

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 26, 2000 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Lynne Holt, Legislative Research Department  
Jerry Ann Donaldson, Legislative Research Department  
Bob Nugent, Revisor of Statutes  
Betty Bomar, Secretary

Conferees appearing before the committee:  
Steven Rarrick, Deputy Attorney General  
Charles Freeman, AARP  
Mike Murray, Sprint

Others attending: See attached list

**SB 431 - An act concerning consumer protection; relating to telecommunications**

Steven Rarrick, Deputy Attorney General, Consumer Protection Division, testified in support of **SB 431**, stating the legislation prohibits the unauthorized charges to a consumer's telephone bill. (Attachment 1)

Mr. Rarrick reported that cramming charges range from \$5.00 to \$50.00 on monthly telephone bills and the unauthorized charges include voice mail, personal 800#'s and Internet access/web page design. Currently, unauthorized Internet-related charges are the basis of most cramming complaints. The Consumer Protection Division commenced tracking cramming complaints in April 1998 and received 121 complaints through the end of 1998. In 1999 the Division received 59 cramming complaints. Mr. Rarrick distributed a list of companies with cramming complaints filed against them as of December 31, 1999. (Attachment 2)

Mr. Rarrick explained that **SB 431** prohibits the addition of any supplemental telecommunications services or billing or collecting without the consumer's express authorization and places the burden of proof on the supplier; defines "supplemental telecommunications services" to include specific types of items that are frequently crammed onto consumers' phone bills; prohibits deceptive, misleading or confusing conduct when soliciting a consumer to add additional services; imposes civil penalties of \$5,000 to \$20,000 against crammers or third-party billing companies for violations; replaces the phrase "local exchange carrier or telecommunications carrier" with the term "supplier" as that term is currently defined in the Consumer Protection Act; exempts existing local or long distance carriers; and allows organizations and businesses to bring a private cause of action.

Mr. Rarrick stated that **SB 431** should be amended on Page 2, Line 21 due to a grammatical error by striking the word "~~adding~~" and inserting the following: "*while soliciting or verifying the addition of*".

The Committee questioned Mr. Rarrick as to the reason for exempting the local or long distance carriers from the provisions of the legislation. Mr. Rarrick stated the local and long distance carriers are not the problem, the problem is the third-party companies.

The Committee questioned whether or not it was possible to outlaw the billing for certain services such as dating services or memberships, travel club memberships, etc. The Committee was advised the federal government requires the Local Exchange Carriers (LECs) to do such billing on a non-discriminatory basis. State's are not allowed to prohibit such practices.

Charles Freeman, AARP, testified in support of **SB 431**, stating slamming and cramming are two

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of the most frequent problems cited by telephone consumers. AARP proposes additionally that telephone bills be printed in a bold and/or larger type with a clear and truthful description of all charges listed and that they clearly identify the service provider responsible for each charge. Mr. Freeman stated consumers who have been slammed or crammed should not have to pay for any of the resulting charges and should receive full refunds for any payments for unwanted services. (Attachment 3)

Mike Murray, Director, Governmental Affairs, Sprint, testified in support of **SB 431** stating the proposed legislation is the result of an agreement between the industry and the Attorney General. It clarifies the Attorney General's authority to go after the switchless resellers and the third party vendors of supplemental telecommunications services by adding the phrases "submits or causes to be submitted" and "adds or causes to be added". The industry has acted in good faith in cooperating with the Attorney General and believes the proposed legislation will effectively allow the Attorney General to bring action against those companies where slamming or cramming exist. (Attachment 4)

Sprint's internal policy subjects its employees or agents found to be cramming to immediate disciplinary action. Sprint has adopted a more proactive policy to ensure that vendors meet certain standards by making prospective vendors undergo a vigorous pre-qualification process to weed out probable problem cases beforehand. Provisions of the contract are attached. (Attachment 5) Sprint has embarked on an extensive consumer protection information campaign about slamming and cramming by putting information on its bill, distributing brochures and newspaper advertising. Sprint's Local Telephone Division is instituting a new billing format, incorporating requirements from the FCC Truth in Billing Order. The new billing format insures customers receive clear and concise billing information that will assist customers in identifying unwanted and unauthorized charges. (Attachment 6). Sprint policy incorporates the Federal Communication Commission Anti-Cramming Best Practices Guidelines. (Attachment 7)

Mr. Murray stated that incumbent local exchange companies and long distance providers should be exempt from the provisions of the legislation for the following reasons: 1) the local and incumbent carriers are not the problem; 2) Sprint has taken aggressive steps to educate its customers and to educate and discipline its employees; 3) Cramming is not a good business practice as customers are alienated and future business is lost; 4) Sprint bills only for Sprint-branded products and services and for telecommunications and information services provided by others; 5) Verification of every sale will result in a significant cost increase which will be passed on to customers through higher rates.

Without the exemption, Sprint would be forced to obtain express authorization from its own customers who call the business office to add services, or who have done business with a third party vendor which has a billing contract with Sprint and who has agreed to abide by all applicable laws. Mr. Murray stated customers want simplicity in their billing and the ability to upgrade their local telephone or long distance services immediately, and they do not want to wait for an expensive third party verification, or a written letter of authorization to add or change their service when doing business with their authorized provider.

A copy of testimony from Rob Hodges, Kansas Telecommunications Industry Association in support of **SB 431** was distributed to the Committee. (Attachment 8).

The Chair informed the Committee that additional discussion and possible action on **SB 431** would be deferred until January 31, 2000.

**Senator Steffes moved, seconded by Senator Jordan, that the Minutes of January 25, 2000 be corrected on Page 2, 4<sup>th</sup> paragraph by striking "the FCC had not provided"; by adding the words "there were no"; following the word "protection" by adding, "provided at the federal level"; and further by adding a new sentence at the end of the paragraph as follows: "In light of the recently enacted federal legislation, the FCC took no action on this issue.", and approved as corrected. The voice vote was in favor of the motion.**

The meeting adjourned at 9:00 a.m.

The next schedule meeting is January 27, 2000.