



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4594

by Rep. Sandy Cole

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2BBB new

Amends the Consumer Fraud and Deceptive Business Practices Act. Requires wireless carriers to bill consumers only for authorized charges. Provides that, in the case of a complaint, there is a rebuttable presumption that an unauthorized charge for a product or service was not authorized by the consumer. Provides that a wireless carrier may establish that a consumer authorized a charge with a record of affirmative consumer authorization, a demonstrated pattern of knowledgeable past use, or other persuasive evidence of authorization. Provides that with respect to direct-dialed telecommunications services, evidence that a call was dialed is prima facie evidence of authorization. Provides that while a complaint is pending, the consumer shall not be required to pay the disputed charge or any associated late charges or penalties. Provides that the disputed charge may not be sent to collection. Provides that no adverse credit report may be based on non-payment of the disputed charge. Provides that if a wireless carrier receives a complaint that the consumer did not authorize the purchase of the product or service associated with a charge, the wireless company, not later than 30 days from the date on which the complaint is received, shall either verify and advise the consumer of the consumer's authorization of the disputed charge or undertake to credit the disputed charge and any associated late charges or penalties to the consumer's bill. Provides that nothing in the new provisions prevents a consumer from exercising his or her other rights. Provides that a violation is an unlawful practice within the meaning of the Act.

LRB095 15421 WGH 44903 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by adding Section 2BBB as follows:

6 (815 ILCS 505/2BBB new)

7 Sec. 2BBB. Wireless services; unauthorized services.

8 (a) As used in this Section:

9 "Complaint" means any written or oral communication from a
10 consumer that has been billed for a charge that the consumer
11 alleges was unauthorized and that was billed, either directly
12 or indirectly, through a wireless carrier.

13 "Investigation" means an inquiry conducted by: (i) the
14 consumer from which the disputed charge originated; (ii) a
15 wireless carrier that provides billing services to any third
16 party, including its own affiliate; (iii) the Attorney General;
17 or (iv) any other relevant government agency.

18 (b) Wireless carriers shall bill consumers only for
19 authorized charges.

20 (c) In the case of a complaint, there is a rebuttable
21 presumption that an unauthorized charge for a product or
22 service was not authorized by the consumer. A wireless carrier
23 may establish that a consumer authorized a charge with: (i) a

1 record of affirmative consumer authorization; (ii) a
2 demonstrated pattern of knowledgeable past use; or (iii) other
3 persuasive evidence of authorization. With respect to
4 direct-dialed telecommunications services, evidence that a
5 call was dialed is prima facie evidence of authorization.

6 (d) While a complaint is pending, the consumer shall not be
7 required to pay the disputed charge or any associated late
8 charges or penalties. The disputed charge may not be sent to
9 collection. No adverse credit report may be based on
10 non-payment of the disputed charge.

11 (e) If a wireless carrier receives a complaint that the
12 consumer did not authorize the purchase of the product or
13 service associated with a charge, the wireless company, not
14 later than 30 days from the date on which the complaint is
15 received, shall either: (i) verify and advise the consumer of
16 the consumer's authorization of the disputed charge; or (ii)
17 undertake to credit the disputed charge and any associated late
18 charges or penalties to the consumer's bill.

19 (f) Nothing in this Section prevents a consumer from
20 exercising his or her other rights.

21 (g) Any person who violates this Section commits an
22 unlawful practice within the meaning of this Act.