

SENATE BILL 299

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HB 1403/98 - ENV

1999 Regular Session
9lr0680

By: **Senators Miller and Teitelbaum**
Introduced and read first time: February 4, 1999
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 15, 1999

CHAPTER _____

1 AN ACT concerning

2 **Telephones - Change of Service Providers and Options**

3 FOR the purpose of prohibiting certain telephone companies from taking certain
4 actions on behalf of a customer concerning selection of telephone service
5 providers and options except in compliance with certain procedures; requiring
6 certain notice to be provided to a telephone service customer under certain
7 circumstances; requiring certain telephone companies to offer a hold order or
8 freeze to certain customers under certain circumstances; authorizing the Public
9 Service Commission to adopt certain regulations; providing for a certain
10 administrative penalty for certain violations; defining certain terms; and
11 generally relating to telephone service providers and changes of service.

12 BY adding to
13 Article - Public Utility Companies
14 Section 8-401 through 8-407, inclusive, to be under the new subtitle "Subtitle 4.
15 Telephone Service Changes"
16 Annotated Code of Maryland
17 (1998 Volume)

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

1 **Article - Public Utility Companies**

2 SUBTITLE 4. TELEPHONE SERVICE CHANGES.

3 8-401.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

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

7 (1) THE TELEPHONE SERVICE PROVIDER SELECTED BY A CUSTOMER
8 UNTIL THE CUSTOMER PROVIDES EXPRESS AUTHORIZATION FOR A CHANGE TO
9 ANOTHER TELEPHONE SERVICE PROVIDER; OR10 (2) FOR TELEPHONE SERVICE OPTIONS FOR WHICH THE TELEPHONE
11 SERVICE PROVIDER IMPOSES A CHARGE, THE TELEPHONE SERVICE OPTIONS
12 SELECTED BY A CUSTOMER UNTIL THE CUSTOMER PROVIDES EXPRESS
13 AUTHORIZATION FOR A CHANGE OF TELEPHONE SERVICE OPTIONS.14 (C) "SERVICE FOR WHICH THERE ARE MULTIPLE PROVIDERS" MEANS A
15 TELEPHONE SERVICE FOR WHICH CUSTOMERS HAVE THE ABILITY TO SUBSCRIBE TO
16 OR SELECT FROM MORE THAN ONE TELEPHONE SERVICE PROVIDER.

17 8-402.

18 (A) THIS SUBTITLE APPLIES TO A TELEPHONE COMPANY THAT PROVIDES
19 INTRASTATE INTERLATA, INTRALATA, OR LOCAL EXCHANGE CARRIER SERVICE.20 (B) THE ACT OF A PERSON OR COMPANY THAT IS ACTING AS AN AGENT OR
21 REPRESENTATIVE OF A TELEPHONE COMPANY IS DEEMED TO BE AN ACT OF THE
22 TELEPHONE COMPANY UNDER THIS SUBTITLE.

23 8-403.

24 UNLESS THE TELEPHONE COMPANY COMPLIES WITH AUTHORIZATION AND
25 CONFIRMATION PROCEDURES ADOPTED BY THE COMMISSION AND BY FEDERAL LAW
26 AND REGULATION, A TELEPHONE COMPANY MAY NOT, ON BEHALF OF A CUSTOMER:27 (1) CHANGE, OR DIRECT ANOTHER TELEPHONE COMPANY TO CHANGE,
28 THE CUSTOMER'S PROVIDER OF TELEPHONE SERVICE FOR WHICH THERE ARE
29 MULTIPLE PROVIDERS; OR30 (2) SELECT A TELEPHONE SERVICE OPTION FOR WHICH THE
31 TELEPHONE COMPANY IMPOSES A CHARGE.

32 8-404.

33 (A) WHEN A CUSTOMER, OR A TELEPHONE COMPANY PROVIDING NEW
34 TELEPHONE SERVICE ON BEHALF OF THE CUSTOMER, MAKES A CHANGE IN

1 TELEPHONE SERVICE PROVIDER, THE TELEPHONE COMPANY PROVIDING NEW
2 TELEPHONE SERVICE SHALL PROVIDE A CONSPICUOUS NOTICE TO THE CUSTOMER,
3 INFORMING THE CUSTOMER THAT THE CHANGE WAS MADE.

4 (B) WHEN A CUSTOMER, OR A TELEPHONE COMPANY ON BEHALF OF THE
5 CUSTOMER, MAKES A CHANGE IN THE CUSTOMER'S SELECTION OF A TELEPHONE
6 SERVICE OPTION FOR WHICH THE TELEPHONE COMPANY IMPOSES A CHARGE, THE
7 TELEPHONE COMPANY PROVIDING THE NEW TELEPHONE SERVICE OPTION SHALL
8 PROVIDE A CONSPICUOUS NOTICE TO THE CUSTOMER, INFORMING THE CUSTOMER
9 THAT THE CHANGE WAS MADE.

10 (C) THE TELEPHONE COMPANY PROVIDING NEW TELEPHONE SERVICE OR A
11 NEW TELEPHONE SERVICE OPTION SHALL PROVIDE NOTICE OF THE CHANGE OF
12 TELEPHONE SERVICE PROVIDER OR TELEPHONE SERVICE OPTIONS UNDER THIS
13 SECTION BY:

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

16 (2) SENDING A SEPARATE NOTICE TO THE CUSTOMER WITHIN 60 DAYS
17 AFTER THE CHANGE TAKES EFFECT.

18 (D) A TELEPHONE COMPANY MAY NOT, ON BEHALF OF A CUSTOMER, FAIL TO
19 MAKE ANY CHANGE IN PROVIDER OF SERVICE FOR WHICH THERE ARE MULTIPLE
20 PROVIDERS WHEN THE CHANGE ORDER HAS BEEN RECEIVED IN A MANNER THAT
21 COMPLIES WITH FEDERAL AND STATE RULES AND REGULATIONS. ALL SUCH CHANGE
22 ORDERS SHALL BE PROPERLY PROCESSED TO ASSURE THAT THE ORDER IS
23 COMPLETED AND SERVICE WILL BE PROVIDED BY THE NEW TELEPHONE SERVICE
24 PROVIDER OF CHOICE WITHIN 15 BUSINESS DAYS OF RECEIPT OF THE COMPLIANT
25 CHANGE ORDER.

26 8-405.

27 (A) IF THE COMMISSION DETERMINES THAT A HOLD ORDER OR FREEZE IS
28 NECESSARY, THE COMMISSION MAY REQUIRE A TELEPHONE COMPANY THAT
29 OPERATES THE NETWORK FACILITIES THAT CONTROL ROUTING, SELECTION, OR
30 BILLING FUNCTIONS NECESSARY TO IMPLEMENT THE HOLD ORDER OR FREEZE TO
31 OFFER THE HOLD ORDER OR FREEZE TO THE TELEPHONE COMPANY'S END-USE
32 CUSTOMERS AS A METHOD OF REDUCING INCIDENTS OF UNAUTHORIZED CHANGES
33 IN TELEPHONE SERVICE PROVIDER OR TELEPHONE SERVICE OPTIONS.

34 (B) A TELEPHONE COMPANY THAT IS REQUIRED TO OFFER A HOLD ORDER OR
35 FREEZE SHALL IMPLEMENT THE HOLD ORDER OR FREEZE IN A
36 NONDISCRIMINATORY AND COMPETITIVELY NEUTRAL MANNER THAT DOES NOT
37 GIVE THE TELEPHONE COMPANY AN ADVANTAGE OVER ITS COMPETITORS IN THE
38 TELECOMMUNICATIONS MARKET.

39 (C) ALL RULES AND REGULATIONS REGARDING THE IMPLEMENTATION OF A
40 HOLD ORDER OR FREEZE SHALL BE CONSISTENT WITH THE RULES OF THE FEDERAL
41 COMMUNICATIONS COMMISSION.

1 8-406.

2 (A) TO IMPLEMENT THIS SUBTITLE THE COMMISSION MAY ADOPT
3 REGULATIONS ON UNAUTHORIZED CHANGES IN TELEPHONE SERVICE PROVIDERS
4 AND IN TELEPHONE SERVICE OPTIONS THAT ARE CONSISTENT WITH FEDERAL LAW.

5 (B) THE REGULATIONS MAY INCLUDE:

6 (1) PROCEDURES FOR A CUSTOMER TO CONFIRM A CHANGE IN
7 TELEPHONE SERVICE PROVIDER MADE BY ANOTHER TELEPHONE COMPANY ON
8 BEHALF OF THE CUSTOMER;

9 (2) PROCEDURES FOR A CUSTOMER TO CONFIRM A CHANGE IN
10 TELEPHONE SERVICE OPTIONS;

11 (3) REGULATION OF SOLICITATION FOR CHANGES IN TELEPHONE
12 SERVICE PROVIDERS AND TELEPHONE SERVICE OPTIONS;

13 (4) METHODS FOR ENFORCEMENT; AND

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

16 8-407.

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

19 (B) IN ADDITION TO ANY OTHER AVAILABLE PENALTY, THE COMMISSION MAY
20 ASSESS DIRECTLY, AFTER AN OPPORTUNITY FOR HEARING, AN ADMINISTRATIVE
21 PENALTY ON A TELEPHONE COMPANY THAT VIOLATES THE PROVISIONS OF THIS
22 SUBTITLE, OR A REGULATION ADOPTED UNDER THIS SUBTITLE, OR FEDERAL LAW OR
23 REGULATION ON UNAUTHORIZED CHANGES IN TELEPHONE SERVICE PROVIDER OR
24 TELEPHONE SERVICE OPTIONS.

25 (C) THE ADMINISTRATIVE PENALTY UNDER THIS SECTION MAY NOT EXCEED
26 \$1,000 FOR EACH VIOLATION ASSOCIATED WITH A SPECIFIC ACCESS LINE WITHIN
27 THE STATE.

28 (D) IN ASSESSING AN ADMINISTRATIVE PENALTY UNDER THIS SECTION, THE
29 COMMISSION SHALL CONSIDER:

30 (1) THE NATURE, CIRCUMSTANCES, EXTENT, GRAVITY, AND NUMBER OF
31 VIOLATIONS;

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

33 (3) PRIOR OFFENSES AND REPEATED VIOLATIONS; AND

34 (4) OTHER MATTERS THAT THE COMMISSION CONSIDERS APPROPRIATE
35 AND RELEVANT.

1 (E) AN ADMINISTRATIVE PENALTY COLLECTED UNDER THIS SECTION SHALL
2 BE PAID INTO THE GENERAL FUND OF THE STATE.

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