

HOUSE No. 3133

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act regulating the wireless telephone industry..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 93 of the General Laws, Official 2006 Edition, is hereby amended by inserting
2 after section 107, the following sections:—

3 Section 108. Short title. Section 108 to 116, inclusive, shall be known and may be cited
4 as the "Wireless Telephone Consumer Protection Act."

5 Section 109. Definitions.

6 "Department" means "Department of Telecommunications and Energy" as defined by
7 Mass. Gen. Laws ch. 25 § 1.

8 "Wireless telephone services" means commercial mobile radio services as defined by the
9 federal Telecommunications Act, 47 U.S.C. § 332(c).

10 "Wireless telephone service provider" means any entity that provides wireless telephone
11 service within the Commonwealth of Massachusetts.

12 "Wireless telephone number information" means the telephone number, electronic
13 address, and any other identifying information by which a calling party may reach a subscriber to
14 commercial mobile services, and which is assigned by a wireless telephone service provider to
15 such subscriber.

16 Section 110. Disclosure requirements for plans and contracts for wireless telephone
17 service.

18 (a) The Department of Telecommunications and Energy, within 180 days of the
19 passage of this Act, shall promulgate regulations requiring that any publication, including
20 publication on the Internet, of a wireless telephone service provider concerning the terms of its
21 plans or contracts for wireless telephone service shall set forth, in a plain and conspicuous
22 manner, the following information:

23 (1) Information on charges, including calling-from area, monthly base charge, per-
24 minute charges for minutes not included in the plan, and the method of calculating minutes
25 charged.

26 (2) Information on the minutes included in the plan, including weekday/daytime,
27 nights/weekends, or other differing charges; long-distance; roaming; incoming; and directory
28 assistance.

29 (3) Information on plan or contract terms, including length of contract, early or other
30 termination fees, trial periods, and start-up fees.

31 (4) Information on taxes to be collected by the carrier for, and paid to, a state, local, or
32 other governmental agency.

33 (5) Information on surcharges imposed by the carrier for the costs of compliance with
34 regulations or for other purposes.

35 (6) Any other information that the Department considers appropriate to ensure that
36 consumers of wireless telephone service are fully informed of the terms of the plan or contract.

37 (b) Wireless telephone service providers must provide the information required by this
38 section to a consumer prior to entering into any contract with a consumer for wireless telephone
39 service.

40 (c) The Department shall adopt rules requiring that the information required by this
41 section be published by wireless telephone service providers in a tabular format, in a clear and
42 uniform manner, and in at least 10 point font. This format shall be designed to ensure that
43 consumers may accurately compare the true cost of services among wireless service providers.

44 (d) Wireless telephone service providers must meet the disclosure requirements in this
45 section in advertising to the extent the medium allows.

46 Section 111. Disclosure requirements for wireless telephone service coverage.

47 (a) Each wireless telephone service provider shall make available maps showing the
48 wireless telephone service area of such provider and the wireless telephone service area of such
49 provider within Massachusetts. Such maps shall contain the maximum practicable level of
50 granularity and shall be updated quarterly.

51 (b) Each map of a service area under paragraph (a) shall be provided to a consumer (i)
52 upon the request of the consumer and (ii) whenever a plan or contract for the service is entered
53 into.

54 (c) Each map of a service area under paragraph (a) shall be available (i) on the Internet
55 web site of the provider concerned; and (ii) on the Internet website of the Department.

56 Section 112. Service Quality Information.

57 (a) The Department shall monitor the quality of wireless telephone service provided in
58 Massachusetts by requiring semiannual reports by wireless telephone service providers on the
59 following:

60 1) Dropped calls.

61 2) Blocked calls.

62 3) Known coverage gaps (including average signal strength) or dead zones.

63 4) Predicted street level signal strength.

64 5) Any other matters the Department considers appropriate.

65 (b) In monitoring the quality of wireless telephone service under paragraph (a), the
66 Department shall establish an Internet web site at which members of the public can submit to the
67 Department their comments and views on the quality of such service. The Department shall also
68 accept written complaints by mail.

69 (c) The Department shall make available to wireless telephone service providers and
70 the public on a semiannual basis information on the quality of wireless telephone service
71 provided in Massachusetts.

72 Section 113. Contract extension, modification, or rescission.

73 (a) No contract for wireless telephone service shall be for a term longer than twelve
74 months, except that upon expiration of the contract, the wireless telephone service provider may
75 offer to the subscriber the right to renew the contract for a similar, shorter or longer period not to
76 exceed twelve months.

77 (b) An extension of a contract for wireless telephone service shall not be valid unless the
78 extension of the contract is in writing and signed by the subscriber, or confirmed in writing and
79 signed by the subscriber within seven days.

80 (c) A wireless telephone service provider must provide subscribers with written notice of
81 any change in rates, terms, or conditions of service at least thirty days before the change is to
82 take effect. If any such change will result in higher rates or more restrictions on service or
83 otherwise will result in a material, adverse change for such subscriber, the subscriber may,
84 within such thirty day period, terminate the service without penalty and receive a pro rata refund
85 of the charges, if any, paid for the handset used for the service. The notice of change must
86 inform the 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 (a) A contract for wireless service may be canceled upon the request of the subscriber
89 for any reason during the first thirty days. There shall be no penalty or other costs to the
90 subscriber for any cancellation during these thirty days, except that the subscriber shall be
91 responsible for the cost of the service used during the time period the contract was in effect.

92 Section 114. Contract billing.

93 (a) A wireless telephone service provider shall provide bills for wireless telephone
94 services that are clearly organized and clearly describe in plain language the products and

95 services for which charges are imposed, and that conform to format standards established by the
96 Department.

97 (b) Taxes and fees which are required by federal, state, or local statute or regulation to
98 be collected from the subscriber shall be set forth in a separate section of the bill and shall be
99 itemized separately. No charge which is not required to be recovered from subscribers may be
100 included in this section of the bill.

101 (c) Roaming or off-network charges shall be itemized on the subscriber's bill within
102 sixty days of the call being placed, and such roaming or off-network charges shall identify the
103 date and originating location of the call.

104 (d) Upon the request of a subscriber, a wireless telephone services provider shall
105 provide an itemized bill to the subscriber at no cost to the subscriber.

106 (e) Charges associated with the use of wireless telephone equipment or services shall
107 not be the liability of the subscriber if such use was unauthorized by the subscriber due to loss or
108 theft, provided that such loss or theft is promptly reported to the wireless telephone service
109 provider.

110 (f) The Department shall promulgate regulations implementing this section and
111 establishing complaint handling procedures within the Department for billing disputes between
112 wireless telephone service providers and subscribers.

113 (g) A wireless telephone service provider shall refrain from terminating a subscriber's
114 service for nonpayment so long as the subscriber's billing complaint is pending before the
115 Department and for fifteen days thereafter, or for such period as the Department for good cause

116 shall establish, provided that as a condition of continued service during the pendency of any such
117 dispute, the subscriber shall pay the undisputed portions of any bill for service and any amounts
118 the Department determines are necessary to fairly compensate the wireless telephone provider
119 for services rendered while the complaint is pending and fifteen days thereafter.

120 Section 115. Wireless Customer Privacy.

121 (a) A wireless telephone service provider, or any direct or indirect affiliate or agent of
122 a provider, providing the name and wireless telephone number information of a subscriber for
123 inclusion in any directory of any form, or selling, leasing, licensing or sharing the contents of
124 any directory database, or any portion or segment thereof, shall not include the wireless
125 telephone number information of any subscriber without first obtaining the express consent of
126 that subscriber. The provider's form for obtaining the subscriber's express consent shall meet all
127 of the following requirements:

128 (1) It shall be a separate document that is not attached to any other document.

129 (2) It shall be signed and dated by the subscriber.

130 (3) It shall be unambiguous, legible, and conspicuously disclose that, by signing, the
131 subscriber is consenting to have the subscriber's wireless telephone number information sold or
132 licensed as part of a list of subscribers and the subscriber's wireless telephone number
133 information may be included in a publicly available directory.

134 (4) If under the subscriber's calling plan the subscriber may be billed for receiving
135 unsolicited calls or text messaging from a telemarketer, the provider's form shall be
136 unambiguous, legible, and conspicuously disclose that, by consenting to have the subscriber's

137 wireless telephone number information sold or licensed as part of a list of subscribers or be
138 included in a publicly available directory, the subscriber may incur additional charges for
139 receiving unsolicited calls or text messages.

140 (b) A subscriber who provides express prior consent pursuant to paragraph (a) may
141 revoke that consent at any time. A wireless telephone service provider shall comply with the
142 subscriber's request to opt out within a reasonable period of time, not to exceed 60 days.

143 (c) A subscriber shall not be charged for making the choice to not be listed in a
144 directory.

145 (d) This section does not apply to the provision of wireless telephone number
146 information to the following parties for the purposes indicated:

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

149 (2) To any law enforcement agency, fire protection agency, public health agency,
150 public environmental health agency, city or county emergency services planning agency, or
151 private for-profit agency operating under contract with, and at the direction of, one or more of
152 these agencies, for the exclusive purpose of responding to a 911 call or communicating an
153 imminent threat to life or property.

154 (3) To a lawful process issued under state or federal law.

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

158 (5) To a telephone corporation to effectuate a subscriber's request to transfer the
159 customer's assigned telephone number from the customer's existing provider of
160 telecommunications services to a new provider of telecommunications services.

161 (6) To the Department pursuant to its jurisdiction and control over wireless telephone
162 providers.

163 (e) No telephone corporation, nor any official or employee thereof, shall be subject to
164 criminal or civil liability for the release of subscriber information as authorized by this section.

165 Section 116. Enforcement.

166 (a) The Department shall have the power and authority to enforce the provisions of this
167 Act. The Department shall have the power, consistent with federal law, to assess a penalty not to
168 exceed one thousand dollars against any company that neglects or knowingly fails to comply
169 with any requirement of this Act.

170 (b) Failure to comply with any provision of this Act or any regulation promulgated in
171 accordance with this Act shall constitute an unfair or deceptive act or practice under chapter
172 ninety-three A.