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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 650      Session of  
2001

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INTRODUCED BY PUNT, BOSCOLA, TOMLINSON, THOMPSON, O'PAKE,  
HELFRICK, EARLL, LAVALLE, MOWERY, GERLACH, COSTA, TILGHMAN,  
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MARCH 20, 2001

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REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
MARCH 20, 2001

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AN ACT

1 Restricting changes in telephone service under certain  
2 circumstances; providing for the powers and duties of the  
3 Pennsylvania Public Utility Commission and for enforcement by  
4 the Attorney General.

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7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Telephone  
11 Customer Protection Act.

12 Section 2. Definitions.

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

16 "Commission." The Pennsylvania Public Utility Commission.

17 "Customer." A retail purchaser of telecommunications  
18 service, whether local or long distance.

19 "Slamming." The unauthorized change of a customer's  
20 telecommunications service provider, whether local or long-  
21 distance service.

22 "Telecommunications service or telephone service provider."  
23 A utility service involving the transmission of messages,  
24 provided by a long-distance or local telephone company.

25 Section 3. Scope.

26 (a) General rule.--The provisions of this act against  
27 slamming are limited to telephone service providers. Both local  
28 and long distance telephone service providers are encompassed by  
29 this act. Providers of electric or natural gas service are not  
30 within the scope of this act.

1 (b) Nature of remedy.--The remedy for slamming provided for  
2 by this act is exclusively civil in nature. Hearings regarding  
3 slamming may be conducted by telephone. The plaintiff may choose  
4 the telephone option.

5 Section 4. Restrictions on changing telephone service.

6 No telecommunications service or telephone service provider  
7 or other entity in the business of providing telephone service,  
8 or any person, firm or corporation representing such an entity,  
9 shall engage in the practice of slamming nor change or authorize  
10 another to make a change in a customer's selection of telephone  
11 service without the express permission of the customer.

12 Section 5. Acceptable methods of changing providers.

13 To ensure that a customer's telephone service is not changed  
14 without permission, the commission shall promulgate and adopt  
15 regulations consistent with this act. The acceptable methods of  
16 switching telephone service shall consist of:

17 (1) Written customer authorization.

18 (2) Toll-free electronic authorization placed from the  
19 telephone number which is the subject of the service change.

20 (3) Oral authorization obtained by an independent third  
21 party. Such authorization may be taped using a medium  
22 conducive to the recordation of speech. The party taping the  
23 oral authorization may not record the customer unless the  
24 customer consents to the customer's voice being taped and  
25 states as follows:

26 I, (name) desire to change my local/long-  
27 distance telephone service.

28 (4) An informational packet mailed to the customer which  
29 contains a postage-prepaid postcard, without receiving a  
30 cancellation of the customer's telephone service change



1           was authorized and the individual's name who authorized  
2           the change.

3   Section 9.   Notice to provider.

4       Where a customer's telephone service is changed without  
5   permission and the customer notifies the telecommunications  
6   provider within 90 days that the customer did not authorize the  
7   change and does not wish to change providers, the customer shall  
8   be switched back to the customer's original provider at the  
9   expense of the provider which initiated the change.

10   Section 10.   Violation by unaffiliated reseller.

11       No telecommunications service or telephone service provider  
12   may be found in violation of this act solely on the basis that  
13   the violation is committed by an unaffiliated reseller of that  
14   provider's services or facilities.

15   Section 11.   Enforcement by commission, regulations, customer  
16                   complaints and guidelines.

17       The commission shall enforce the provisions of this act and  
18   shall adopt and promulgate regulations to carry out the  
19   provisions of this act. The regulations shall include, but not  
20   be limited to, procedures governing the resolution of customer  
21   complaints concerning slamming.

22   Section 12.   Liability for unauthorized change of provider.

23       Where investigation of a customer complaint establishes that  
24   an unauthorized change in telephone service provider has  
25   occurred, the customer shall not be liable for any bills  
26   rendered as a result of the unauthorized change of provider. Any  
27   moneys paid by the customer shall be refunded within 15 days of  
28   the resolution of the complaint. The telecommunications service  
29   provider making the unauthorized change shall switch the  
30   customer back to the original provider at no cost or fee to the

1 customer.

2 Section 13. Enforcement by Attorney General.

3 (a) General rule.--The commission may take such action as  
4 may be necessary to collect any civil penalty it imposes under  
5 this act and, on behalf of any customer, any damages awarded the  
6 customer. Such action may include referral of the matter to the  
7 Attorney General, who shall recover the amount of civil penalty  
8 assessed or damages awarded by action in the appropriate court.

9 (b) Pattern of conduct.--Whenever the commission finds that  
10 a telecommunications service or telephone service provider or  
11 any person, firm or corporation representing a  
12 telecommunications service provider or any entity in the  
13 business of providing telephone service has engaged in a pattern  
14 of conduct in violation of the provisions of this act or has  
15 refused or failed to resolve a customer complaint in a time  
16 frame established by the commission, the commission may refer  
17 the matter to the Attorney General for resolution.

18 (c) Unfair trade violation.--A violation of this act shall  
19 be deemed a violation of the act of December 17, 1968 (P.L.1224,  
20 No.387), known as the Unfair Trade Practices and Consumer  
21 Protection Law.

22 Section 14. Collateral estoppel.

23 A finding by the commission under this act that slamming has  
24 occurred shall be collaterally estopped in other proceedings as  
25 to the fact that slamming occurred. The commission may award  
26 costs and expenses incurred and documented by the consumer. The  
27 entity engaging in the slamming shall reimburse the consumer for  
28 these documented costs and expenses. The commission may, in its  
29 discretion, increase the amount of the award to an amount equal  
30 to not more than three times actual damages.

1 Section 15. Statute of limitations.

2 There shall be a two-year statute of limitations for actions  
3 under this act. The cause of action shall accrue when the  
4 consumer knew or should have known of the unauthorized switch in  
5 provider.

6 Section 16. Amount in controversy.

7 In order for a cause of action to arise, the claim for  
8 damages must be at least \$50.

9 Section 17. Effective date.

10 This act shall take effect in 60 days.