

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1285**

Introduced by Transportation and Telecommunications Committee:  
Bromm, 23, Chairperson; Byars, 30; Hudkins, 21; Dw.  
Pedersen, 39; Thompson, 14; and Landis, 46

Read first time January 18, 2000

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to the Public Service Commission; to amend  
2 sections 75-156, 86-1111, 86-1222, and 86-1909, Reissue  
3 Revised Statutes of Nebraska; to provide for an  
4 administrative fine; to harmonize provisions; and to  
5 repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1                   Section 1.   Section 75-156, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   75-156. (1) In addition to other penalties and relief  
4 provided by law, the Public Service Commission may assess a civil  
5 penalty of up to five thousand dollars against any person, motor  
6 carrier, regulated motor carrier, common carrier, or contract  
7 carrier for the violation of (a) any provision of Chapter 75,  
8 article 3, administered by the commission or section 75-126 as such  
9 section applies to any person or carrier specified in Chapter 75,  
10 article 3, (b) any term, condition, or limitation of any  
11 certificate or permit issued by the commission pursuant to Chapter  
12 75, article 3, or (c) any rule, regulation, or order of the  
13 commission issued under authority delegated to the commission  
14 pursuant to Chapter 75, article 3. The amount of the civil penalty  
15 assessed in each case shall be based on the severity of the  
16 violation charged. The commission may compromise or mitigate any  
17 penalty prior to hearing if all parties agree. In determining the  
18 amount of the penalty, the commission shall consider the  
19 appropriateness of the penalty in light of the gravity of the  
20 violation and the good faith of the violator in attempting to  
21 achieve compliance after notification of the violation is given.

22                   (2) Upon notice and hearing in accordance with this  
23 section and section 75-157, the commission may enter an order  
24 assessing a civil penalty of up to one hundred dollars against any  
25 person, firm, partnership, limited liability company, corporation,  
26 cooperative, or association for ~~(a) the violation of any provision~~  
27 ~~of sections 75-604 and 86-805 or (b) failure to file an annual~~  
28 report as required by section 75-116 and as prescribed by

1 commission rules and regulations. Each day during which the  
2 violation continues after the commission has issued an order  
3 finding that a violation has occurred constitutes a separate  
4 offense. Any party aggrieved by an order of the commission under  
5 this section has the rights of appeal set forth in section  
6 75-136.01.

7 (3) In addition to other penalties and relief provided by  
8 law, the commission may assess a fine of not more than ten thousand  
9 dollars per day against any telecommunications company for each  
10 violation of a commission order entered pursuant to the Intrastate  
11 Pay-Per-Call Regulation Act, the Nebraska Telecommunications  
12 Universal Service Fund Act, the Telephone Consumer Slamming  
13 Prevention Act, the Telecommunications Relay System Act,  
14 Telemarketing and Prize Promotions Act, or sections 75-604 to  
15 75-616, 86-801 to 86-811, 86-1001 to 86-1009, or 86-1201 to  
16 86-1222.

17 (4) ~~When any person, motor carrier, regulated motor~~  
18 ~~carrier, common carrier, or contract carrier is accused of any~~  
19 ~~violation listed in subsection (1) of this section or when any~~  
20 ~~person, firm, partnership, limited liability company, corporation,~~  
21 ~~cooperative, or association or party is accused of any violation~~  
22 ~~listed in subsection (2) of this section, the commission shall~~  
23 ~~notify such person or party in writing (a) setting forth the date,~~  
24 ~~facts, and nature of each act or omission upon which each charge of~~  
25 ~~a violation is based, (b) specifically identifying the particular~~  
26 ~~statute, certificate, permit, rule, regulation, or order~~  
27 ~~purportedly violated, (c) that a hearing will be held and the time,~~  
28 ~~date, and place of the hearing, (d) that in addition to the civil~~

1 penalty, the commission may enforce additional penalties and relief  
2 as provided by law, and (e) that upon failure to pay any civil  
3 penalty determined by the commission, the penalty may be collected  
4 by civil action in the district court of Lancaster County.

5 Sec. 2. Section 86-1111, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7 86-1111. After notice and a hearing, the commission may  
8 administratively fine pursuant to section 75-156 violators of the  
9 Intrastate Pay-Per-Call Regulation Act or the applicable rules and  
10 regulations adopted ~~pursuant to~~ and promulgated under the act. ~~in~~  
11 ~~an amount not to exceed one thousand dollars per violation.~~ In  
12 addition to any other penalties available at law, any person who  
13 violates the act shall be guilty of a Class II misdemeanor.

14 Sec. 3. Section 86-1222, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 86-1222. The commission may administratively fine  
17 pursuant to section 75-156 any person who violates sections 86-1201  
18 to 86-1222 or the rules and regulations adopted and promulgated  
19 ~~thereunder in an amount not to exceed one thousand dollars per~~  
20 ~~violation after notice and hearing~~ under such sections. In  
21 addition to any other penalties available at law, any person who  
22 violates such sections shall be guilty of a Class II misdemeanor.

23 Sec. 4. Section 86-1909, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25 86-1909. (1) The Public Service Commission may, after  
26 hearing, impose an administrative penalty for a violation of the  
27 Telephone Consumer Slamming Prevention Act. The penalty for a  
28 violation shall ~~not exceed two thousand dollars~~ comply with section

1 75-156. Every violation associated with a specific access line  
2 within the state shall be considered a separate and distinct  
3 violation.

4 (2) The amount of an administrative penalty shall be  
5 based on:

6 (a) The nature, circumstances, extent, and gravity of a  
7 prohibited act;

8 (b) The history of previous violations;

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

10 (d) Any efforts to correct the violation.

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

13 Sec. 5. Original sections 75-156, 86-1111, 86-1222, and  
14 86-1909, Reissue Revised Statutes of Nebraska, are repealed.