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SENATE
S. No. 1726

RECEIVED BY: 

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.¹


MIRIAM DEFENSOR SANTIAGO

¹ This bill was originally filed in the third regular session of the 14th Congress.

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1 AN ACT
2 PROTECTING CONSUMERS OF WIRELESS TELEPHONE SERVICES

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

3 SECTION 1. *Title.* – This Act shall be known as the “*Wireless Telephone*
4 *Consumer Protection Act.*”

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

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

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

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

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

1 e) "Wireless telephone number information" - means the telephone number,
2 electronic address and any other identifying information by which
3 a calling party may reach a subscriber to commercial mobile
4 services, and which is assigned by a wireless telephone service
5 provider to such subscriber.

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

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

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

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

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

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

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

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

4 SECTION 4. *Information on Service Coverage.* - Each wireless telephone service
5 provider shall make available maps showing the wireless telephone service area of such
6 provider and the wireless telephone service area of such provider within the country.
7 Such maps shall contain the maximum practicable level of granularity and shall be
8 updated quarterly.

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

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

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

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

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

- 19 (1) dropped calls;
- 20 (2) blocked calls;
- 21 (3) known coverage gaps (including average signal strength) or dead zones;
- 22 (4) predicted street level signal strength; and
- 23 (5) any other matters the Commission considers appropriate.

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

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

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

8 SECTION 8. *Notice on Change of Terms.* - A wireless telephone service provider
9 shall provide subscribers with written notice of any change in rates, terms, or conditions
10 of service at least 30 days before the change is to take effect. If any such change will
11 result in higher rates or more restrictions on service or otherwise will result in a material,
12 adverse change for such subscriber, the subscriber may, within such 30-day period,
13 terminate the service without penalty and receive a pro rata refund of the charges, if any,
14 paid for the handset used for the service. The notice of change shall inform the
15 subscriber of the right to terminate the contract, the right to a handset refund, and the
16 steps to take to implement such a termination.

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

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

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

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

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

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

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

20 SECTION 16. *Non-termination of Service.* - A wireless telephone service
21 provider shall refrain from terminating a subscriber's service for nonpayment so long as
22 the subscriber's billing complaint is pending before the Commission and for 15 days
23 thereafter, or for such period as the Commission for good cause shall establish, provided
24 that as a condition of continued service during the pendency of any such dispute, the
25 subscriber shall pay the undisputed portions of any bill for service and any amounts the

1 Commission determines are necessary to fairly compensate the wireless telephone
2 provider for services rendered while the complaint is pending and 15 days thereafter.

3 SECTION 17. *Publication of Information.* - A wireless telephone service
4 provider, or any direct or indirect affiliate or agent of a provider, providing the name and
5 wireless telephone number information of a subscriber for inclusion in any directory of
6 any form, or selling, leasing, licensing or sharing the contents of any directory database,
7 or any portion or segment thereof, shall not include the wireless telephone number
8 information of any subscriber without first obtaining the express consent of that
9 subscriber. The provider's form for obtaining the subscriber's express consent shall meet
10 all of the following requirements:

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

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

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

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

25 SECTION 18. *Revocation of Consent.* - A subscriber who provides express prior
26 consent pursuant to the preceding section may revoke that consent at any time. A

1 wireless telephone service provider shall comply with the subscriber's request to opt out
2 within a reasonable period of time, not to exceed 60 days.

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

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

7 (2) To any law enforcement agency;

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

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

12 (5) To a telephone company to effectuate a subscriber's request to transfer
13 the customer's assigned telephone number from the customer's existing provider
14 of telecommunications services to a new provider of telecommunications
15 services; and

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

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

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

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

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

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

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

Approved.