

JAN 23 2015

A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that telecommunications
2 carriers provide many options and a wide variety of services to
3 consumers, including land line phone, cellular phone, and
4 internet access. The legislature further finds that bills from
5 telecommunication carriers are unnecessarily complicated to the
6 average consumer due to a practice known as cramming.

7 According to the Federal Communications Commission,
8 cramming is the illegal act of placing unauthorized charges on a
9 consumer's wireline, wireless, or bundled telephone bill.
10 Crammers often rely on confusing telephone bills to trick
11 consumers into paying for services they did not authorize or
12 receive, or that cost more than the consumer was led to believe.

13 The legislature additionally finds that cramming comes in
14 many forms and is often hard to detect unless the telephone bill
15 is closely reviewed. If not authorized, the following billing
16 practices could constitute cramming: charges for services that
17 are explained on the telephone bill in general terms, such as



1 service fee, service charge, other fees, voicemail, mail server,
2 calling plan, and membership; charges that are added to the
3 telephone bill every month without a clear explanation of the
4 services provided, such as a monthly fee or minimum monthly
5 usage fee; and charges for specific services or products a
6 consumer may not have authorized, such as ringtones, cell phone
7 wallpaper, or premium text messages on certain topics.

8 The legislature also finds that the Federal Communication
9 Commission's Truth-in-Billing rules require:

- 10 (1) Clear, non-misleading, plain language describing
11 services for which the customer is being billed;
- 12 (2) The billing telephone company to identify the service
13 provider associated with each charge;
- 14 (3) The billing telephone company to distinguish between
15 charges that will result in disconnection of basic,
16 local service if not paid and charges that will not
17 result in disconnection if not paid;
- 18 (4) The billing telephone company to include one or more
19 toll-free numbers a customer can call to ask about or
20 dispute any charge; and



1 (5) Wireless companies to inform consumers of any blocking
2 options for third party billing; place third party
3 charges in a distinct section of the bill separate
4 from carrier charges; and include a separate subtotal
5 for third party charges in the distinct bill section
6 and on the payment page.

7 The purpose of this Act is to require the bills of
8 telecommunications carriers to contain only charges for products
9 and services that are authorized by the consumer.

10 SECTION 2. Chapter 269, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 **"§269- Billing practices; telecommunications carrier;**
14 **prohibited practices.** (a) A telephone bill shall only contain
15 charges for products or services that have been authorized by
16 the subscriber.

17 (b) When a person or corporation obtains a written order
18 for a product or service, the written order shall be a separate
19 document from any solicitation material. The sole purpose of
20 the document is to explain the nature and extent of the
21 transaction. Written orders and written solicitation materials



1 shall be unambiguous, legible, and in a minimum ten-point type.
2 Written or oral solicitation materials used to obtain an order
3 for a product or service shall be in the same language as the
4 written order. Written orders shall not be used as entry forms
5 for sweepstakes, contests, or any other program that offers
6 prizes or gifts.

7 (c) The public utilities commission may permit a
8 subscriber's local telephone service to be disconnected only for
9 nonpayment of charges relating to the subscriber's basic local
10 exchange telephone service, long distance telephone service
11 within a local access and transport area (intraLATA), long
12 distance telephone service between local access and transport
13 areas (interLATA), and international telephone service.

14 (d) A billing telephone company shall clearly identify and
15 use a separate billing section for each person, corporation, or
16 billing agent that generates a charge on a subscriber's
17 telephone bill. A billing telephone company shall not bill for
18 a person, corporation, or billing agent unless that person,
19 corporation, or billing agent complies with subsection (e).

20 (e) Any person, corporation, or billing agent that charges
21 subscribers for products or services on a telephone bill shall:



- 1 (1) Include, or cause to be included, in the telephone
2 bill the amount being charged for each product or
3 service, including any taxes or surcharges, and a
4 clear and concise description of the service, product,
5 or other offering for which a charge has been imposed;
- 6 (2) Include, or cause to be included, for each entity that
7 charges for a product or service, information with
8 regard to how to resolve any dispute about that
9 charge, including the name of the party responsible
10 for generating the charge and a toll-free telephone
11 number or other no-cost means of contacting the entity
12 responsible for resolving disputes regarding the
13 charge and a description of the manner in which a
14 dispute regarding the charge may be addressed. Each
15 telephone bill shall include the appropriate telephone
16 number of the public utilities commission that a
17 subscriber may use to register a complaint;
- 18 (3) Establish, maintain, and staff a toll-free telephone
19 number to respond to questions or disputes about its
20 charges and to provide the appropriate addresses to
21 which written questions or complaints may be sent;



1 provided that the person, corporation, or billing
2 agent that generates a charge may also contract with a
3 third party, including but not limited to the billing
4 telephone company, to provide that service on behalf
5 of the person, corporation, or billing agent; and

6 (4) Provide a means for expeditiously resolving subscriber
7 disputes over charges for a product or service, the
8 purchase of which was not authorized by the
9 subscriber. In the case of a dispute, there shall be
10 a rebuttable presumption that an unverified charge for
11 a product or service was not authorized by the
12 subscriber and that the subscriber is not responsible
13 for that charge. With regard to direct dialed
14 telecommunications services, evidence that a call was
15 dialed is prima facie evidence of authorization. If
16 recurring charges arise from the use of those
17 subscriber-initiated services, the recurring charges
18 are subject to this section.

19 (f) If an entity responsible for generating a charge on a
20 telephone bill receives a complaint from a subscriber that the
21 subscriber did not authorize the purchase of the product or



1 service associated with that charge, no later than thirty days
 2 from the date on which the complaint is received, the entity
 3 shall verify the subscriber's authorization of that charge or
 4 undertake to resolve the billing dispute to the subscriber's
 5 satisfaction.

6 (g) On or before July 1, 2016, the public utilities
 7 commission shall adopt any additional rules it determines to be
 8 necessary to implement the billing safeguards for the inclusion
 9 of noncommunications-related products and services in telephone
 10 bills.

11 (h) For purposes of this section, "billing agent" means
 12 the clearinghouse or billing aggregator."

13 SECTION 3. This Act does not affect rights and duties that
 14 matured, penalties that were incurred, and proceedings that were
 15 begun before its effective date.

16 SECTION 4. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 870

Report Title:

Telecommunications Carriers; Cramming; Public Utilities Commission; Billing Practices; Prohibited Practices

Description:

Requires the bills of telecommunications carriers to contain only charges for products and services that are authorized by the subscriber. Specifies prohibited cramming practices in phone bills. Requires the public utilities commission to adopt additional rules to safeguard billings.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

