
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 812 Session of
2007

INTRODUCED BY GREENLEAF, FUMO, RAFFERTY, TARTAGLIONE, FONTANA,
C. WILLIAMS AND BROWNE, MAY 2, 2007

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
MAY 2, 2007

AN ACT

1 Providing for the regulation of commercial mobile radio service
2 providers; further providing for the powers and duties of the
3 Pennsylvania Public Utility Commission; and imposing
4 penalties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Wireless
9 Telephone Consumer Protection Act.

10 Section 2. Legislative findings and declaration.

11 The General Assembly finds and declares as follows:

12 (1) Section 332(c)(3)(A) of the Communications Act of
13 1934 (48 Stat. 1064, 47 U.S.C. § 332(c)(3)(A)) expressly
14 states that no state or local government shall have the
15 authority to regulate the rates charged by any commercial
16 mobile service or private mobile service, but nothing shall
17 prohibit a state from regulating the other terms and
18 conditions of commercial mobile service.

1 (2) As commercial mobile radio service in this
2 Commonwealth has expanded dramatically in recent years,
3 customer complaints regarding wireless telephone service,
4 such as early termination fees, have steadily increased.

5 (3) Currently, no quality service standards exist for
6 acceptable commercial mobile radio service in this
7 Commonwealth, and in order to protect the health, safety and
8 welfare of its citizens, the Commonwealth must act, to the
9 extent authorized by Federal law, to afford broad protection
10 to consumers against deceptive and unfair commercial mobile
11 radio service practices.

12 (4) It is in the public interest of the citizens of this
13 Commonwealth to require the Pennsylvania Public Utility
14 Commission to develop quality service standards for wireless
15 telephone service, including proper disclosure of rates and
16 terms of service, payment and billing standards, trial
17 periods, customer service, registration, privacy and service
18 termination procedures that commercial mobile service
19 providers must abide by when providing wireless telephone
20 service to all Pennsylvanians.

21 Section 3. Definitions.

22 The following words and phrases when used in this act shall
23 have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Commercial mobile radio service" or "service." Commercial
26 mobile service as defined in section 332(d) of the
27 Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 332(d)).

28 "Commercial mobile radio service provider" or "provider." A
29 person who provides commercial mobile radio service as defined
30 in section 332(d) of the Communications Act of 1934 (48 Stat.

1 1064, 47 U.S.C. § 332(d)). The term shall not include a person
2 who provides only paging or messaging services, or other text-
3 based services, utilizing facilities that are licensed by the
4 Federal Communications Commission, including, but not limited
5 to, narrowband personal communication services described in 47
6 CFR Pt. 24 Subpt. D (relating to narrowband PCS), as in effect
7 October 1, 2001.

8 "Commercial mobile radio service subscriber" or "subscriber."
9 A person, firm or corporation designated on provider records as
10 the party responsible for payment of bills for wireless
11 telephone service.

12 "Commission." The Pennsylvania Public Utility Commission.

13 "Material rates, terms and conditions." Any provisions
14 imposed by a provider to which a subscriber is bound, through a
15 service agreement or contract, that may result in or increase a
16 charge on a subscriber's bill or limit a subscriber's use of a
17 product or service. The term shall include, but not be limited
18 to, service territory availability, activation or initiation
19 fees, monthly access fees or base charges, per-unit usage
20 charges, usage allowances, extended coverage or roaming charges,
21 any required contract term, early termination fees, the time of
22 any peak and off-peak calling periods and any provision relating
23 to whether any additional taxes, fees or surcharges apply.

24 "Provider charges." Fees or charges of any type that a
25 provider imposes for service rendered under a contract
26 pertaining to such service other than those fees and charges
27 which are mandated by and remitted to a Federal, State or local
28 governmental or regulatory body.

29 Section 4. Pennsylvania Public Utility Commission.

30 Notwithstanding any other provision of 66 Pa.C.S (relating to

public utilities) to the contrary, within 180 days of the effective date of this section, the commission shall provide by order interim guidelines to protect a subscriber and monitor and enforce compliance with those guidelines. The commission shall thereupon promulgate regulations setting forth permanent standards to protect a subscriber pursuant to this act. The interim guidelines shall be effective until the commission promulgates final rules and regulations. The rules and regulations shall include, but not be limited to:

(1) Specifying quality of service standards and requirements that commercial mobile radio service providers must meet.

(2) Requiring a provider to disclose, in an accurate and plainly stated format approved by the commission, the rate and service terms of all service plans and offers made to residential subscribers. A provider may not change service or modify the material rates, terms and conditions of a subscriber's contract without providing a reasonable advance, clear and conspicuous notice of a proposed change in service or modification and allowing the subscriber a time period of not less than 21 days to cancel the contract with no early termination fee. Every notice of either a change in service or modification of material rates, terms and conditions of a subscriber's contract shall provide, in accordance with the format approved by the commission, the right of the subscriber to cancel the contract with no early termination fee.

(3) Providing that a contract or agreement offered by a provider to a subscriber:

(i) May not extend for a period longer than one

1 year.

2 (ii) May not contain an arbitration clause or an
3 automatic renewal clause unless the contract provides for
4 a renewal option for continued membership which must be
5 affirmatively accepted by the subscriber at the
6 expiration of each contract term.

7 (iii) Shall contain a provision permitting the
8 subscriber or the subscriber's legal representative to
9 cancel the contract if the subscriber dies or becomes
10 permanently disabled which precludes the subscriber from
11 utilizing the service and requiring the provider, upon
12 receipt of written notice of cancellation, including a
13 copy of the death certificate or physician verification
14 of disability, to waive any early termination fee and
15 refund any remaining balance that was paid in advance.

16 (iv) Shall contain a provision permitting the
17 subscriber to cancel the contract if the subscriber moves
18 out of the calling area and is unable to transfer the
19 contract to the subscriber's new location and requiring
20 the provider to, upon receipt of such notice of
21 cancellation, waive any early termination fee.

22 (4) Requiring that all forms of solicitation and
23 advertisements to a residential subscriber disclose the
24 material rates, terms and conditions in the equivalent of
25 ten-point type or larger and requiring such solicitations,
26 which include advertising and other marketing materials, to
27 clearly, conspicuously and accurately disclose material
28 rates, terms and conditions.

29 (5) Requiring that wireless telephone bills:

30 (i) Be clearly outlined and only contain charges for

1 products and services authorized by the subscriber.

2 (ii) Include the legal name of the service provider,
3 the amount charged for each product and service,
4 description of each product and service, the period of
5 service covered by the bill, the payment due date, the
6 late payment charge, methods of payment and the
7 provider's toll-free telephone number along with postal
8 address and e-mail address, if applicable, where the
9 subscriber may send billing inquiries or complaints.

10 (iii) Separately identify provider charges from
11 taxes, fees and other charges collected by the provider
12 and remitted to Federal, State or local governments.

13 (6) Requiring a provider to extend to a new subscriber a
14 30-day trial period to rescind the contract or agreement and
15 terminate service, without fees, charges or penalties, except
16 for usage fees incurred prior to the cancellation of the
17 contract or agreement, provided that the subscriber complies
18 with applicable return policies, exchange policies or both.
19 Every new contract or agreement for service shall provide, in
20 accordance with a format approved by the commission,
21 reasonable notice of the 30-day trial period and the right of
22 the subscriber to rescind the contract or agreement with no
23 early termination fee during that period.

24 (7) Requiring a provider to establish a means for
25 logging subscriber questions, comments or complaints and for
26 expeditiously resolving those subscriber questions,
27 complaints or disputes, which shall include the
28 establishment, maintenance and staffing of a toll-free
29 telephone number, during normal business hours, to respond to
30 subscribers' questions or comments.

1 (8) Requiring a provider to preserve for a minimum of
2 four years written or recorded disputes and complaints, and
3 to keep the records within this Commonwealth at an office
4 located in the territory served by it and to make the records
5 available for examination by the commission or its staff.
6 Information to be maintained under this paragraph shall
7 include the following:

8 (i) The payment performance of each of its
9 subscribers.

10 (ii) The number of settlement agreements made by the
11 provider and a synopsis of the terms, conditions and
12 standards upon which agreements were made.

13 (iii) The number of service terminations and
14 reconnections.

15 (iv) Communications to or from subscribers regarding
16 interruptions, discontinuances, terminations and
17 reconnections of service, including the name and address
18 of each such subscriber, the date and character of the
19 dispute or complaint and the adjustment or disposal made
20 of the matter.

21 (9) Requiring a provider to clearly and conspicuously
22 notify subscribers in writing and obtain their written
23 consent before using confidential customer information for
24 any purpose other than the provision or billing of the
25 service or if the provider plans to give the information to a
26 third party.

27 (10) Requiring a provider to notify a subscriber in
28 writing at least ten days prior to terminating service for
29 nonpayment of overdue bills.

30 (11) Authorizing the commission to resolve any informal

1 or formal complaint arising under the provisions of this act
2 not otherwise resolved by the provider and the subscriber.

3 (12) Requiring a provider to file a registration form
4 with the commission in a format to be developed by the
5 commission that contains essential information that the
6 commission deems necessary to comply with this act.

7 Section 5. Penalties and enforcement.

8 (a) Imposition of penalties.--The commission may impose
9 fines and other civil penalties on a commercial mobile radio
10 service provider or any of its agents or vendors that fail to
11 comply with the rules and regulations promulgated by the
12 commission pursuant to this act.

13 (b) Unfair trade practice.--A violation of the interim
14 guidelines or rules and regulations promulgated pursuant to this
15 act shall constitute a violation of the act of December 17, 1968
16 (P.L.1224, No.387), known as the Unfair Trade Practices and
17 Consumer Protection Law, and shall be subject to the enforcement
18 provisions, civil penalties and private rights of action
19 contained in that act.

20 (c) Injunctive relief.--Nothing in the rules and regulations
21 promulgated by the commission shall be construed to preclude a
22 district attorney, the Attorney General or any law enforcement
23 agency from obtaining injunctive relief, civil penalties and
24 other relief permitted by law against a provider or any of its
25 agents or vendors that engage in business practices that violate
26 such rules and regulations.

27 Section 6. Effective date.

28 This act shall take effect in 60 days.