

## LEGISLATIVE BILL 42

Approved by the Governor April 7, 1993

Introduced by Landis, 46

AN ACT relating to the Public Service Commission; to amend sections 75-140, 75-141, and 75-144, Reissue Revised Statutes of Nebraska, 1943; to adopt the Intrastate Pay-Per-Call Regulation Act; to define a term; to change provisions relating to enforcement and violations of the orders of the commission; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 11 of this act shall be known and may be cited as the Intrastate Pay-Per-Call Regulation Act.

Sec. 2. For purposes of the Intrastate Pay-Per-Call Regulation Act:

(1) Commission shall mean the Public Service Commission; and

(2) Pay-per-call services shall mean telecommunications services which permit simultaneous calling by a large number of callers to a single telephone number and for which the calling party is assessed, by virtue of completing the call, a charge that is not dependent on the existence of a presubscription relationship and for which the caller pays a per-call or per-time-interval charge that is greater than or in addition to the charge for transmission of the call.

Sec. 3. Common carriers may provide intrastate transmission, under either contract or tariff, for pay-per-call services only under the terms and conditions set forth by the Intrastate Pay-Per-Call Regulation Act.

Sec. 4. In addition to the general requirements set forth in subsection (1) of section 10 of this act, the commission specifically shall adopt and promulgate rules and regulations regarding preambles to intrastate pay-per-call programs consistent with the rules and regulations of the Federal Trade Commission pertaining to preamble requirements for interstate pay-per-call programs.

Sec. 5. The carrier providing intrastate transmission for pay-per-call services shall provide to consumers upon request the name, address, and customer service telephone number of any information provider to whom the carrier provides such transmission service, either directly or through another entity such as a service bureau. The carrier shall provide the information at no charge and within a reasonable time upon verbal or written request.

Sec. 6. Local exchange carriers shall offer to their subscribers, when technically feasible, an option to block intrastate nine

hundred services. Blocking shall be offered at no charge on a one-time basis to all residential telephone subscribers. For blocking requests not within the one-time option and for commercial subscribers, the local exchange carrier may charge a reasonable one-time fee for each blocking request. Requests by subscribers to remove a previously blocked service shall be in writing to the local exchange carrier. The commission may adopt and promulgate rules and regulations to implement procedures for local exchange carriers to place involuntary blocks on subscribers who fail to pay for pay-per-call services.

For purposes of this section, technically feasible shall mean when the existing switch will accommodate the request for blocking.

Sec. 7. No common carrier shall disconnect or order the disconnection of a subscriber's basic communications service as a result of the subscriber's failure to pay interstate or intrastate pay-per-call service charges.

Sec. 8. No common carrier shall provide transmission services for pay-per-call services originated by an information provider and charged to the consumer unless the called party has taken affirmative action clearly indicating that it accepts the charges for the collect pay-per-call service. This includes eight hundred number call-back services.

Sec. 9. No carrier shall provide transmission services for any pay-per-call service which employs broadcast advertising that generates the audible tones necessary to complete a call to a pay-per-call service.

Sec. 10. (1) The commission shall adopt and promulgate rules and regulations necessary to carry out the Intrastate Pay-Per-Call Regulation Act.

(2) The commission may conduct investigations and shall enforce the act.

(3) Upon written complaint and supporting affidavit that an applicable rule or regulation or any provision of the act has been or is being violated, the commission may enter a cease and desist order on an ex parte basis against a party named in a complaint alleging violation of the act. The order shall have duration of no more than twenty days, and a hearing upon the complaint shall be held no later than twenty days after the order is entered by the commission.

(4) A decision of the commission made pursuant to the act and rules and regulations of the commission may be appealed in the manner provided in section 75-137.

Sec. 11. After notice and a hearing, the commission may administratively fine violators of the Intrastate Pay-Per-Call Regulation Act or the applicable rules and regulations adopted pursuant to the act in an amount not to exceed one thousand dollars per violation. In addition to any other penalties available at law, any person who violates the act shall be guilty of a Class II misdemeanor.

Sec. 12. That section 75-140, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-140. Whenever any ~~common carrier violates or refuses or neglects to obey any order or orders of~~ person violates or disobeys an order issued by the commission which ~~have~~ has been finally established, the commission or any company or person interested in such order ~~or orders may apply in a summary way, by~~ may petition, to the district court of Lancaster County alleging ~~such violation or disobedience, as the case may be~~ thereof. The court shall have power to determine the matter on such notice to the ~~common carrier~~ person complained of as the court ~~shall deem~~ deems reasonable. The notice may be served on such ~~common carrier or its officers, agents, or servants~~ person as the court ~~shall direct~~ directs.

Sec. 13. For purposes of sections 75-140 to 75-145, person shall mean any individual, corporation, governmental agency or subdivision, partnership, company, or association and any other legal or commercial entity including any common carrier and its owners, directors, officers, agents, and employees.

Sec. 14. That section 75-141, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-141. Whenever any such petition ~~shall be~~ is filed or presented, or ~~it be~~ prosecuted by the commission or by its direction, it shall be the duty of the Attorney General of the state to prosecute the same at the request of the commission, and the costs and expenses on the part of the commission of any such prosecution shall be paid out of the appropriations for the expenses of the commission.

Sec. 15. That section 75-144, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-144. (1) If it appears to the court after such hearing that the order ~~or orders~~ of the commission complained of ~~have been~~ was violated or disobeyed, the court may issue a writ of injunction; or other proper process, mandatory or otherwise, to restrain the ~~common carrier, and its owners, directors, officers, agents, employees, or any other persons upon whom the duty may devolve, or through whose agency the order or orders are to be carried out,~~ person from further continuing such violation or disobedience of the order ~~or orders~~; and enjoining ~~obedienee~~ disobedience thereto.

(2) In case of any disobedience of any such writ or injunction; or other proper process, mandatory or otherwise, the ~~common carrier, and its owners, directors, officers, agents, employees, lessees, trustees, or receivers or representatives, to whom the writ of injunction or other process, mandatory or otherwise;~~ person to whom it was directed; shall be guilty of contempt of court. ~~It shall be lawful for such court to~~ The court may issue a writ of attachment or other process of the court incident or applicable to writs of injunction; or other proper process, mandatory or otherwise, against the ~~common carrier;~~ person to pay any sum of money, not exceeding, for each such ~~common carrier~~ person, the sum of one thousand dollars for every day after a day to be named in the order that the ~~common carrier shall fail~~ person fails to obey such injunction or other proper process, mandatory or otherwise.

(3) The money shall, when paid, be disposed of according to law. ~~The~~ ~~and the~~ payment thereof may, without prejudice to any other motive covering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by final decree in personam in such court.

Sec. 16. That original sections 75-140, 75-141, and 75-144, Reissue Revised Statutes of Nebraska, 1943, are repealed.