



Thursday, March 16, 2006

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S T A T E O F N E W Y O R K

4263

2005-2006 Regular Sessions

I N S E N A T E

April 12, 2005

Introduced by Sens. WRIGHT, FUSCHILLO, GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law and the general business law, in relation to enacting the "wireless telephone consumer protection act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "wireless telephone consumer protection act".

3 S 2. Subdivision 1 of section 553 of the executive law is amended by
4 adding a new paragraph a-2 to read as follows:

5 A-2. IMPLEMENT THE PROVISIONS OF ARTICLE TWENTY-EIGHT-E OF THE GENERAL
6 BUSINESS LAW; AND

7 S 3. The general business law is amended by adding a new article 28-E
8 to read as follows:

9 ARTICLE 28-E
10 WIRELESS TELEPHONE CONSUMER PROTECTION ACT

11 SECTION 490. WIRELESS TELEPHONE CONSUMER PROTECTION.

12 491. RIGHT TO CANCEL.

13 S 490. WIRELESS TELEPHONE CONSUMER PROTECTION. THE CONSUMER PROTECTION
14 BOARD IS HEREBY AUTHORIZED AND DIRECTED TO PROMULGATE RULES AND REGU-
15 LATIONS TO AFFORD CONSUMER PROTECTIONS TO RESIDENTIAL CUSTOMERS OF WIRE-
16 LESS TELEPHONE SERVICE. SUCH RULES AND REGULATIONS SHALL BE CONSISTENT
17 WITH FEDERAL LAW REGULATING WIRELESS TELEPHONE SERVICE OR PROVIDERS OF
18 WIRELESS TELEPHONE SERVICE, AND SHALL INCLUDE, BUT NOT BE LIMITED TO,
19 THE FOLLOWING AREAS:

20 1. REQUIRING TIMELY WRITTEN DISCLOSURE BY PROVIDERS OF WIRELESS TELE-
21 PHONE SERVICE TO EACH RESIDENTIAL CUSTOMER SETTING FORTH IN DETAIL THE
22 TERMS OF SUCH CUSTOMER'S PLAN FOR THE PROVISION OF WIRELESS TELEPHONE
23 SERVICE INCLUDING THE CONTENT AND FORM OF THE RIGHT TO CANCEL;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

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1 2. REQUIRING DISCLOSURE AT ANY POINT OF SALE OR OF CONTACT WITH POTEN-
2 TIAL OR EXISTING RESIDENTIAL CUSTOMERS OF MAPS DISPLAYING THE OUTSIDE
3 COVERAGE WITHIN THE STATE AND WITHIN EACH COUNTY OF THE STATE IN WHICH
4 THE PROVIDER OF WIRELESS TELEPHONE SERVICE PROVIDES SERVICE. SUCH MAPS
5 SHALL BE PREPARED BY EACH WIRELESS TELEPHONE SERVICE PROVIDER IN THE
6 STATE USING GENERALLY ACCEPTED METHODOLOGIES AND STANDARDS AS ESTAB-
7 LISHED BY THE CONSUMER PROTECTION BOARD. SUCH MAPS SHALL BE PREPARED TO
8 REFLECT THE COUNTY LEVEL OF WIRELESS TELEPHONE SERVICE AND SHALL BE IN
9 SPECIFIC DETAIL TO: (I) IDENTIFY ALL GEOGRAPHIC AREAS WITHIN SUCH COUNTY
10 LARGER THAN FOUR SQUARE MILES WHERE WIRELESS TELEPHONE SERVICE IS NOT
11 PROVIDED; AND (II) IDENTIFY WHETHER OR NOT SUCH CUSTOMER SHALL BE ABLE
12 TO RECEIVE WIRELESS TELEPHONE SERVICE AT HIS OR HER PRIMARY RESIDENCE.
13 SUCH MAPS SHALL BE AVAILABLE FOR DISTRIBUTION TO CUSTOMERS AT PERSON TO
14 PERSON POINTS OF SALE, INCLUDING TELEPHONE SALES, AND BY DOWNLOAD FROM
15 THE INTERNET FOR INTERNET SALES;

16 3. REQUIRING EACH WIRELESS TELEPHONE SERVICE PROVIDER TO FILE WITH THE
17 CONSUMER PROTECTION BOARD INFORMATION CONCERNING THE RATES, CHARGES, AND
18 RATE PLANS OFFERED BY SUCH PROVIDER TO RESIDENTIAL CUSTOMERS;

19 4. ESTABLISHING WHEN USE CHARGES FOR COMMUNICATION OR REDUCTIONS IN
20 MINUTES SHALL OCCUR FOR CONNECTIONS ESTABLISHED BY WIRELESS TELEPHONE
21 SERVICE;

22 5. PROVIDING FOR THE MANNER AND FORM OF BILLING BY WIRELESS TELEPHONE
23 SERVICE PROVIDERS TO ITS RESIDENTIAL CUSTOMERS;

24 6. ESTABLISHING PROCEDURES FOR THE NOTIFICATION OF RESIDENTIAL CUSTOM-
25 ERS REGARDING ANY CHANGE IN RATES, CHARGES, TERMS, OR CONDITIONS OF
26 SERVICE FOR SUCH CUSTOMERS;

27 7. ESTABLISHING PROCEDURES FOR THE TIMELY PRIOR NOTICE TO RESIDENTIAL
28 CUSTOMERS OF THE WIRELESS TELEPHONE SERVICE PROVIDER'S INTENT TO TERMI-
29 NATE SERVICE;

30 8. ESTABLISHING PROCEDURES FOR THE ADMINISTRATION AND ADJUDICATION OF
31 COMPLAINTS BY RESIDENTIAL WIRELESS TELEPHONE CUSTOMERS CONCERNING THEIR
32 WIRELESS TELEPHONE SERVICE PROVIDER;

33 9. ESTABLISHING FINES AND PENALTIES FOR NON-COMPLIANCE WITH THE
34 PROVISIONS OF SUCH RULES AND REGULATIONS; AND

35 10. PROVIDING ANY OTHER PROTECTIONS OR SAFEGUARDS TO RESIDENTIAL
36 CUSTOMERS OF WIRELESS TELEPHONE SERVICE THAT THE CONSUMER PROTECTION
37 BOARD DEEMS RELEVANT.

38 S 491. RIGHT TO CANCEL. ANY CUSTOMER OF WIRELESS TELEPHONE SERVICE
39 SHALL HAVE THE RIGHT TO CANCEL ANY CONTRACT FOR SUCH SERVICE WITH HIS OR
40 HER WIRELESS TELEPHONE SERVICE PROVIDER WITHIN FIFTEEN DAYS AFTER THE
41 LAST DATE OF THE FIRST BILLING CYCLE FOR SUCH SERVICE. SUCH RIGHT TO
42 CANCEL MAY BE MADE FOR ANY REASON, AND SHALL BE MADE WITHOUT A FEE OR
43 ADDITIONAL CHARGES. SUCH RIGHT TO CANCEL SHALL BE CLEARLY SET FORTH IN
44 SUCH CONTRACT FOR WIRELESS TELEPHONE SERVICES, AND SHALL BE DISCLOSED TO
45 SUCH CUSTOMER PRIOR TO THE SALE OF SUCH SERVICES.

46 S 4. This act shall take effect on the one hundred twentieth day after
47 it shall have become a law; provided, however, that effective immediate-
48 ly, the addition, amendment and/or repeal of any rule or regulation
49 necessary for the implementation of this act on its effective date is
50 authorized and directed to be made and completed on or before such
51 effective date.

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