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**HOUSE BILL NO. 425**

Offered January 11, 2012

Prefiled January 10, 2012

*A BILL to amend and reenact § 56-479.3 of the Code of Virginia, relating to telephone bills; third-party billing.*

\_\_\_\_\_  
Patron—Bulova

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Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:****1. That § 56-479.3 of the Code of Virginia is amended and reenacted as follows:**

§ 56-479.3. Authorization and verification for products, goods, and services to be billed on a telephone bill.

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

"Billing agent" means any entity that submits charges for products, goods, or services to the billing carrier on behalf of itself or any service provider.

"Billing carrier" means any telephone company that issues a telephone bill directly to customers.

"Service provider" means any entity that offers products, goods, and services to a customer and that directly or indirectly charges to or collects from a customer's bill received from a billing carrier an amount for such products, goods, or services.

B. This section does not apply to (i) products, goods, or services offered by or bundled with the services of a telephone company or its affiliates; (ii) telephone calls that are customer initiated by dialing 1+, 0+, 0-, or 1010XXX or that a customer accepts as collect; or (iii) commercial mobile radio services.

C. No charges for any products, goods, or services, other than those provided by the billing carrier or its affiliate, shall be included on any billing carrier's bill, unless the billing carrier:

1. ~~Has received from the service provider or billing agent shall willfully (i) add products, goods, or services not authorized by any customer or (ii) charge or attempt to collect charges from any customer for any such products, goods, or services without the customer's authorization~~ documentation evidencing that the service provider or billing agent provided the customer with clear and conspicuous disclosure of all material terms and conditions under which the products, goods, or services were sold or offered for sale, including all initial and recurring charges and the fact that such charges shall appear on the customer's telephone bill from the billing carrier; and

2. ~~Has received from the customer a written, oral, or electronic communication, made after the customer received the disclosure described in subdivision 1, clearly authorizing the billing carrier to bill him for the products, goods, or services on his telephone bill.~~

D. A customer is not liable for an amount charged through a billing carrier by a service provider or a billing agent ~~without unless the authorization of the customer knowingly initiated action to authorize the billing carrier to bill him for the products, goods, or services on his telephone bill as provided in subdivision C 2.~~ Any charges for products, goods, or services that are included on a telephone bill of a billing carrier without the customer's authorization having been obtained as provided in subdivision C 2 shall be void and unenforceable, and shall be removed from the telephone bill upon notice from such customer.

~~DE.~~ A service provider or billing agent shall obtain verification of a customer's authorization before submitting charges for products, goods, or services directly or indirectly to the billing carrier. ~~The In addition, a billing carrier shall obtain verification of a customer's authorization to have the billing carrier bill the customer for products, goods, or services on his telephone bill. Both types of verification (i) may be in written, oral, or electronic form and (ii) shall be verified by an independent third party as provided in subsection F.~~

F. Independent third-party verification of a customer's authorization as required by subsection E shall be accomplished by an appropriately qualified independent third party obtaining the customer's oral authorization to the billing for such products, good, or services on the billing carrier's bill. The verification shall include appropriate verification data, such as the customer's date of birth. The independent third party shall not be owned, managed, controlled, or directed by the service provider, billing agent, or billing carrier; shall not have any financial incentive to confirm its billing of such charges; and shall operate in a location physically separate from the service provider, billing agent, or billing carrier. Verification by the independent third party shall be adequate if it elicits, at a minimum, the date of the verification; the identity of the customer; confirmation that the person on the call is

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59 *authorized to permit the charges to appear on the telephone bill; confirmation that the customer*  
60 *knowingly initiated action to authorize the billing carrier to bill him for the products, goods, or services*  
61 *on his telephone bill; the name of the service provider; and the products, goods, or services involved.*

62 G. The service provider, *billing agent, or billing carrier* shall retain the verification for a minimum  
63 of two years.

64 ~~EH.~~ A billing carrier shall not enter into an agreement to bill for any charges for products, goods, or  
65 services for a service provider or billing agent unless that agreement requires the service provider or  
66 billing agent to comply with ~~subsection D~~ *the requirements of this section, including the duty to provide*  
67 *the billing carrier with documentation evidencing that the customer was provided with the disclosure*  
68 *required by subsection C 1.*