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HOUSE BILL NO. 204

Offered January 13, 2010

Prefiled January 8, 2010

A *BILL to amend the Code of Virginia by adding a section numbered 56-479.3, relating to adding telecommunications services that are not authorized by the customer.*

Patron—Alexander

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 56-479.3 as follows:**

§ 56-479.3. Telephone services provided without customer's prior authorization; penalty.

A. As used in this section, unless the context requires otherwise:

"Change in service" means the addition of a telecommunications service for which a separate charge is made to a customer account.

"Customer" means a person other than a service provider who uses a telecommunications service in the Commonwealth.

"Executing service provider" means, with respect to any change in telecommunications service, a service provider who executes an order for a change in service received from another service provider.

"Service provider" means a person providing a telecommunications service.

"Submitting service provider" means a service provider who requests another service provider to execute a change in service.

"Telecommunications service" means a local exchange or long distance telephone service, but shall not include commercial mobile radio service.

B. No person shall willfully (i) make a change in service not authorized by the telephone customer or (ii) charge or attempt to collect charges from any customer for any telecommunications service resulting from a change in service made without the telephone customer's authorization. A customer is not liable for an amount charged for any telecommunications service initiated by a service provider or its agent without the authorization of the customer.

C. A submitting service provider shall obtain verification of customer's authorization of a change in service before submitting a change in service. The verification may be in written, oral, or electronic form. The submitting service provider shall retain the verification for a minimum of two years following its submission of a change in service.

D. A customer's executing service provider shall notify the customer within three days of any change in service that results from the executing service provider's receipt from a submitting service provider of an order for a change in service.

E. A customer affected by an unauthorized change in service is entitled to appropriate compensation for damages resulting from an unauthorized change in service, including reasonable attorney fees and costs. The Commission shall determine the liability of, and shall allocate damages among, the executing service provider, the submitting service provider, and any other person, for unauthorized changes in a customer's telecommunications service.

F. The Commission shall adopt regulations providing for the prompt reversal by service providers of charges assessed as a result of unauthorized changes in a customer's telecommunications service.

G. A service provider who engages in any practice that has the effect of changing any customer's telecommunications service without complying with the applicable provisions of this section, charges or attempts to collect a charge for unauthorized service, or otherwise violates a provision of this section, a regulation adopted pursuant to this section, or an order lawfully issued by the Commission pursuant to this section, is subject to a civil penalty, which, after notice and opportunity for hearing, may be levied by the Commission, of not more than \$1,000 per violation. Each violation is a separate offense.

H. This section shall not be construed to preclude proceedings before the Federal Communications Commission to enforce applicable federal law; however, a service provider or a customer, for the same alleged acts, shall not pursue a complaint both before the Federal Communications Commission and pursuant to this section.

I. This section shall not apply to (i) changes in telecommunications services effected through a consolidation or merger of the customer's current service provider and (ii) services and corresponding charges required by law or order of the Commission.

INTRODUCED

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