

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 570

H.P. 428

House of Representatives, January 19, 1999

**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.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative DAVIDSON of Brunswick.
Cosponsored by Senator CAREY of Kennebec and
Representatives: BERRY of Belmont, COLWELL of Gardiner, LaVERDIERE of Wilton,
McGLOCKLIN of Embden, ROSEN of Bucksport, SAVAGE of Buxton, SCHNEIDER of
Durham, Senator: KONTOS of Cumberland.

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 affecting
telecommunications consumers; and

8 Whereas, the Public Utilities Commission currently lacks
10 authority to 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 §§7107 and 7108 are enacted to read:**

22 **§7107. Unauthorized services**

24 **1. Definition.** For the purposes of this section,
26 "unauthorized service" means the provision of any service or
product that a consumer has not authorized and for which a charge
28 is billed on a telephone bill.

30 **2. Procedure upon complaint.** If a customer of a telephone
utility claims that a charge for an unauthorized service has been
32 included in the customer's telephone bill, the telephone utility
shall immediately suspend collection efforts on that portion of
34 the customer's bill. The telephone utility shall either cease
collection efforts entirely with regard to the disputed charge or
36 request verification from the service provider that the customer
authorized the service for which payment is sought. If the
38 telephone utility ceases collection efforts or sufficient
verification is not presented to the telephone utility within a
40 reasonable time, to be established by commission rule, the
telephone utility shall immediately remove any charges associated
42 with the unauthorized service from the customer's bill and refund
to the customer any amounts paid for the service on prior
44 telephone bills. If sufficient verification is provided to the
telephone utility, the telephone utility may restore the charges
46 on the customer's bill and reinstitute collection efforts. The
customer or the provider of the service may appeal the telephone
48 utility's determination to the commission.

2 3. Rulemaking. The commission shall adopt rules to
3 implement this section. Rules adopted under this section are
4 routine technical rules pursuant to Title 5, chapter 375,
5 subchapter II-A.

6 **§7108. Administrative fines**

8 1. Penalty authorized. The commission may impose an
9 administrative penalty against any person who violates any
10 telecommunications consumer protection statute, or rule or any
11 commission order issued pursuant to such a statute or rule. The
12 commission shall, by rule, designate those statutes and rules
13 that are intended to provide substantive or procedural
14 protections to telecommunications consumers. Rules adopted under
15 this section are routine technical rules pursuant to Title 5,
16 chapter 375, subchapter II-A.

18 2. Amount of penalty. The penalty for a violation may be
19 in an amount not to exceed \$5,000 for each day the violation
20 continues. The amount of the penalty must be based on:

22 A. The severity of the violation, including the intent of
23 the violator, and the nature, circumstances, extent and
24 gravity of any prohibited acts;

26 B. The history of previous violations; and

28 C. The amount necessary to deter future violations.

30 3. Suspension or revocation of authority. If the
31 commission finds that a local or intrastate interexchange carrier
32 has repeatedly violated a telecommunications consumer protection
33 statute, the commission shall order the utility to take
34 corrective action as necessary. In addition, the commission, if
35 consistent with the public interest, may suspend, restrict or
36 revoke the registration or certificate of the local or intrastate
37 interexchange carrier, so as to deny the local or intrastate
38 interexchange carrier the right to provide service in this State.

40 4. Reimbursement fund. Penalties collected by the
41 commission under this section must be deposited in the Public
42 Utilities Commission Reimbursement Fund under section 117.

44 **Emergency clause.** In view of the emergency cited in the
45 preamble, this Act takes effect when approved.
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SUMMARY

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This bill grants the Public Utilities Commission authority to protect the State's telecommunications consumers from the fraudulent industry practice of "cramming." Cramming occurs when charges for an unauthorized service are placed on a consumer's telephone bill. The bill requires a telephone utility to suspend collection efforts when a consumer alleges that a charge is unauthorized. Unless the provider of the service produces verification that the service was authorized by the consumer, the telephone utility must remove the charges and refund any prior payments for that service. The bill also authorizes the commission to protect consumers through imposition of an administrative fine on telecommunications utilities for violating a telecommunications consumer protection statute, rule or commission order. The fining authority is modeled on similar authority granted to the commission to enforce electric consumer protection standards.