

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

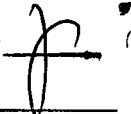


Senate
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SENATE

S. B. No. 774

RECEIVED BY: 

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
PROTECTING CONSUMERS OF WIRELESS TELEPHONE SERVICES

EXPLANATORY NOTE

The use of cellular telephones has indeed increased in the country since its introduction in the late 90's, when they were first considered as status symbols. These days, they are so common place that almost every other person you bump into is either talking on the cell; is busy texting; or even listening to music, watching videos, surfing the internet or even playing games in their "smart" cellular phones or "smart-phones."

The expansion of the cellular service allowed millions of Filipinos from all social classes to own a cellular unit. However, with the growth of the wireless telephone network, it is inevitable that problems come along with it. It is not uncommon that we hear complaints like dropped calls; network congestion resulting to delayed receipt of text messages; interconnection problems with competing cellular companies; and even top-up loads that simply "vanish" for unknown reasons (affecting the pre-paid customers).

Since a large portion of the population rely on this telecommunication service, it is indeed imperative that a law be set in place to protect the rights of the subscribers who, at times, suffer from the inefficient service provided by the different telecommunication companies.

For these reasons, as introduced by Senator Miriam Defensor-Santiago in the 16th Congress, this bill is respectfully submitted.

FRANCIS G. ESCUDERO



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AN ACT
PROTECTING CONSUMERS OF WIRELESS TELEPHONE SERVICES

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

1 **Section 1. Title.** This Act shall be known as the "Wireless Telephone Consumer
2 Protection Act."
3

4 **Section 2. Definitions.** For purposes of this Act, the term:

- 5 a) "Commission" – means the National Telecommunications Commission (NTC);
6 b) "Internet" – means the shared global computing network. A network based on
7 standards including Internet Protocol (IP), Simple Mail Transfer Protocol
8 (SMTP) and the Domain Name System (DNS), which enables global
9 communications between all connected computing devices. It provides the
10 platform for web services and the World Wide Web;
11 c) "Wireless telephone services" – means commercial mobile radio service;
12 d) "Wireless telephone service provider" or "provider" – means any entity that
13 provides wireless telephone service in the country; and
14 e) "Wireless telephone number information" – means the telephone number,
15 electronic address and any other identifying information by which a calling
16 party may reach a subscriber to commercial mobile services, and which is
17 assigned by a wireless telephone service provider to such subscriber.
18

19 **Section 3. Information Requirement.** Within 180 days following the effective date
20 of this Act, the Commission shall adopt rules and regulations requiring that any
21 publication, including publication on the internet, of a wireless telephone service
22 provider concerning the terms of its plans or contracts for wireless telephone service
23 shall set forth, in a plain and conspicuous manner, the following information:
24

- 25 (1) Information on charges, including the originating location of the call, monthly
26 base charge, per-minute charges for minutes not included in the plan, and the
27 method of calculating minutes charged;
28 (2) Information on the minutes included in the plan, including allowable minutes
29 during daytime and weekdays, allowable minutes during nights and
30 weekends, or any other differing charges for long distance, roaming,
31 incoming and directory assistance;
32 (3) Information on plan or contract terms, including length of contract, early or
33 other termination fees, trial periods, and start-up fees;

- 1 (4) Information on taxes collected by the provider for, and paid to the national,
2 local, or other governmental agency;
- 3 (5) Information on surcharges imposed by the provider for the costs of
4 compliance with regulations or for other purposes; and
- 5 (6) Any other information that the Commission considers appropriate to ensure
6 that consumers of wireless telephone service are fully informed of the terms
7 of the plan or contract.

8
9 The wireless telephone service providers shall provide the information required
10 by this section to a consumer prior to entering into any contract with a consumer for
11 wireless telephone service.

12
13 **Section 4. *Information on Service Coverage.*** Each wireless telephone service
14 provider shall make available maps showing the wireless telephone service area of such
15 provider and the wireless telephone service area of such provider within the country.
16 Such maps shall contain practicable level of granularity and shall be updated quarterly.

17
18 Each map of service required under subsection a, of this section shall be
19 provided to a consumer:

- 20 (1) upon the request of the Consumer; and
- 21 (2) whenever a plan or contract for the service is entered into.

22
23 Each map of service required under subsection a, of this section shall be
24 available:

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

27
28 **Section 5. *Monitoring.*** The Commission shall monitor the quality of wireless
29 telephone service providers based on the following standards:

- 30 (1) dropped calls;
- 31 (2) blocked calls;
- 32 (3) known coverage gaps (including average signal strength) or dead zones;
- 33 (4) predicted stress level signal strength; and
- 34 (5) any other matters the Commission considers appropriate.

35
36 In monitoring the quality of wireless telephone service, the Commission
37 shall establish a website which allows the public to submit their comments and
38 views to the Commission on the quality of such service. The Commission shall
39 also accept written complaints by mail.

40
41 **Section 6. *Availability of Information.*** The Commission shall make information
42 available to wireless telephone service providers and the public on a semiannual basis
43 concerning the quality of wireless telephone service of the provider.

44
45 **Section 7. *Extension of Contract.*** An extension of a contract for wireless telephone
46 service shall not be valid unless the extension of the contract is in writing and is signed
47 by the subscriber, or confirmed in writing and signed by the subscriber within seven
48 days of the receipt of the subscriber.

49
50 **Section 8. *Notice on Change of Terms.*** A wireless telephone service provider shall
51 provide subscribers with written notice of any change in rates, terms, or conditions of
52 service at least days before the change is to take effect. If any such change will result to
53 higher rates or more restrictions on service or otherwise will result in a material,

1 adverse change for such subscriber, the subscriber may, within such 30-day period,
2 terminate the service without penalty and receive a pro rata refund of the charges, if
3 any, paid for the handset used for the service. The notice of change shall inform the
4 subscriber of the right to terminate the contract, the right to a handset refund, and the
5 steps to take to implement such termination.
6

7 **Section 9. Cancellation of Contract.** A contract for wireless service may be,
8 canceled upon the request of the subscriber for any reason during the first days. There
9 shall be no penalty or other costs to the subscriber for any cancellation during these 30
10 days, except that the subscriber shall be responsible for the cost of the service used
11 during the time period that the contract was in effect.
12

13 **Section 10. Billing.** A wireless telephone service provider shall provide bills for
14 wireless telephone services that are clearly organized and clearly described in plain
15 language the products and services for which charges are imposed, and that conform to
16 format standards established by the Commission.
17

18 **Section 11. Taxes.** Taxes and fees which are required by the law, or local
19 ordinance or regulation to be collected from the subscriber shall set forth in a separate
20 section of the bill and shall be itemized separately. This section of the bill shall only
21 contain charges that the provider is required to be recovered from subscribers pursuant
22 to law.
23

24 **Section 12. Roaming charges.** Roaming or off-network charges shall be itemized
25 on the subscriber's bill within 60 days of call being placed, and such roaming or off-
26 network charges shall identify the date and originating location of the call.
27

28 **Section 13. Request for Billing Statement.** Upon the request of a subscriber, a
29 wireless telephone service provider shall provide an itemized bill to the subscriber at no
30 cost to the subscriber.
31

32 **Section 14. Charges on Unauthorized Use.** Charges associated with the use of
33 wireless telephone equipment or services shall not be the liability of the subscriber if
34 such use was unauthorized by the subscriber due to lost or theft, provided that such
35 loss or theft is promptly reported the wireless telephone service provider.
36

37 **Section 15. Rules and Regulations on Complaint.** The Commission shall adopt
38 rules and regulations as may be necessary to allow subscribers to file complaints with
39 the Commission with regard to billing disputes between wireless telephone service
40 providers and subscribers.
41

42 **Section 16. Non-termination of Service.** A wireless telephone service provider shall
43 refrain from terminating a subscriber's service for nonpayment so long as the
44 subscriber's billing complaint is pending before the Commission and for 15 days
45 thereafter, or for such period as the Commission for good cause shall establish,
46 provided that as a condition of continued service during the pendency of such dispute,
47 the subscriber shall pay the undisputed portions of any bill for service and any amounts
48 the Commission determines are necessary to fairly compensates the wireless telephone
49 provider for services rendered while the complaint is pending and 15 days thereafter.
50

51 **Section 17. Publication of Information.** A wireless telephone service provider, or
52 any direct or indirect affiliate or agent of a provider, providing the name and wireless
53 telephone number information of a subscriber for inclusion in any directory of any

1 form, or selling, leasing, licensing or sharing the contents of any directory database, or
2 any portion or segment thereof, shall not include the wireless telephone number
3 information of any subscriber without first obtaining the express consent of that
4 subscriber. The provider's form for obtaining the subscriber's express consent shall
5 meet all the following requirements:

- 6 (1) it shall be a separate document that is not attached to any other document;
- 7 (2) it shall be signed and dated by the subscriber;
- 8 (3) it shall be unambiguous and legible, and shall conspicuously disclose that, by
9 signing the form, the subscriber consents to having the subscriber's wireless
10 telephone number information sold or licensed as part of a list of subscribers
11 and having the subscriber's wireless telephone number information in a
12 publicly available directory; and
- 13 (4) if under the subscriber's calling plan the subscriber may be billed for
14 receiving unsolicited calls or text messaging from a telemarketer, the
15 provider's form shall be unambiguous and legible, and shall conspicuously
16 disclose that, by consenting to have the subscriber's wireless telephone
17 number information sold or licensed as part of a list of subscribers or to be
18 included in a publicly available directory, the subscriber may incur additional
19 charges for receiving unsolicited calls or text messages.

20
21 **Section 18. Revocation of Consent.** A subscriber who provides express prior
22 consent pursuant to the preceding section may revoke that consent any time. A
23 wireless telephone service provider shall comply with the subscriber's request to opt
24 out within a reasonable period of time, not to exceed 60 days.

25
26 **Section 19. Exceptions.** The provisions of Section 17 shall not apply to the
27 following parties for the purposes indicated:

- 28 (1) To a collection agency, to the extent disclosures made by the provider are
29 exclusively for the collection of subscriber's unpaid debt to the provider;
- 30 (2) To any law enforcement agency;
- 31 (3) To a lawful process issued by the court under the law;
- 32 (4) To a telephone company providing service between service areas for the
33 provision to the subscriber of telephone service between service areas, or to
34 third parties for the limited purpose of providing billing services;
- 35 (5) To a telephone company to effectuate a subscriber's request to transfer the
36 customer's assigned telephone number from the customer's existing provider
37 of telecommunications services to a new provider of telecommunications
38 services; and
- 39 (6) To the Commission pursuant to its jurisdiction and control over wireless
40 telephone providers.

41
42 **Section 20. Penalties.** Any director, officer or agent of a corporation who shall
43 authorize, order or perform any of the acts or practices constituting in whole or in part a
44 violation of Section 3, and who had knowledge or notice of noncompliance received by
45 the corporation from the Commission, shall upon conviction, be subject to a fine of not
46 less than One Hundred Thousand Pesos (₱100,000.00) but not more than One Million
47 Pesos (₱1,000,000.00) or imprisonment of not less than six (6) years but not more than
48 twelve (12) years, or both upon the discretion of the court.

49
50 In case the violation committed by, or in the interest of a judicial person duly
51 licensed to engage in business in the Philippines, such license to engage in business
52 shall also be immediately revoked.

1 **Section 21. *Authority of the Commission.*** The Commission shall enforce this Act in
2 the same manner and by the same means as though all applicable terms and provisions
3 of the Public Telecommunications Policy Act of the Philippines were incorporated into
4 and made part hereof. The Commission may prescribe regulations to carry out this Act.
5

6 **Section 22. *Separability Clause.*** If any provision or part thereof, is held invalid or
7 unconstitutional, the remainder of the law or the provision not otherwise affected shall
8 remain valid and subsisting.
9

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

15 **Section 24. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after its
16 publication on the Official Gazette or in two (2) newspapers of general circulation.

Approved,