

## HOUSE BILL No. 2368

By Committee on Utilities

2-9

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9 AN ACT concerning telecommunications; relating to billing aggregators;  
10 requiring registration; prohibiting certain acts and providing penalties  
11 for violations.

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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) As used in this section, unless the context otherwise  
15 indicates:

16 (1) Terms have the meanings provided in K.S.A. 66-1,187, and  
17 amendments thereto.

18 (2) "Bill" means a direct statement of payments due and any other  
19 form of notice soliciting payment.

20 (3) "Billing agent" means a local exchange carrier or other entity of-  
21 fering telecommunications service who includes in a bill it sends to a  
22 customer a charge for a product or service offered by a service provider.

23 (4) "Billing aggregator" means any entity, other than a service pro-  
24 vider, which forwards the charge for a product or service offered by a  
25 service provider to a billing agent.

26 (5) "Service provider" means any entity, other than the billing agent,  
27 which offers a product or service to a customer, the charge for which  
28 appears on the bill of a billing agent.

29 (6) "Unauthorized service" means the provision of any service or  
30 product by a service provider which a customer has not authorized, and  
31 for which a charge appears on the customer's telephone bill. Charges for  
32 collect calls shall be exempt from this section.

33 (b) Except as provided in this subsection, no billing aggregator shall  
34 forward charges for a service or product offered by a service provider to  
35 a billing agent for presentation to a customer, unless the billing aggregator  
36 is registered with the commission. A registration properly filed with the  
37 commission takes effect 14 days after the filing date, unless the commis-  
38 sion objects to the registration and provides notice of its objection to the  
39 registrant within the 14-day period. If the commission objects to the reg-  
40 istration, the registration shall not become effective, unless expressly ap-  
41 proved by the commission. If a billing aggregator's registration is rejected,  
42 the commission shall give the billing aggregator notice and an opportunity  
43 for hearing in accordance with the Kansas administrative procedure act.

1 A registration, once effective, remains effective until revoked by the com-  
2 mission or surrendered by the holder. A telecommunications public utility  
3 operating in this state pursuant to a certificate of authority shall not be  
4 required to register pursuant to this subsection.

5 (c) (1) After notice and opportunity for hearing in accordance with  
6 the Kansas administrative procedure act, the commission may revoke the  
7 registration of a billing aggregator who has:

8 (A) Provided false or deceptive information in registering under this  
9 section;

10 (B) knowingly, negligently or repeatedly forwarded a charge to a bill-  
11 ing agent for a product or service that the consumer did not authorize;

12 (C) failed to provide a notice to customers as required by rule or  
13 order of the commission, or otherwise failed to comply with a rule or  
14 order of the commission; or

15 (D) engaged in any other false or deceptive practices.

16 (2) Immediately following a revocation of registration under this sub-  
17 section, the commission shall provide notice of the revocation, in a form  
18 and manner established by the commission by rules and regulation, to all  
19 telecommunications public utilities doing business in this state.

20 (d) If a customer of a telecommunications public utility claims that a  
21 charge for an unauthorized service has been included in the customer's  
22 telephone bill, the telecommunications public utility shall immediately  
23 suspend collection efforts on that portion of the customer's bill. The tel-  
24 ecommunications public utility shall either cease collection efforts enti-  
25 rely with regard to the disputed charge or request evidence from the  
26 billing aggregator that the customer authorized the service for which pay-  
27 ment is sought. If the telecommunications public utility ceases collection  
28 efforts or sufficient evidence of customer authorization is not presented  
29 to the telecommunications public utility within a reasonable time, the  
30 telecommunications public utility shall immediately remove any charges  
31 associated with the unauthorized service from the customer's bill and  
32 refund to the customer any amounts paid for the unauthorized service  
33 that were billed by the telecommunications public utility during the six  
34 months prior to the customer's complaint. If sufficient evidence of cus-  
35 tomer authorization is provided to the telecommunications public utility,  
36 the telecommunications public utility may restore the charges on the cus-  
37 tomer's bill and reinstitute collection efforts. The customer or the billing  
38 aggregator may appeal the telecommunications public utility's determi-  
39 nation to the commission.

40 (e) In addition to any other authority the commission may have pur-  
41 suant to other law, the commission may enforce the provisions of this  
42 section as follows:

43 (1) In an adjudicatory proceeding, the commission may impose an

1 administrative penalty upon the following entities for the following  
2 violations:

3 (A) A billing aggregator which forwards charges to a billing agent for  
4 an unauthorized product or service;

5 (B) a billing aggregator which is not properly registered as required  
6 pursuant to this section and which forwards charges for a product or  
7 service that appear on the bill of a billing agent;

8 (C) a billing agent which knowingly bills on behalf of a billing aggre-  
9 gator which is not properly registered as required by this section at the  
10 time when the bill to be sent to the customer is generated, except that a  
11 billing agent which bills on behalf of a billing aggregator of which the  
12 registration has been revoked shall not be subject to administrative pen-  
13 alty if the bill to be sent to the customer was generated within 14 days  
14 after the revocation of the registration and the billing agent did not have  
15 actual notice of the revocation; or

16 (D) a telecommunications public utility which, without having first  
17 obtained evidence of authorization that the telecommunications public  
18 utility believed in good faith to be sufficient, does not remove the charges  
19 for any service which is the subject of a complaint under subsection (d)  
20 and does not refund to the customer any amounts paid for the unau-  
21 thorized service that were billed by the telecommunications public utility  
22 during the six months prior to the customer's complaint. For purposes of  
23 this paragraph, evidence that a call was dialed from the number that is  
24 the subject of the charge shall be considered sufficient evidence of au-  
25 thorization for such call.

26 (2) The amount of any administrative penalty imposed under subsec-  
27 tion (e)(1) shall not exceed \$1,000 per violation arising out of the same  
28 incident or complaint and shall be based on:

29 (A) The severity of the violation, including the intent of the violator  
30 and the nature, circumstances, extent and gravity of any prohibited acts;

31 (B) the violator's history of previous violations; and

32 (C) the amount necessary to deter future violations.

33 (f) The commission may adopt rules and regulations to implement  
34 the provisions of this section.

35 Sec. 2. This act shall take effect and be in force from and after its  
36 publication in the statute book.