



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB5328

Introduced 01/26/06, by Rep. Jack D. Franks

#### SYNOPSIS AS INTRODUCED:

New Act  
815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Creates the Wireless Telephone Users Consumer Protection Act. Requires wireless telephone service providers to provide the terms of a plan or contract for wireless telephone service and other specified information to consumers before any service is offered and to include the information in a publication and advertising. Provides requirements for extension, modification, or rescission of wireless telephone service contracts. Prohibits providers from offering for sale the wireless telephone record of customers who are Illinois residents. Provides for enforcement by the Illinois Commerce Commission. Allows the Attorney General and State's Attorneys to bring a civil action and obtain injunctive relief to enforce the provisions of the Act. Amends the Consumer Fraud and Deceptive Business Practices Act to make a violation of the Wireless Telephone Users Consumer Protection Act an unlawful practice within the meaning of the Act. Effective immediately.

LRB094 17566 MKM 52862 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning wireless telephones.

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

4 Section 1. Short title. This Act may be cited as the  
5 Wireless Telephone Users Consumer Protection Act.

6 Section 5. Findings and purposes.

7 (a) The Illinois General Assembly makes the following  
8 findings:

9 (1) Consumers rely increasingly on wireless telephone  
10 service for personal, business, and emergency  
11 communications. There are currently more than 137,000,000  
12 wireless telephone users in the United States. This is more  
13 than a 121% increase in the number of such users in the  
14 past five years alone. In the future this number is  
15 projected to grow as consumers switch from wireline to  
16 wireless telephone service for their primary telephone  
17 service.

18 (2) Consumers cannot easily compare offers for  
19 wireless telephone service because information on terms,  
20 pricing, and service plans for such service is not  
21 presented in a uniform manner. Current wireless telephone  
22 service contracts do not clearly display the information  
23 consumers need to make an informed choice regarding a  
24 wireless telephone service contract. Consumers may not be  
25 aware of the deficiencies in wireless telephone service  
26 quality until after they have signed a contract, and  
27 exorbitant early termination penalties effectively lock  
28 consumers into undesired, long-term contracts.

29 (b) The purposes of this Act are:

30 (1) to improve quality of wireless telephone service;

31 (2) to promote consumer choice in the wireless  
32 telephone service market; and

1 (3) to protect consumers rights.

2 Section 10. Definitions. As used in this Act:

3 "Wireless telephone service" means any form of wireless  
4 telephone service, including cellular telephone service,  
5 broadband Personal Communication Service (PCS) telephone  
6 service, Covered Specialized Mobile Radio (SMR) service, and  
7 any successor service to such service (including so-called next  
8 generation or third generations service).

9 "Wireless telephone service provider" means a  
10 telecommunications carrier that provides wireless telephone  
11 service in the State of Illinois.

12 Section 15. Disclosure requirements.

13 (a) The Illinois Commerce Commission shall require that  
14 providers of wireless telephone service provide to consumers  
15 before any service is offered and in any publication, including  
16 publication on the Internet, of a wireless telephone service  
17 provider the terms of a plan or contract for wireless telephone  
18 service. The plan or contract shall set forth, in a plain and  
19 conspicuous manner, all of the following information:

20 (1) Information on charges, including calling-from  
21 area, monthly base charge, per-minute charges for minutes  
22 not included in the plan, and the method of calculating  
23 minutes charged.

24 (2) Information on minutes included in plan, including  
25 weekday/daytime, nights/weekends, long-distance, roaming,  
26 incoming, and directory assistance.

27 (3) Information on plan or contract terms, including  
28 length of contract, early or other termination fees, trial  
29 periods, and start-up fees.

30 (4) Information on taxes to be collected by the carrier  
31 for, and paid to, a State, local, or other governmental  
32 agency.

33 (5) Information on surcharges imposed by the carrier  
34 for the costs of compliance with regulations or for other

1 purposes.

2 (6) Any other information the Illinois Commerce  
3 Commission considers appropriate to ensure that consumers  
4 of wireless telephone service are fully informed of the  
5 terms of the plan or contract.

6 (b) Wireless telephone service providers shall meet the  
7 disclosure requirements in this Section in any advertising to  
8 the extent the medium allows. Any advertising is also subject  
9 to enforcement under the Consumer Fraud and Deceptive Business  
10 Practices Act.

11 (c) Not later than 6 months after the effective date of  
12 this Act, the Illinois Commerce Commission shall adopt rules  
13 requiring that the information required by subsection (a) be  
14 published by wireless telephone service providers in a tabular  
15 format, in a clear and uniform manner, and in at least 10-point  
16 font.

17 Section 20. Contract extension, modification, or  
18 rescission.

19 (a) An extension of a contract for wireless telephone  
20 service shall not be valid unless the contract is in writing or  
21 confirmed in writing within 7 days.

22 (b) A material modification to the terms of a contract  
23 shall be provided to the consumer in writing. The consumer  
24 shall have 30 days to cancel the contract without any penalty  
25 or other cost to the consumer, except the consumer shall be  
26 responsible for the cost of the service used during the time  
27 period the contract was in effect.

28 (c) A contract for wireless service may be canceled upon  
29 the request of the consumer for any reason during the first 30  
30 days. There shall be no penalty or other costs to the consumer  
31 for any cancellation during these 30 days, except the consumer  
32 shall be responsible for the cost of the service used during  
33 the time period the contract was in effect.

34 Section 25. Provision of information on wireless telephone

1 service coverage and quality to consumers.

2 (a) Each wireless telephone service provider shall make  
3 available a map showing the wireless telephone service area of  
4 such provider. The map shall contain the maximum practicable  
5 level of granularity and shall be updated at least quarterly.

6 A map of the service area of a wireless telephone service  
7 provider shall be provided to a consumer (i) upon the request  
8 of the consumer and (ii) whenever a plan or contract for the  
9 service is entered into.

10 The service area map shall be available on the Internet web  
11 site of the provider concerned.

12 (b) The Illinois Commerce Commission shall monitor the  
13 quality of wireless telephone service provided in the State of  
14 Illinois by requiring semiannual service quality reports by  
15 wireless telephone service providers on the following:

16 (A) Dropped calls.

17 (B) Blocked calls.

18 (C) Known coverage gaps (including average signal  
19 strength) or dead zones.

20 (D) Predicted street level signal strength.

21 (E) Any other matters the Commission considers  
22 appropriate.

23 The wireless service quality information shall be provided  
24 in the format and reported by geographic area as required by  
25 the Commission.

26 Section 27. Sale of customer records prohibited. Each  
27 wireless telephone service provider is prohibited from  
28 offering for sale the wireless telephone records of customers  
29 who are Illinois residents.

30 Section 30. Enforcement.

31 (a) The Illinois Commerce Commission shall have the power  
32 and authority to enforce the provisions of this Act as if these  
33 provisions were provisions of the Public Utilities Act.

34 (b) The Attorney General and or the State's Attorney may

1 bring a civil action as well as obtain injunctive relief on  
2 behalf of the residents of the State in the Circuit Court of  
3 the county of appropriate jurisdiction to enforce the  
4 provisions of this Act.

5 (c) A person who violates any provision of this Act commits  
6 an unlawful practice within the meaning of the Consumer Fraud  
7 and Deceptive Business Practices Act.

8 (d) Any person that violates or fails to comply with any  
9 provisions of this Act shall be subject to a civil penalty of  
10 no more than \$50,000 or 0.00825% of the carrier's gross  
11 intrastate annual wireless telecommunications revenue,  
12 whichever is greater, for each offense.

13 (e) Notwithstanding any other provision of law, the  
14 provisions of this Act are in addition to any other legal  
15 remedies available, including those under the Public Utilities  
16 Act.

17 Section 90. The Consumer Fraud and Deceptive Business  
18 Practices Act is amended by changing Section 2Z as follows:

19 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

20 Sec. 2Z. Violations of other Acts. Any person who knowingly  
21 violates the Automotive Repair Act, the Automotive Collision  
22 Repair Act, the Home Repair and Remodeling Act, the Dance  
23 Studio Act, the Physical Fitness Services Act, the Hearing  
24 Instrument Consumer Protection Act, the Illinois Union Label  
25 Act, the Job Referral and Job Listing Services Consumer  
26 Protection Act, the Travel Promotion Consumer Protection Act,  
27 the Credit Services Organizations Act, the Automatic Telephone  
28 Dialers Act, the Pay-Per-Call Services Consumer Protection  
29 Act, the Telephone Solicitations Act, the Illinois Funeral or  
30 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic  
31 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home  
32 Loan Act, the Payday Loan Reform Act, the Wireless Telephone  
33 Users Consumer Protection Act, subsection (a) or (b) of Section  
34 3-10 of the Cigarette Tax Act, the Payday Loan Reform Act,

1 subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax  
2 Act, the Electronic Mail Act, paragraph (6) of subsection (k)  
3 of Section 6-305 of the Illinois Vehicle Code, Article 3 of the  
4 Residential Real Property Disclosure Act, the Automatic  
5 Contract Renewal Act, or the Personal Information Protection  
6 Act commits an unlawful practice within the meaning of this  
7 Act.

8 (Source: P.A. 93-561, eff. 1-1-04; 93-950, eff. 1-1-05; 94-13,  
9 eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292,  
10 eff. 1-1-06; revised 8-19-05.)

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.