

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

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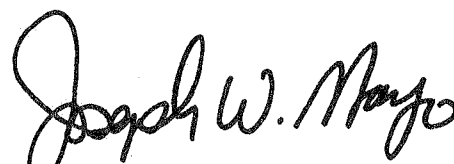
H.P. 1494

House of Representatives, January 20, 1998

**An Act Relating to the Protection of Maine Consumers in the
Telecommunications Market.**

(EMERGENCY)

Submitted by the Public Utilities Commission pursuant to Joint Rule 204.
Reference to the Committee on Utilities and Energy suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative JONES of Bar Harbor.
Cosponsored by Senator CAREY of Kennebec and
Representatives: BUNKER of Kossuth Township, LaVERDIERE of Wilton, O'BRIEN of
Augusta, O'NEAL of Limestone, TAYLOR of Cumberland, VEDRAL of Buxton, Senators:
HARRIMAN of Cumberland, LONGLEY of Waldo.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 Whereas, it is necessary that the State immediately prohibit
6 misleading and abusive market practices by telecommunications
carriers; and

8 Whereas, the Public Utilities Commission lacks authority to
10 take effective consumer protection measures to protect Maine
telecommunications consumers; and

12 Whereas, in the judgment of the Legislature, these facts
14 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
16 necessary for the preservation of the public peace, health and
safety; now, therefore,

18 **Be it enacted by the People of the State of Maine as follows:**

20 **Sec. 1. 35-A MRSA §7106** is enacted to read:

22 §7106. Consumer protection

24 1. Unauthorized change of carrier. This subsection governs
26 any change of a consumer's telephone utility that is not
28 authorized by that consumer. For the purposes of this section,
30 "telephone utility" includes any telephone utility, as defined in
section 102, subsection 19, and any other provider of local or
intrastate telecommunications services, including personal
communications services.

32 A. No telephone utility may initiate the change of a
34 customer's local or intrastate carrier unless the change is
verified by one of the following methods:

36 (1) Written authorization from the customer;

38 (2) Toll-free electronic authorization placed from the
40 telephone number that is the subject of the change
order;

42 (3) Oral authorization obtained by an independent 3rd
44 party; or

46 (4) Upon request of a customer, mailing to that
48 customer an information package consistent with 47 Code
of Federal Regulations, Section 64.1100(d) that
contains a postage-prepaid postcard or mailer, without

2 receiving a cancellation of the change order from the
3 customer within 14 days after the date of the mailing;

4 B. When a customer's service is changed to a new telephone
5 utility, the new telephone utility shall maintain a record
6 of nonpublic customer-specific information that establishes
7 that the customer authorized the change. If the Federal
8 Communications Commission requires verification, telephone
9 utilities shall use the verification methods required by the
10 Federal Communications Commission.

11 C. If a telephone utility initiates a change that is not
12 made or verified consistent with this section or commission
13 rules adopted under this section, that carrier, upon request
14 by the customer, shall reverse the change within 5 business
15 days or any other time established by commission rule.

16 D. A telephone utility that has initiated an unauthorized
17 customer change shall:

18 (1) Pay all usual and customary charges associated
19 with returning the customer to the customer's original
20 telephone utility;

21 (2) Return to the customer any amount paid to the
22 carrier by the customer or on the customer's behalf; and

23 (3) Upon request, provide all billing records to the
24 original telephone utility from which the customer was
25 changed to enable the original telephone utility to
26 comply with this section and any commission rules
27 adopted under this section.

28 The customer subjected to an unauthorized change is not
29 responsible for any charges associated with the unauthorized
30 change, including charges for usage subsequent to the
31 change, if the customer contacts either the customer's local
32 exchange carrier, the customer's previous provider of
33 intrastate service or the telephone utility that initiated
34 an unauthorized change in service within 30 days after
35 receipt of the customer's first bill containing charges by
36 the telephone utility that initiated the unauthorized
37 change. The telephone utility that initiated the
38 unauthorized change is responsible for any payment to access
39 providers or to an underlying carrier when applicable.
40 Failure of the customer to provide timely notice relieves
41 the telephone utility that initiated the unauthorized change
42 of any obligations under this paragraph.

2 2. Penalty. A telephone utility that violates this section
3 is subject to penalty in accordance with this subsection.

4 A. The commission may impose an administrative penalty
5 against any person who violates this section or a rule or
6 order adopted pursuant to this section. The penalty for a
7 violation may be in an amount not to exceed \$5,000. Each
8 day a violation continues constitutes a separate offense.
9 The amount of the penalty must be based on:

10 (1) The severity of the violation, including the
11 nature, circumstances, extent and gravity of any
12 prohibited acts;

13 (2) The history of previous violations; and

14 (3) The amount necessary to deter future violations.

15 B. If the commission finds that a telephone utility has
16 repeatedly violated this section or rules adopted under this
17 section, the commission shall order the utility to take
18 corrective action as necessary. In addition, the commission
19 may, if consistent with the public interest, suspend,
20 restrict or revoke the registration or certificate of the
21 telephone utility, thereby denying the telephone utility the
22 right to provide service in this State.

23 C. Penalties collected by the commission under this section
24 must be deposited in the Public Utilities Commission
25 Reimbursement Fund under section 117.

26 3. Rules. The commission may adopt nondiscriminatory and
27 competitively neutral rules to further implement this section.
28 These rules are routine technical rules as defined in Title 5,
29 chapter 375, subchapter II-A.

30 **Emergency clause.** In view of the emergency cited in the
31 preamble, this Act takes effect when approved.

40 SUMMARY

41 The purpose of this bill is to enhance the protections
42 available to telecommunications consumers in the State. It
43 prohibits the industry practice of "slamming," which involves the
44 change of a consumer's telecommunications carrier without the
45 consumer's prior authorization. The bill also authorizes the
46 Public Utilities Commission to adopt rules to supplement the
47 slamming prohibition and to otherwise protect telecommunications
48 consumers from deceptive practices in the telecommunications
49

2 market. The bill specifies the applicable penalties for a
violation of the slamming prohibition or any commission rules
adopted pursuant to this bill.

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