

SENATE BILL 299

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C5

1999 Regular Session
(9r0680)

ENROLLED BILL
-- Finance/Environmental Matters --

Introduced by **Senators Miller and Teitelbaum**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Telephones - ~~Change of Service Providers and Options~~ Changes in**
3 **Telecommunications Service**

4 FOR the purpose of prohibiting certain telephone companies and resellers from taking
5 certain actions on behalf of a customer concerning the customer's selection of
6 ~~telephone service providers and options~~ a telephone company or reseller,
7 telecommunications service options, or the person who bills the customer or the
8 customer's billing arrangement except in compliance with certain procedures;
9 requiring certain notice to be provided to a telephone service customer under
10 certain circumstances; requiring resellers to obtain a certain authorization from
11 the Public Service Commission; imposing certain liabilities on a telephone
12 company or reseller who initiates an unauthorized change in a customer's
13 telephone company, reseller, or telecommunications service options or who
14 initiates an unauthorized change in the person who bills the customer or the
15 customer's billing arrangement; requiring certain telephone companies and
16 resellers to offer a hold order or freeze to certain customers under certain
17 circumstances; authorizing the Public Service Commission to adopt certain

1 regulations; providing for a certain administrative penalty for certain violations;
 2 defining certain terms; and generally relating to ~~telephone service providers and~~
 3 ~~changes of service~~ changes in telecommunications service.

4 BY adding to

5 Article - Public Utility Companies

6 Section 8-401 through ~~8-407~~ 8-409, inclusive, to be under the new subtitle

7 "Subtitle 4. ~~Telephone~~ Telecommunications Service Changes"

8 Annotated Code of Maryland

9 (1998 Volume)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article - Public Utility Companies**

13 **SUBTITLE 4. ~~TELEPHONE~~ TELECOMMUNICATIONS SERVICE CHANGES.**

14 8-401.

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 16 INDICATED.

17 (B) "HOLD ORDER" OR "FREEZE" MEANS A DIRECTIVE TO RETAIN:

18 (1) THE TELEPHONE ~~SERVICE PROVIDER~~ COMPANY OR RESELLER
 19 SELECTED BY A CUSTOMER UNTIL THE CUSTOMER PROVIDES EXPRESS
 20 AUTHORIZATION FOR A CHANGE TO ANOTHER TELEPHONE ~~SERVICE PROVIDER~~
 21 COMPANY OR RESELLER; OR

22 (2) FOR ~~TELEPHONE~~ TELECOMMUNICATIONS SERVICE OPTIONS FOR
 23 WHICH THE TELEPHONE ~~SERVICE PROVIDER~~ COMPANY OR RESELLER IMPOSES A
 24 CHARGE, THE ~~TELEPHONE~~ TELECOMMUNICATIONS SERVICE OPTIONS SELECTED BY
 25 A CUSTOMER UNTIL THE CUSTOMER PROVIDES EXPRESS AUTHORIZATION FOR A
 26 CHANGE OF ~~TELEPHONE~~ TELECOMMUNICATIONS SERVICE OPTIONS; OR

27 (3) THE PERSON WHO BILLS THE CUSTOMER OR THE CUSTOMER'S
 28 BILLING ARRANGEMENT UNTIL THE CUSTOMER PROVIDES EXPRESS
 29 AUTHORIZATION FOR A CHANGE OF THE PERSON WHO BILLS THE CUSTOMER OR
 30 THE CUSTOMER'S BILLING ARRANGEMENT.

31 (C) "RESELLER" MEANS A PERSON WHO:

32 (1) PROVIDES TELECOMMUNICATIONS SERVICES TO END-USE
 33 CUSTOMERS BY USING THE TRANSMISSION FACILITIES OF ANOTHER PERSON,
 34 INCLUDING WIRE, CABLE, OPTICAL FIBER, OR SATELLITE OR TERRESTRIAL RADIO
 35 SIGNALS, REGARDLESS OF WHETHER THE RESELLER POSSESSES ITS OWN
 36 SWITCHING FACILITIES; OR

1 (2) BILLS AN END-USE CUSTOMER OR CAUSES THE CUSTOMER TO BE
 2 BILLED FOR TELECOMMUNICATIONS SERVICE.

3 (C) ~~"SERVICE FOR WHICH THERE ARE MULTIPLE PROVIDERS" MEANS A~~
 4 ~~TELEPHONE SERVICE FOR WHICH CUSTOMERS HAVE THE ABILITY TO SUBSCRIBE TO~~
 5 ~~OR SELECT FROM MORE THAN ONE TELEPHONE SERVICE PROVIDER.~~

6 (D) "TELECOMMUNICATIONS SERVICE" MEANS ANY SERVICE OR PRODUCT
 7 PROVIDED BY A TELEPHONE COMPANY OR RESELLER THAT IS UNDER THE
 8 JURISDICTION OF THE COMMISSION.

9 8-402.

10 (A) THIS SUBTITLE APPLIES TO A TELEPHONE COMPANY OR RESELLER THAT
 11 PROVIDES INTRASTATE INTERLATA, INTRALATA, OR LOCAL EXCHANGE CARRIER
 12 TELECOMMUNICATIONS SERVICE.

13 (B) THE ACT OF A PERSON OR COMPANY THAT IS ACTING AS AN AGENT OR
 14 REPRESENTATIVE OF A TELEPHONE COMPANY OR RESELLER IS DEEMED TO BE AN
 15 ACT OF THE TELEPHONE COMPANY OR RESELLER UNDER THIS SUBTITLE.

16 8-403.

17 EACH RESELLER THAT PROVIDES TELECOMMUNICATIONS SERVICE SHALL
 18 OBTAIN AUTHORIZATION FROM THE COMMISSION IN A MANNER DETERMINED BY
 19 THE COMMISSION TO PROVIDE THOSE SERVICES IN THE STATE.

20 ~~8-403.~~ 8-404.

21 UNLESS THE TELEPHONE COMPANY OR RESELLER COMPLIES WITH
 22 AUTHORIZATION AND CONFIRMATION PROCEDURES ADOPTED BY THE COMMISSION
 23 AND BY FEDERAL LAW AND REGULATION, A TELEPHONE COMPANY OR RESELLER
 24 MAY NOT, ON BEHALF OF A CUSTOMER:

25 (1) CHANGE, OR DIRECT ANOTHER TELEPHONE COMPANY OR RESELLER
 26 TO CHANGE, THE CUSTOMER'S ~~PROVIDER OF TELEPHONE SERVICE FOR WHICH~~
 27 ~~THERE ARE MULTIPLE PROVIDERS~~ TELEPHONE COMPANY OR RESELLER; OR

28 (2) SELECT A ~~TELEPHONE~~ TELECOMMUNICATIONS SERVICE OPTION
 29 FOR WHICH THE TELEPHONE COMPANY OR RESELLER IMPOSES A CHARGE; OR

30 (3) CHANGE THE PERSON WHO BILLS THE CUSTOMER OR THE
 31 CUSTOMER'S BILLING ARRANGEMENT.

32 8-405.

33 (A) THIS SECTION APPLIES TO A TELEPHONE COMPANY OR RESELLER THAT
 34 INITIATES AN UNAUTHORIZED CHANGE IN VIOLATION OF THIS SUBTITLE IN:

35 (1) A CUSTOMER'S TELEPHONE COMPANY;

1 (2) A CUSTOMER'S RESELLER;

2 (3) A CUSTOMER'S TELECOMMUNICATIONS SERVICE OPTIONS; OR

3 (4) THE PERSON WHO BILLS THE CUSTOMER OR THE CUSTOMER'S
4 BILLING ARRANGEMENT.

5 (B) A TELEPHONE COMPANY OR RESELLER THAT IS SUBJECT TO THIS
6 SECTION IS LIABLE:

7 (1) TO THE CUSTOMER, THE CUSTOMER'S PREVIOUSLY SELECTED
8 TELEPHONE COMPANY OR RESELLER, OR BOTH, AS DETERMINED BY THE
9 COMMISSION, FOR ALL LONG DISTANCE CHARGES, LOCAL EXCHANGE SERVICE
10 CHARGES, PROVIDER SWITCHING FEES, THE VALUE OF ANY PREMIUMS TO WHICH
11 THE CUSTOMER WOULD HAVE BEEN ENTITLED, AND OTHER RELEVANT CHARGES
12 INCURRED BY THE CUSTOMER IN THE FIRST 30 DAYS OF THE UNAUTHORIZED
13 CHANGE; AND

14 (2) TO THE CUSTOMER'S LOCAL EXCHANGE PROVIDER FOR THE
15 CHANGE FEES FOR THE UNAUTHORIZED CHANGE AND REINSTATING THE
16 CUSTOMER TO THE ORIGINAL TELEPHONE COMPANY OR RESELLER.

17 ~~8-404.8-406.~~

18 (A) WHEN A CUSTOMER, OR A TELEPHONE COMPANY OR RESELLER
19 PROVIDING NEW ~~TELEPHONE~~ TELECOMMUNICATIONS SERVICE ON BEHALF OF THE
20 CUSTOMER, MAKES A CHANGE IN ~~TELEPHONE SERVICE PROVIDER~~ THE CUSTOMER'S
21 TELEPHONE COMPANY OR RESELLER, THE TELEPHONE COMPANY OR RESELLER
22 PROVIDING THE NEW ~~TELEPHONE~~ TELECOMMUNICATIONS SERVICE SHALL PROVIDE
23 A CONSPICUOUS NOTICE TO THE CUSTOMER, INFORMING THE CUSTOMER THAT THE
24 CHANGE WAS MADE.

25 (B) WHEN A CUSTOMER, OR A TELEPHONE COMPANY OR RESELLER ON
26 BEHALF OF THE CUSTOMER, MAKES A CHANGE IN THE CUSTOMER'S SELECTION OF A
27 ~~TELEPHONE~~ TELECOMMUNICATIONS SERVICE OPTION FOR WHICH THE TELEPHONE
28 COMPANY OR RESELLER IMPOSES A CHARGE, THE TELEPHONE COMPANY OR
29 RESELLER PROVIDING THE NEW ~~TELEPHONE~~ TELECOMMUNICATIONS SERVICE
30 OPTION SHALL PROVIDE A CONSPICUOUS NOTICE TO THE CUSTOMER, INFORMING
31 THE CUSTOMER THAT THE CHANGE WAS MADE.

32 (C) WHEN A CUSTOMER, OR A TELEPHONE COMPANY OR RESELLER ON
33 BEHALF OF A CUSTOMER, MAKES A CHANGE IN THE PERSON WHO BILLS THE
34 CUSTOMER OR THE CUSTOMER'S BILLING ARRANGEMENT, THE TELEPHONE
35 COMPANY OR RESELLER PROVIDING THE NEW BILLING SERVICE OR ARRANGEMENT
36 SHALL PROVIDE A CONSPICUOUS NOTICE TO THE CUSTOMER, INFORMING THE
37 CUSTOMER THAT THE CHANGE WAS MADE.

38 (C) (D) ~~THE TELEPHONE COMPANY PROVIDING NEW TELEPHONE SERVICE~~
39 ~~OR A NEW TELEPHONE SERVICE OPTION SHALL PROVIDE NOTICE OF THE CHANGE~~
40 ~~OF TELEPHONE SERVICE PROVIDER OR TELEPHONE SERVICE OPTIONS UNDER THIS~~

1 ~~SECTION A TELEPHONE COMPANY OR RESELLER THAT IS REQUIRED TO PROVIDE~~
 2 ~~NOTICE UNDER THIS SECTION SHALL PROVIDE THE NOTICE BY:~~

3 (1) INSERTING THE NOTICE ON OR WITH THE CUSTOMER'S FIRST BILL
 4 FOR WHICH THE CHANGE IS EFFECTIVE; OR

5 (2) SENDING A SEPARATE NOTICE TO THE CUSTOMER WITHIN ~~60~~ 30
 6 DAYS AFTER THE CHANGE TAKES EFFECT.

7 ~~(D)~~ (E) A TELEPHONE COMPANY OR RESELLER MAY NOT, ON BEHALF OF A
 8 CUSTOMER, FAIL TO MAKE ANY CHANGE IN PROVIDER OF SERVICE FOR WHICH
 9 THERE ARE MULTIPLE PROVIDERS A CUSTOMER'S TELEPHONE COMPANY, RESELLER,
 10 OR TELECOMMUNICATIONS SERVICE OPTIONS, OR IN THE PERSON WHO BILLS THE
 11 CUSTOMER OR THE CUSTOMER'S BILLING ARRANGEMENT WHEN THE CHANGE
 12 ORDER HAS BEEN RECEIVED IN A MANNER THAT COMPLIES WITH FEDERAL AND
 13 STATE RULES AND REGULATIONS. ALL SUCH CHANGE ORDERS SHALL BE PROPERLY
 14 PROCESSED TO ASSURE THAT THE ORDER IS COMPLETED AND SERVICE WILL BE
 15 PROVIDED BY THE NEW TELEPHONE SERVICE PROVIDER COMPANY OR RESELLER OF
 16 CHOICE WITHIN 15 BUSINESS DAYS OF RECEIPT OF THE COMPLIANT CHANGE ORDER
 17 OR AS OTHERWISE NEGOTIATED WITH THE CUSTOMER.

18 ~~8-405-8-407.~~

19 (A) IF THE COMMISSION DETERMINES THAT A HOLD ORDER OR FREEZE IS
 20 NECESSARY, THE COMMISSION MAY REQUIRE A TELEPHONE COMPANY OR
 21 RESELLER THAT OPERATES THE NETWORK FACILITIES THAT CONTROL ROUTING,
 22 SELECTION, OR BILLING FUNCTIONS NECESSARY TO IMPLEMENT THE HOLD ORDER
 23 OR FREEZE TO OFFER THE HOLD ORDER OR FREEZE TO THE TELEPHONE COMPANY'S
 24 END-USE CUSTOMERS OR TO THE RESELLER'S END-USE CUSTOMERS AS A METHOD
 25 OF REDUCING INCIDENTS OF UNAUTHORIZED CHANGES IN ~~TELEPHONE SERVICE~~
 26 ~~PROVIDER OR TELEPHONE SERVICE OPTIONS~~ A CUSTOMER'S TELEPHONE COMPANY,
 27 RESELLER, OR TELECOMMUNICATIONS SERVICE OPTIONS, OR IN THE PERSON WHO
 28 BILLS THE CUSTOMER OR THE CUSTOMER'S BILLING ARRANGEMENT.

29 (B) A TELEPHONE COMPANY OR RESELLER THAT IS REQUIRED TO OFFER A
 30 HOLD ORDER OR FREEZE SHALL IMPLEMENT THE HOLD ORDER OR FREEZE IN A
 31 NONDISCRIMINATORY AND COMPETITIVELY NEUTRAL MANNER THAT DOES NOT
 32 GIVE THE TELEPHONE COMPANY OR RESELLER AN ADVANTAGE OVER ITS
 33 COMPETITORS IN THE TELECOMMUNICATIONS MARKET.

34 ~~(C)~~ ALL RULES AND REGULATIONS REGARDING THE IMPLEMENTATION OF A
 35 HOLD ORDER OR FREEZE SHALL BE CONSISTENT WITH THE RULES AND
 36 REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION.

37 ~~8-406-8-408.~~

38 (A) TO IMPLEMENT THIS SUBTITLE THE COMMISSION MAY ADOPT
 39 ~~REGULATIONS ON UNAUTHORIZED CHANGES IN TELEPHONE SERVICE PROVIDERS~~
 40 ~~AND IN TELEPHONE SERVICE OPTIONS~~ TO CARRY OUT THE PROVISIONS OF THIS
 41 SUBTITLE THAT ARE CONSISTENT WITH FEDERAL LAW.

1 (B) THE REGULATIONS MAY INCLUDE:

2 (1) PROCEDURES FOR A CUSTOMER TO CONFIRM A CHANGE IN
3 ~~TELEPHONE SERVICE PROVIDER~~ THE CUSTOMER'S TELEPHONE COMPANY OR
4 RESELLER MADE BY ANOTHER TELEPHONE COMPANY OR RESELLER ON BEHALF OF
5 THE CUSTOMER;

6 (2) PROCEDURES FOR A CUSTOMER TO CONFIRM A CHANGE IN
7 ~~TELEPHONE~~ TELECOMMUNICATIONS SERVICE OPTIONS;

8 ~~(3) REGULATION OF SOLICITATION FOR CHANGES IN TELEPHONE~~
9 ~~SERVICE PROVIDERS AND TELEPHONE SERVICE OPTIONS;~~

10 (3) PROCEDURES FOR A CUSTOMER TO CONFIRM A CHANGE IN THE
11 PERSON WHO BILLS THE CUSTOMER OR THE CUSTOMER'S BILLING ARRANGEMENT;

12 (4) PROVISIONS FOR THE DISCLOSURE TO THE CUSTOMER OF THE
13 TERMS OF THE SERVICES OFFERED BY A TELEPHONE COMPANY OR RESELLER;

14 ~~(4)~~ (5) METHODS FOR ENFORCEMENT; AND

15 ~~(5)~~ (6) OTHER PROVISIONS, NOT INCONSISTENT WITH FEDERAL LAW,
16 THAT THE COMMISSION CONSIDERS NECESSARY TO IMPLEMENT THIS SUBTITLE.

17 ~~8-407.8-409.~~

18 (A) A TELEPHONE COMPANY OR RESELLER MAY NOT FAIL OR NEGLECT TO
19 COMPLY WITH THIS SUBTITLE OR WITH A REGULATION ADOPTED UNDER THIS
20 SUBTITLE.

21 (B) FOR THE PURPOSE OF ENFORCING THE PROVISIONS OF THIS SUBTITLE,
22 THE COMMISSION MAY:

23 (1) EXERCISE ANY OF THE POWERS CONFERRED UNDER THIS ARTICLE
24 AGAINST A TELEPHONE COMPANY OR A RESELLER; AND

25 (2) IN THE CASE OF A COMPLAINT FILED AGAINST A TELEPHONE
26 COMPANY OR A RESELLER, ORDER THE TELEPHONE COMPANY OR RESELLER TO
27 MAKE REPARATIONS TO THE COMPLAINING PARTY IN ACCORDANCE WITH § 8-405 OF
28 THIS SUBTITLE.

29 ~~(B)~~ (C) IN ADDITION TO ANY OTHER AVAILABLE PENALTY, THE COMMISSION
30 MAY ASSESS DIRECTLY, AFTER AN OPPORTUNITY FOR HEARING, AN
31 ADMINISTRATIVE PENALTY ON A TELEPHONE COMPANY OR RESELLER THAT
32 VIOLATES THE PROVISIONS OF THIS SUBTITLE, OR A REGULATION ADOPTED UNDER
33 THIS SUBTITLE, OR FEDERAL LAW OR REGULATION ON UNAUTHORIZED CHANGES ~~IN~~
34 ~~TELEPHONE SERVICE PROVIDER OR TELEPHONE SERVICE OPTIONS~~ TO A
35 CUSTOMER'S TELEPHONE COMPANY, RESELLER, OR TELECOMMUNICATIONS
36 SERVICE OPTIONS, OR TO THE PERSON WHO BILLS THE CUSTOMER OR THE
37 CUSTOMER'S BILLING ARRANGEMENT.

1 ~~(C)~~ (D) THE ADMINISTRATIVE PENALTY UNDER THIS SECTION MAY NOT
2 EXCEED \$1,000 FOR EACH VIOLATION ASSOCIATED WITH A SPECIFIC ACCESS LINE
3 ~~WITHIN~~ IN THE STATE.

4 ~~(D)~~ (E) IN ASSESSING AN ADMINISTRATIVE PENALTY UNDER THIS SECTION,
5 THE COMMISSION SHALL CONSIDER:

6 (1) THE NATURE, CIRCUMSTANCES, EXTENT, GRAVITY, AND NUMBER OF
7 VIOLATIONS;

8 (2) THE DEGREE OF CULPABILITY OF THE VIOLATOR;

9 (3) PRIOR OFFENSES AND REPEATED VIOLATIONS; AND

10 (4) OTHER MATTERS THAT THE COMMISSION CONSIDERS APPROPRIATE
11 AND RELEVANT.

12 ~~(E)~~ (F) AN ADMINISTRATIVE PENALTY COLLECTED UNDER THIS SECTION
13 SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 1999.