

AMENDMENTS TO LB 150

(Amendments to Standing Committee amendments, AM0437)

1           1.     Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           "Section 1. This act shall be known and may be cited as  
4 the Telephone Consumer Slamming Prevention Act.

5           Sec. 2.     It is the policy of this state to ensure that  
6 all subscribers are protected from the unauthorized switching of a  
7 telecommunications company selected by the subscriber to provide  
8 telecommunications service.

9           Sec. 3. For purposes of the Telephone Consumer Slamming  
10 Prevention Act, the definitions found in section 86-802 shall be  
11 used.

12          Sec. 4. Except as provided in section 86-808, the  
13 Telephone Consumer Slamming Prevention Act shall apply to all  
14 telecommunications companies providing basic local exchange  
15 service, intra-LATA interexchange service, inter-LATA interexchange  
16 service, and any other telecommunications services to subscribers  
17 in this state.

18          Sec. 5. Except when a subscriber initiates or changes  
19 service by contacting the telecommunications company directly, no  
20 telecommunications company shall submit or execute a change in a  
21 subscriber's provider of basic local exchange service, intra-LATA  
22 interexchange service, or inter-LATA interexchange service without:

23           (1) Written change authorization from the subscriber;

1           (2) Toll-free electronic authorization placed from the  
2 telephone number which is the subject of the change order; or

3           (3) Oral authorization obtained by an independent third  
4 party.

5           A separate and distinct authorization shall be required  
6 to submit or execute a change of service for any or all of the  
7 following services provided to subscribers in this state: Basic  
8 local exchange service, intra-LATA interexchange service,  
9 inter-LATA interexchange service, or any other telecommunications  
10 services.

11           Sec. 6. Within thirty days after a subscriber changes  
12 his or her authorized provider of basic local exchange service,  
13 intra-LATA interexchange service, or inter-LATA interexchange  
14 service, the new authorized service provider shall provide to such  
15 subscriber written confirmation of such change. The written  
16 confirmation shall (1) describe clearly and simply the nature of  
17 the subscription change, (2) not be a part of, or attached to, any  
18 other document, (3) not contain any promotion, offer, or  
19 inducement, and (4) be mailed to the subscriber's billing address.

20           Sec. 7. (1) The procedures in this section shall apply  
21 only after a subscriber has determined that an unauthorized change  
22 has occurred in violation of section 5 of this act, and the  
23 subscriber has paid charges to an allegedly unauthorized  
24 telecommunications company. Upon receiving notification from the  
25 subscriber or a company that a subscriber has been subjected to an  
26 unauthorized change and that the subscriber has paid charges to an  
27 allegedly unauthorized company, the properly authorized company

1 shall, within thirty days, request from the allegedly unauthorized  
2 company proof of verification of the subscriber's authorization to  
3 change companies. Within ten days after receiving such request,  
4 the allegedly unauthorized company shall forward to the authorized  
5 company either:

6 (a) Proof of verification of the subscriber's  
7 authorization to change companies; or

8 (b) The following:

9 (i) An amount equal to all charges paid by the subscriber  
10 to the unauthorized company;

11 (ii) An amount equal to any charge required to return the  
12 subscriber to his or her properly authorized company, if  
13 applicable; and

14 (iii) Copies of any telephone bills issued from the  
15 unauthorized company to the subscriber.

16 (2) If an authorized telecommunications company incurs  
17 any billing and collection expenses in collecting charges from the  
18 unauthorized company, the unauthorized company shall reimburse the  
19 authorized company for reasonable expenses.

20 (3) When a subscriber notifies the unauthorized company,  
21 rather than the authorized company, of an unauthorized change, the  
22 unauthorized company shall immediately notify the authorized  
23 company.

24 (4) Upon receipt from the unauthorized company of the  
25 amount described in subdivision (1)(b)(i) of this section, the  
26 authorized company shall provide a refund or credit to the  
27 subscriber of all charges paid in excess of what the authorized

1 company would have charged the subscriber absent the unauthorized  
2 change. If the authorized company has not received from the  
3 unauthorized company an amount equal to charges paid by the  
4 subscriber to the unauthorized company, the authorized company is  
5 not required to provide any refund or credit. The authorized  
6 company shall, within sixty days after it receives notification of  
7 the unauthorized change, inform the subscriber if it has failed to  
8 collect any charges from the unauthorized company and inform the  
9 subscriber of his or her right to pursue a claim against the  
10 unauthorized company for a refund of all charges paid to the  
11 unauthorized company.

12 (5) When possible, the properly authorized company shall  
13 reinstate the subscriber in any premium program in which that  
14 subscriber was enrolled prior to the unauthorized change, if that  
15 subscriber's participation in the premium program was terminated  
16 because of the unauthorized change. If the subscriber has paid  
17 charges to the unauthorized company, the properly authorized  
18 company shall also provide or restore to the subscriber any  
19 premiums to which the subscriber would have been entitled had the  
20 unauthorized change not occurred. The authorized company shall  
21 comply with the requirements of this subsection regardless of  
22 whether it is able to recover from the unauthorized company any  
23 charges that were paid by the subscriber.

24 (6) The Public Service Commission may from time to time  
25 review and adjust the reimbursement procedures in a manner  
26 consistent with federal law.

27 Sec. 8. If the Public Service Commission finds that a

1 telecommunications company has violated section 7 of this act, the  
2 commission shall order the company to take corrective action as  
3 necessary and the company may be subject to administrative  
4 penalties pursuant to section 8 of this act. Any money collected  
5 by the commission pursuant to this section shall be remitted to the  
6 State Treasurer for credit to the permanent school fund.

7           Sec. 9. (1) The Public Service Commission may, after  
8 hearing, impose an administrative penalty for a violation of the  
9 Telephone Consumer Slamming Prevention Act. The penalty for a  
10 violation shall not exceed two thousand dollars. Every violation  
11 associated with a specific access line within the state shall be  
12 considered a separate and distinct violation.

13           (2) The amount of an administrative penalty shall be  
14 based on:

15           (a) The nature, circumstances, extent, and gravity of a  
16 prohibited act;

17           (b) The history of previous violations;

18           (c) The amount necessary to deter future violations; and

19           (d) Any efforts to correct the violation.

20           (3) Any administrative penalty may be appealed, and the  
21 appeal shall be in accordance with sections 75-136 to 75-139.

22           Sec. 10. The Public Service Commission shall adopt and  
23 promulgate competitively neutral rules and regulations to implement  
24 the Telephone Consumer Slamming Prevention Act, including rules and  
25 regulations that:

26           (1) Ensure that subscribers are protected from deceptive  
27 practices in the obtaining of authorizations and verifications

1 required by section 5 of this act;

2 (2) Are applicable to all basic local exchange service,  
3 intra-LATA interexchange service, inter-LATA interexchange service,  
4 and other telecommunications services provided by  
5 telecommunications companies in this state;

6 (3) Maintain records, provide procedures, and establish  
7 performance standards for telecommunications companies with respect  
8 to changes in an authorized telecommunications company pursuant to  
9 the act;

10 (4) Establish and administer a slamming complaint system  
11 for subscribers of telecommunications service and enforce the  
12 provisions of the act; and

13 (5) Are consistent with the rules and regulations  
14 prescribed by the Federal Communications Commission for the  
15 selection of telecommunications companies. The Public Service  
16 Commission may adopt and promulgate rules and regulations  
17 consistent with any regulations of the Federal Communications  
18 Commission which are consistent with the purposes of the act.

19 Sec. 11. (1) No telecommunications company shall  
20 initiate or bill additional telecommunications services not  
21 required by the Public Service Commission to be offered and for  
22 which the subscriber did not explicitly request or subscribe. If  
23 (a) a charge is assessed on a per-use basis for a service described  
24 in this subsection and (b) the subscriber notifies the providing  
25 telecommunications company that the subscriber did not utilize the  
26 service or the subscriber did not authorize the utilization of the  
27 service, the providing telecommunications company shall initiate a

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1 refund of the charge or apply the charge as a credit to the  
2 subscriber's next monthly bill.

3 (2) If a providing telecommunications company receives a  
4 notification pursuant to subdivision (1)(b) of this section, the  
5 company shall inform the subscriber of the ability to block  
6 services from future use by the subscriber and shall block the  
7 services from future use by the subscriber if the subscriber so  
8 requests. If a subscriber requests that the company not block the  
9 service or later requests to have the block lifted, the subscriber  
10 shall be responsible for charges caused by the future utilization  
11 of such service. The company shall not charge a reoccurring fee  
12 for blocking such service.

13 Sec. 12. If any section of this act or any part of any  
14 section is declared invalid or unconstitutional, the declaration  
15 shall not affect the validity or constitutionality of the remaining  
16 portions.

17 Sec. 13. Since an emergency exists, this act takes  
18 effect when passed and approved according to law."