

SENATE No. 1534

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act establishing a cell phone users bill of rights..

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

1 SECTION 1. Chapter 93 of the General Laws is hereby amended by inserting after
2 section 114, the following sections:-

3 Section 115. Section 116 to 123, inclusive, shall be known and may be cited as the
4 "Wireless Telephone Consumer Protection Act."

5 Section 116. As used in sections 116 to 123, inclusive, the following words shall, unless
6 the context clearly requires otherwise, have the following meanings:

7 "Department", the department of telecommunications and energy.

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

10 "Wireless telephone service provider", any entity that provides wireless telephone service
11 within the commonwealth.

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

16 Section 117. (a) The department of telecommunications and energy shall promulgate
17 regulations requiring that any publication, including publication on the internet, of a wireless
18 telephone service provider concerning the terms of its plans or contracts for wireless telephone
19 service shall set forth, in a plain and conspicuous manner, the following information:

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

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

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

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

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

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

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

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

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

43 Section 118. (a) Each wireless telephone service provider shall make maps available that
44 show the wireless telephone service area of such provider nationwide and the wireless telephone
45 service area of such provider within Massachusetts. Such maps shall contain the maximum
46 practicable level of granularity and shall be updated quarterly.

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

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

52 Section 119. (a) The department shall monitor the quality of wireless telephone service
53 provided in Massachusetts by requiring semiannual reports by wireless telephone service
54 providers on the following:

55 (1) Dropped calls.

56 (2) Blocked calls.

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

58 (4) Predicted street level signal strength.

59 (5) Any other matters the Department considers appropriate.

60 (b) In monitoring the quality of wireless telephone service under paragraph (a), the
61 department shall establish a website at which members of the public can submit to the
62 department their comments and views on the quality of such service. The department shall also
63 accept written complaints by mail.

64 (c) The department shall make available to wireless telephone service providers and the
65 public on a semiannual basis information on the quality of wireless telephone service provided in
66 Massachusetts.

67 Section 120. (a) No contract for wireless telephone service shall be for a term longer
68 than twelve months, except that upon expiration of the contract, the wireless telephone service
69 provider may offer to the subscriber the right to renew the contract for a similar, shorter or longer
70 period not to exceed twelve months.

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

74 (c) A wireless telephone service provider must provide subscribers with written notice of
75 any change in rates, terms, or conditions of service at least thirty days before the change is to
76 take effect. If any such change will result in higher rates or more restrictions on service or
77 otherwise will result in a material, adverse change for such subscriber, the subscriber may,
78 within such thirty day period, terminate the service without penalty and receive a pro rata refund
79 of the charges, if any, paid for the handset used for the service. The notice of change must
80 inform the subscriber of the right to terminate the contract, the right to a handset refund, and the
81 steps to take to implement such a termination.

82 (d) A contract for wireless service may be canceled upon the request of the subscriber for
83 any reason during the first thirty days. There shall be no penalty or other costs to the subscriber
84 for any cancellation during these thirty days, except that the subscriber shall be responsible for
85 the cost of the service used during the time period the contract was in effect.

86 Section 121. (a) A wireless telephone service provider shall provide bills for wireless
87 telephone services that are clearly organized and clearly describe in plain language the products
88 and services for which charges are imposed, and that conform to format standards established by
89 the department.

90 (b) Taxes and fees which are required by federal, state, or local statute or regulation to be
91 collected from the subscriber shall be set forth in a separate section of the bill and shall be

92 itemized separately. No charge which is not required by law to be recovered from subscribers
93 may be included in this section of the bill.

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

97 (d) Upon the request of a subscriber, a wireless telephone services provider shall supply
98 an itemized bill to the subscriber at no cost to the subscriber.

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

103 (f) The department shall promulgate regulations implementing this section and
104 establishing complaint handling procedures within the department for billing disputes between
105 wireless telephone service providers and subscribers.

106 (g) A wireless telephone service provider shall refrain from terminating a subscriber's
107 service for nonpayment so long as the subscriber's billing complaint is pending before the
108 department and for fifteen days thereafter, or for such period as the department for good cause
109 shall establish, provided that as a condition of continued service during the adjudication of any
110 such dispute, the subscriber shall pay the undisputed portions of any bill for service and any
111 amounts the department determines are necessary to fairly compensate the wireless telephone
112 provider for services rendered while the complaint is pending and fifteen days thereafter.

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

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

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

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

126 (4) If under the subscriber's calling plan the subscriber may be billed for receiving
127 unsolicited calls or text messaging from a telemarketer, the provider's form shall be
128 unambiguous, legible, and conspicuously disclose that, by consenting to have the subscriber's
129 wireless telephone number information sold or licensed as part of a list of subscribers or be
130 included in a publicly available directory, the subscriber may incur additional charges for
131 receiving unsolicited calls or text messages.

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

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

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

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

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

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

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

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

152 (6) To the department pursuant to its jurisdiction and control over wireless telephone
153 providers.

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

156 Section 123. (a) The department shall have the power and authority to enforce the
157 provisions of this act. The department shall have the power, consistent with federal law, to
158 assess a penalty for each violation not to exceed one thousand dollars against any company that
159 neglects or knowingly fails to comply with any requirement of this act.

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