

SENATE BILL REPORT

ESHB 2254

As Reported By Senate Committee On:
Energy, Technology & Telecommunications, April 1, 1999

Title: An act relating to unauthorized changes and billing for telecommunication services.

Brief Description: Preventing unauthorized changes to, and unauthorized billing for, telecommunication services.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives DeBolt, Ruderman, Poulsen, Crouse, Morris, Mielke, Bush, Thomas, Cooper, Reardon, Stensen, Keiser, Lantz, Fisher, McDonald, O'Brien, Lovick, Sullivan, Hurst, Santos, Hankins, Kenney, Wolfe, Ogden, Anderson, Kagi, Constantine, Dickerson, Conway, Linville, Rockefeller, Romero, Veloria, Wood, Ericksen, Edmonds, McIntire, Alexander, Mitchell, K. Schmidt and Esser).

Brief History:

Committee Activity: Energy, Technology & Telecommunications: 3/25/99, 4/1/99 [DPA].

SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

Majority Report: Do pass as amended.

Signed by Senators Brown, Chair; Goings, Vice Chair; Fairley, Fraser, Hochstatter, Roach and Rossi.

Staff: Karen Kirkpatrick (786-7403)

Background: The unauthorized switching of a customer's telephone service to another company is known as slamming. Slamming is a growing problem. In 1998, the Washington Utilities and Transportation Commission (WUTC) received over 450 slamming complaints. At the federal level, slamming constitutes the largest category of telephone complaints handled by the Federal Communications Commission (FCC).

One of the fastest growing sources of consumer complaints is telephone bills that include charges for services that the consumer did not order, authorize or receive. This practice is known as cramming. In many cases, the problem is aggravated because telephone bills do not clearly identify services or the company that provided those services.

The WUTC adopted anti-slamming rules in November 1997. The FCC adopted new anti-slamming rules in February 1999 that are scheduled to go into effect in April. The FCC is also considering guidelines requiring clarification of information on consumer telephone bills.

Summary of Amended Bill: No person shall cause a change in a customer's telecommunications service provider without the customer's authorization or place an unauthorized charge on a customer account. Unauthorized changes and charges are violations of the Consumer Protection Act.

Any customer who is the victim of a prohibited act is absolved of liability for all charges imposed for products or services during at least the first 30 days, all charges required to return the customer to his or her properly authorized carrier, and all other charges imposed in connection with the unauthorized change. Additionally, a victim is entitled to a presumption of injury in bringing a cause of action and may recover costs, reasonable attorneys' fees, and damages of \$2,500.

The telecommunications carrier that a customer contacts to report an unauthorized change must immediately take action to return the customer to his or her authorized carrier and inform the customer that he or she is not required to pay for any unauthorized charges incurred for the first 30 days. The unauthorized carrier must remove all charges incurred within the first 30 days and charges required to return the customer to his or her authorized carrier from the customer bill. A local exchange company must remove disputed charges for non-telecommunications service or telecommunications service provided by a company other than the customer's local company from the customer's bill. The commission may adopt rules to enforce these provisions.

Every local exchange company must offer, at no cost, optional preferred carrier freeze and bill block services. Preferred carrier freeze service prevents a carrier from making changes to the customer's telecommunications services except on direct oral or written direction of the customer. Bill block services permit the customer to block the billing of non-telecommunication products or services or telecommunication services provided by a company other than the customer's local or authorized long distance company except operator-assisted long distance, dial-around long distance, collect calls, or calling card services. Each company must give notice of the availability of these services to consumers at the time the service is established and at least annually thereafter.

All bills must clearly identify the company making the charge, the specific product, service, or package of services being billed for, and a toll-free contact number for disputing a charge. The commission may prescribe the form of bill disclosure by rule.

In addition to penalties provided by law, the commission may order payment by an unauthorized service provider to the authorized service provider in an amount not to exceed all charges billed during the unauthorized service period. The commission may also order the unauthorized service provider to refund all payments made by the customer for service provided during the unauthorized period.

The WUTC and the Attorney General are directed to assess whether the practices of unauthorized service changes and billing have been deterred by this act and report to the Legislature by June 2000.

Intent language is added and other clarifying and technical issues are addressed.

Amended Bill Compared to Substitute Bill: The original bill exempted dial-around long distance and calling card services from the bill block service requirements. The amended bill also exempts operator-assisted long distance and collect calling services. The amended bill delays the date by which a local exchange company must offer bill block services until December 31, 1999.

Appropriation: \$35,000.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Slamming complaints tripled from 1996 to 1998 and these complaints are increasingly requiring the attention and resources of the Attorney General's office and local carriers. Seniors and minorities are especially vulnerable, and it can take months to correct the problem. This legislation closes a loophole in the law and protects consumers. It makes slamming and cramming violations of the Consumer Protection Act which will make Washington an inhospitable environment for violators. It will give customers remedies and tools to prevent violations.

Testimony Against: None.

Testified: PRO: Representative Ruderman, Representative DeBolt, prime sponsors; Dana Smith, US West; Trisha McArdle, Office of the Attorney General; Bruce Shaull, Sprint (concerns); Bill Garvin, MCI-World Com (concerns).