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SENATE
S. B. No. 3474

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Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Since 1997, wireless telephone service has expanded greatly. Once a luxury used by few, now more than thirty five million Filipino's use wireless telephone service. Many wireless telephone consumers have themselves experienced examples of widespread and systematic consumer abuses regarding the terms and conditions of wireless telephone service, poor service quality, billing errors, termination of service, and lack of effective procedures for redress of consumer grievances.

More consumers than ever are buying wireless phones for business and personal use. With the increased competition between telecommunications companies throughout the Country, wireless phones have become much less expensive and much more accessible. The use of wireless phones have become so integral in some people's lives that they can no longer imagine living without them. Some consumers are even opting to keep a wireless phone as the primary phone line of their households. Although many consumers are content with the wireless phones and service contract, the increasing number of consumer complaints on the subject cannot be doubted

The proposed legislation realizes the growing importance of wireless telephone service and establishes the basic consumer rights and remedies that apply equally to all providers, so that competition can evolve on a level playing field.


MIRIAM DEFENSOR SANTIAGO

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1 THE
2 WIRELESS TELEPHONE
3 CONSUMER PROTECTION ACT OF 2009

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

4 SECTION 1. *Title.* - This Act shall be known as the "*Wireless Telephone*
5 *Consumer Protection Act of 2009*"

6 SECTION 2. *Definitions.* - For purposes of this Act, the following definitions
7 shall apply:

8 a) "Commission" - means the National Telecommunications Commission
9 (NTC).

10 b) "Internet" - means The shared global computing network. A network
11 based on standards including Internet Protocol (IP), Simple Mail
12 Transfer Protocol (SMTP) and the Domain Name System (DNS),
13 which enables global communications between all connected
14 computing devices. It provides the platform for web services and
15 the World Wide Web.

16 c) "Wireless telephone service" - means commercial mobile radio service.

17 d) "Wireless telephone service provider" or "provider" - means any entity
18 that provides wireless telephone service in the country.

19 e) "Wireless telephone number information" - means the telephone number,
20 electronic address and any other identifying information by which
21 a calling party may reach a subscriber to commercial mobile
22 services, and which is assigned by a wireless telephone service
23 provider to such subscriber.

24 SECTION 3. *Information Requirement.* - Within 180 days following the effective
25 date of this act, the Commission shall adopt rules and regulations requiring that any
26 publication, including publication on the Internet, of a wireless telephone service
27 provider concerning the terms of its plans or contracts for wireless telephone service shall
28 set forth, in a plain and conspicuous manner, the following information:

29 (1) Information on charges, including the originating location of
30 the call, monthly base charge, per-minute charges for minutes not included
31 in the plan, and the method of calculating minutes charged;

32 (2) Information on the minutes included in the plan, including
33 allowable minutes during daytime on weekdays, allowable minutes during
34 nights and weekends, or any other differing charges for long-distance,
35 roaming, incoming and directory assistance;

36 (3) Information on plan or contract terms, including length of
37 contract, early or other termination fees, trial periods, and start-up fees;

38 (4) Information on taxes to be collected by the provider for,
39 and paid to the national, local, or other governmental agency;

40 (5) Information on surcharges imposed by the provider for the
41 costs of compliance with regulations or for other purposes; and

42 (6) Any other information that the Commission considers
43 appropriate to ensure that consumers of wireless telephone service are
44 fully informed of the terms of the plan or contract.

45 The Wireless telephone service providers shall provide the information required
46 by this section to a consumer prior to entering into any contract with a consumer for
47 wireless telephone service.

48 SECTION 4. *Information on Service Coverage.* - Each wireless telephone service
49 provider shall make available maps showing the wireless telephone service area of such
50 provider and the wireless telephone service area of such provider within the country.
51 Such maps shall contain the maximum practicable level of granularity and shall be
52 updated quarterly.

53 Each map of a service area required under subsection a. of this section shall be
54 provided to a consumer:

- 55 (1) upon the request of the consumer; and
- 56 (2) whenever a plan or contract for the service is entered into.

57 Each map of a service area required under subsection a. of this section shall be
58 available:

- 59 (1) on the Internet website of the provider concerned; and
- 60 (2) on the Internet website of the Commission.

61 SECTION 5. *Monitoring.* -The Commission shall monitor the quality of wireless
62 telephone service providers based on the following standards:

- 63 (1) dropped calls;
- 64 (2) blocked calls;
- 65 (3) known coverage gaps (including average signal strength) or dead zones;
- 66 (4) predicted street level signal strength; and
- 67 (5) any other matters the Commission considers appropriate.

68 In monitoring the quality of wireless telephone service under subsection a. of this
69 section, the Commission shall establish an Internet website which allows the public to
70 submit their comments and views to the Commission on the quality of such service. The
71 Commission shall also accept written complaints by mail.

72 SECTION 6. *Availability of Information.* -The Commission shall make
73 information available to wireless telephone service providers and the public on a
74 semiannual basis concerning the quality of wireless telephone service of the provider.

75 SECTION 7. *Extension of Contract.* - An extension of a contract for wireless
76 telephone service shall not be valid unless the extension of the contract is in writing and
77 is signed by the subscriber, or confirmed in writing and signed by the subscriber within
78 seven days of receipt by the subscriber.

79 SECTION 8. *Notice on Change of Terms.* - A wireless telephone service provider
80 shall provide subscribers with written notice of any change in rates, terms, or conditions
81 of service at least 30 days before the change is to take effect. If any such change will
82 result in higher rates or more restrictions on service or otherwise will result in a material,
83 adverse change for such subscriber, the subscriber may, within such 30-day period,
84 terminate the service without penalty and receive a pro rata refund of the charges, if any,

85 paid for the handset used for the service. The notice of change shall inform the
86 subscriber of the right to terminate the contract, the right to a handset refund, and the
87 steps to take to implement such a termination.

88 SECTION 9. *Cancellation of Contract.* - A contract for wireless service may be
89 canceled upon the request of the subscriber for any reason during the first 30 days. There
90 shall be no penalty or other costs to the subscriber for any cancellation during these 30
91 days, except that the subscriber shall be responsible for the cost of the service used during
92 the time period that the contract was in effect.

93 SECTION 10. *Billing.* - A wireless telephone service provider shall provide bills
94 for wireless telephone services that are clearly organized and clearly describe in plain
95 language the products and services for which charges are imposed, and that conform to
96 format standards established by the Commission.

97 SECTION 11. *Taxes.* - Taxes and fees which are required by the law, or local
98 ordinance or regulation to be collected from the subscriber shall be set forth in a separate
99 section of the bill and shall be itemized separately. This section of the bill shall only
100 contain charges that the provider is required to be recovered from subscribers pursuant to
101 law.

102 SECTION 12. *Roaming charges.* - Roaming or off-network charges shall be
103 itemized on the subscriber's bill within 60 days of the call being placed, and such
104 roaming or off-network charges shall identify the date and originating location of the call.

105 SECTION 13. *Request for Billing Statement.* - Upon the request of a subscriber, a
106 wireless telephone service provider shall provide an itemized bill to the subscriber at no
107 cost to the subscriber.

108 SECTION 14. *Charges on Unauthorized Use.* - Charges associated with the use of
109 wireless telephone equipment or services shall not be the liability of the subscriber if such
110 use was unauthorized by the subscriber due to loss or theft, provided that such loss or
111 theft is promptly reported to the wireless telephone service provider.

112 SECTION 15. *Rules and Regulations on Complaints.* - The Commission shall
113 adopt rules and regulations as may be necessary to allow subscribers to file complaints
114 with the Commission with regard to billing disputes between wireless telephone service
115 providers and subscribers.

116 SECTION 16. *Non-termination of Service.* - A wireless telephone service
117 provider shall refrain from terminating a subscriber's service for nonpayment so long as

118 the subscriber's billing complaint is pending before the Commission and for 15 days
119 thereafter, or for such period as the Commission for good cause shall establish, provided
120 that as a condition of continued service during the pendency of any such dispute, the
121 subscriber shall pay the undisputed portions of any bill for service and any amounts the
122 Commission determines are necessary to fairly compensate the wireless telephone
123 provider for services rendered while the complaint is pending and 15 days thereafter.

124 SECTION 17. *Publication of Information.* - A wireless telephone service
125 provider, or any direct or indirect affiliate or agent of a provider, providing the name and
126 wireless telephone number information of a subscriber for inclusion in any directory of
127 any form, or selling, leasing, licensing or sharing the contents of any directory database,
128 or any portion or segment thereof, shall not include the wireless telephone number
129 information of any subscriber without first obtaining the express consent of that
130 subscriber. The provider's form for obtaining the subscriber's express consent shall meet
131 all of the following requirements:

132 (1) it shall be a separate document that is not attached to any other document;

133 (2) it shall be signed and dated by the subscriber;

134 (3) it shall be unambiguous and legible, and shall conspicuously disclose that,
135 by signing the form, the subscriber consents to having the subscriber's wireless
136 telephone number information sold or licensed as part of a list of subscribers and
137 having the subscriber's wireless telephone number information included in a
138 publicly available directory; and

139 (4) if under the subscriber's calling plan the subscriber may be billed for
140 receiving unsolicited calls or text messaging from a telemarketer, the provider's
141 form shall be unambiguous and legible, and shall conspicuously disclose that, by
142 consenting to have the subscriber's wireless telephone number information sold or
143 licensed as part of a list of subscribers or to be included in a publicly available
144 directory, the subscriber may incur additional charges for receiving unsolicited
145 calls or text messages.

146 SECTION 18. *Revocation of Consent.* - A subscriber who provides express prior
147 consent pursuant to the preceding section may revoke that consent at any time. A
148 wireless telephone service provider shall comply with the subscriber's request to opt out
149 within a reasonable period of time, not to exceed 60 days.

150 SECTION 19. *Exceptions.* - The provisions of Section 17 shall not apply to the
151 following parties for the purposes indicated:

152 (1) To a collection agency, to the extent disclosures made by the provider are
153 exclusively for the collection of the subscriber's unpaid debt to the provider;

154 (2) To any law enforcement agency;

155 (3) To a lawful process issued by the court under the law;

156 (4) To a telephone company providing service between service areas for the
157 provision to the subscriber of telephone service between service areas, or to third
158 parties for the limited purpose of providing billing services;

159 (5) To a telephone company to effectuate a subscriber's request to transfer
160 the customer's assigned telephone number from the customer's existing provider
161 of telecommunications services to a new provider of telecommunications
162 services; and

163 (6) To the Commission pursuant to its jurisdiction and control over wireless
164 telephone providers.

165 SECTION. 20. *Penalties.* - Any director, officer or agent of a corporation who
166 shall authorize, order or perform any of the acts or practices constituting in whole or in
167 part a violation of Section 3, and who has knowledge or notice of noncompliance
168 received by the corporation from the Commission, shall upon conviction, be subject to a
169 fine of not less than One hundred thousand pesos (P100,000.00) but not more than One
170 Million Pesos (P1,000,000.00) or imprisonment of not less than six (6) years but not
171 more than twelve (12) years, or both upon the discretion of the court.

172

173 In case the violation is committed by, or in the interest of a juridical person duly
174 licensed to engage in business in the Philippines, such license to engage in business shall
175 also be immediately revoked.

176 SEC. 21. *Authority Of The Commission* - The Commission shall enforce this Act
177 in the same manner and by the same means as though all applicable terms and provisions
178 of the Public Telecommunications Policy Act of the Philippines were incorporated into
179 and made part hereof. The Commission may prescribe regulations to carry out this Act.

180 SECTION 22. *Separability Clause.* – If any provision or part thereof, is held
181 invalid or unconstitutional, the remainder of the law or the provision not otherwise
182 affected shall remain valid and subsisting.

183 SECTION 23. *Repealing Clause.* – Any law, presidential decree or issuance,
184 executive order, letter of instruction, administrative order, rule or regulation contrary to,
185 or inconsistent with the provisions of this Act is hereby repealed, modified or amended
186 accordingly.

187 SECTION 24. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
188 after its publication in at least two (2) newspapers of general circulation.

189 Approved.