)(a) of this act are matters vitally affecting  
32 the public interest for purposes of applying the consumer protection  
33 act. A violation of section 4(1)(a) of this act is not reasonable in  
34 relation to the development and preservation of business and is an  
35 unfair or deceptive act in trade or commerce for the purpose of  
36 applying the consumer protection act, chapter 19.86 RCW. In any action  
37 under chapter 19.86 RCW, a person who proves any of the causes of

1 action identified in this section is entitled to a presumption of  
2 injury and in addition to recovering costs and reasonable attorneys'  
3 fees, damages may be ordered in the amount of two thousand five hundred  
4 dollars.

5 NEW SECTION. **Sec. 7.** The Washington utilities and transportation  
6 commission and the attorney general shall assess and report to the  
7 legislature by June 2000 whether the practices of unauthorized service  
8 changes and billing have been deterred by this act and may make  
9 recommendations to the legislature with regard to enforcement.

10 NEW SECTION. **Sec. 8.** Sections 2 through 6 of this act are each  
11 added to chapter 80.36 RCW.

12 NEW SECTION. **Sec. 9.** If any provision of this act or its  
13 application to any person or circumstance is held invalid, the  
14 remainder of the act or the application of the provision to other  
15 persons or circumstances is not affected."

16 **ESHB 2254** - S COMM AMD  
17 By Committee on Energy, Technology & Telecommunications

18  
19 On page 1, line 2 of the title, after "services;" strike the  
20 remainder of the title and insert "adding new sections to chapter 80.36  
21 RCW; creating new sections; and prescribing penalties."

--- END ---