

Chapter 89

(Senate Bill 643)

AN ACT concerning

~~Telephone Companies and Resellers Bills~~ – Third-Party Vendor Billing

FOR the purpose of prohibiting a ~~telephone company or reseller from engaging in certain third-party vendor billing~~ third-party vendor or billing agent from submitting charges to a certain telephone company or reseller for third-party vendor billing without certain express authorization from ~~a~~ an ordering customer; requiring the authorization to be separate from certain other documents and to include certain information; requiring a ~~telephone company or reseller~~ third-party vendor or billing agent to retain a certain copy of the express authorization for a certain period of time; ~~requiring a telephone company or reseller to offer customers a certain blocking option under certain circumstances at no charge~~; ~~requiring a telephone company or reseller to provide customers with certain notice concerning third-party vendor billing~~; ~~prohibiting disconnection of a customer's telephone service or imposition of certain additional fees or interest charges for nonpayment of certain charges~~; ~~authorizing the Public Service Commission to adopt certain regulations~~; ~~providing that a telephone company or reseller subject to this Act is liable to a customer for certain charges~~; ~~authorizing the Commission to assess a certain administrative penalty on a telephone company or reseller under certain circumstances~~; providing that a certain customer is not liable for third-party vendor billing charges unless certain notice has been given to the customer and the customer is provided access to certain information; providing that unless a third-party vendor or billing agent provides a copy of a certain authorization to a certain customer and a certain telephone company or reseller, the customer is not liable for third-party vendor billing charges to the customer, if the customer, in good faith and in a reasonably timely manner, disputes that the charges were authorized; providing that a certain agreement for third-party vendor billing is void and unenforceable under certain circumstances; providing that a certain violation is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and is subject to certain enforcement and penalty provisions; defining certain terms; and generally relating to third-party vendor billing.

~~BY adding to~~

~~Article — Public Utility Companies~~

~~Section 8-701 through 8-708 to be under the new subtitle “Subtitle 7-~~

~~Third-Party Vendor Billing”~~

~~Annotated Code of Maryland~~

~~(2008 Replacement Volume and 2009 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Commercial Law

Section 13–301(14)(xxiii)

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

BY adding to

Article – Commercial Law

Section 14–1322

Annotated Code of Maryland

(2005 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

~~Article – Public Utility Companies~~

~~SUBTITLE 7. THIRD PARTY VENDOR BILLING.~~

~~§ 701.~~

Article – Commercial Law

13–301.

Unfair or deceptive trade practices include any:

(14) Violation of a provision of:

(xxiii) Section [14–1319 or] 14–1319, § 14–1320, OR § 14–1322 of this article;

14–1322.

(A) (1) IN THIS ~~SUBTITLE~~ SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “BILLING AGENT” MEANS A PERSON THAT SUBMITS CHARGES FOR PRODUCTS OR SERVICES TO A TELEPHONE COMPANY OR RESELLER ON BEHALF OF THE PERSON SUBMITTING THE CHARGES OR ON BEHALF OF A THIRD-PARTY VENDOR.

~~(B)~~ (3) “CUSTOMER” MEANS A CUSTOMER OF A TELEPHONE COMPANY OR RESELLER.

~~(c)~~ **(4) “EXPRESS AUTHORIZATION” MEANS AN EXPRESS, AFFIRMATIVE ACT BY ~~A~~ AN ORDERING CUSTOMER IN THE FORM OF:**

~~(1)~~ **(I) ~~A~~ A WRITTEN AUTHORIZATION;**

~~(2)~~ **(II) ~~AN~~ AN ORAL AUTHORIZATION VERIFIED AND RECORDED BY AN INDEPENDENT PARTY; OR**

~~(3)~~ **(III) ~~A~~ A RECORDED ELECTRONIC AUTHORIZATION.**

~~(d)~~ **~~“RESELLER” HAS THE MEANING STATED IN § 8-401 OF THIS TITLE.~~**

(5) “ORDERING CUSTOMER” MEANS A CUSTOMER OR ANOTHER PERSON ORDERING SERVICES THAT WILL APPEAR ON THE CUSTOMER’S TELEPHONE BILL.

(6) “RESELLER” MEANS A PERSON THAT PROVIDES WIRELINE TELEPHONE VOICE SERVICE BY USING THE TRANSMISSION FACILITIES OF ANOTHER PERSON.

(7) “TELEPHONE COMPANY” MEANS A PERSON THAT PROVIDES WIRELINE TELEPHONE VOICE SERVICES.

~~(e)~~ **(8) “THIRD-PARTY VENDOR” MEANS AN ENTITY ~~SEPARATE FROM~~ NOT AFFILIATED WITH A TELEPHONE COMPANY OR RESELLER THAT:**

~~(1)~~ **(I) ~~PROVIDES~~ PROVIDES PRODUCTS OR SERVICES TO A CUSTOMER; AND**

~~(2)~~ **(II) ~~SEEKS~~ SEEKS TO CHARGE THE CUSTOMER THROUGH THIRD-PARTY VENDOR BILLING.**

~~(f)~~ **(9) (I) “THIRD-PARTY VENDOR BILLING” MEANS THE USE OF A TELEPHONE ~~COMPANY~~ COMPANY’S OR RESELLER’S BILLING SYSTEM, EITHER DIRECTLY OR THROUGH A BILLING AGENT, TO CHARGE A CUSTOMER FOR PRODUCTS OR SERVICES PROVIDED BY A THIRD-PARTY VENDOR.**

(II) “THIRD-PARTY VENDOR BILLING” DOES NOT INCLUDE BILLING FOR:

1. PRODUCTS OR SERVICES OFFERED BY, OR BUNDLED WITH THE PRODUCTS OR SERVICES OF, A TELEPHONE COMPANY, A RESELLER, OR AN AFFILIATE OF A TELEPHONE COMPANY OR RESELLER;

2. LONG DISTANCE SERVICES THAT A CUSTOMER INITIATES BY DIALING 1+, 0+, 0-, OR 1010XXX; OR

3. COMMERCIAL MOBILE RADIO SERVICES.

~~§ 702.~~

~~(A) A TELEPHONE COMPANY OR RESELLER MAY NOT ALLOW THIRD PARTY VENDOR BILLING WITHOUT A CUSTOMER'S EXPRESS AUTHORIZATION.~~

(B) UNLESS THE THIRD-PARTY VENDOR OR BILLING AGENT FIRST OBTAINS AN ORDERING CUSTOMER'S EXPRESS AUTHORIZATION, A THIRD-PARTY VENDOR OR BILLING AGENT MAY NOT SUBMIT CHARGES TO A TELEPHONE COMPANY OR RESELLER.

~~(B)~~ (C) THE EXPRESS AUTHORIZATION REQUIRED UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION SHALL:

(1) ~~BE~~ BE SEPARATE FROM ANY SOLICITATION MATERIAL OR ENTRY FORMS FOR SWEEPSTAKES OR CONTESTS; AND

(2) ~~INCLUDE~~ INCLUDE:

(I) ~~THE~~ THE NAME AND TELEPHONE NUMBER OF THE ORDERING CUSTOMER;

(II) ~~THE~~ THE DATE OF AUTHORIZATION;

(III) ~~AN~~ AN EXPLANATION OF:

1. ~~THE~~ THE PRODUCT OR SERVICE OFFERED; AND

2. ~~ALL~~ ALL APPLICABLE CHARGES; AND

(IV) ~~AN~~ AN AFFIRMATION BY THE ORDERING CUSTOMER THAT:

1. ~~THE~~ THE ORDERING CUSTOMER IS AT LEAST 18 YEARS OF AGE AND ~~QUALIFIED TO AUTHORIZE THIRD PARTY VENDOR BILLING~~ AUTHORIZED TO ORDER SERVICES THAT WILL APPEAR ON THE CUSTOMER'S TELEPHONE BILL; AND

2. THIRD-PARTY VENDOR BILLING CHARGES MAY BE BILLED USING THE CUSTOMER'S TELEPHONE BILL.

~~(C)~~ (D) ~~A TELEPHONE COMPANY OR RESELLER~~ A THIRD-PARTY VENDOR OR BILLING AGENT SHALL RETAIN A COPY OF THE EXPRESS AUTHORIZATION REQUIRED UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION FOR 2 YEARS AFTER THE DATE OF AUTHORIZATION.

~~§ 703.~~

~~A TELEPHONE COMPANY OR RESELLER THAT ALLOWS THIRD PARTY VENDOR BILLING SHALL PROVIDE THE CUSTOMER WITH THE OPTION TO BLOCK THIRD PARTY VENDOR BILLING AT NO CHARGE.~~

~~§ 704.~~

~~(A) A TELEPHONE COMPANY OR RESELLER THAT ALLOWS THIRD PARTY VENDOR BILLING SHALL PROVIDE QUARTERLY NOTICE ON OR WITH A CUSTOMER'S BILL:~~

~~(1) THAT THE TELEPHONE COMPANY OR RESELLER ALLOWS THIRD PARTY VENDOR BILLING; AND~~

~~(2) THAT THE CUSTOMER MAY BLOCK THIRD PARTY VENDOR BILLING AT NO CHARGE.~~

~~(B) (1) IN ADDITION TO THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, ON EACH BILL FOR WHICH THIRD PARTY VENDOR CHARGES APPEAR, A TELEPHONE COMPANY OR RESELLER SHALL GIVE A CUSTOMER CONSPICUOUS NOTICE OF THE CHARGES IN A PORTION OF THE CUSTOMER'S BILL THAT IS IDENTIFIED AS UNRELATED TO LOCAL OR LONG DISTANCE TELEPHONE CHARGES.~~

~~(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

~~(I) A CLEAR DESCRIPTION OF EACH THIRD PARTY VENDOR PRODUCT OR SERVICE FOR WHICH THE CUSTOMER IS CHARGED;~~

~~(II) THE CHARGE FOR EACH THIRD PARTY VENDOR PRODUCT OR SERVICE, INCLUDING TAXES;~~

~~(III) THE TELEPHONE NUMBER THE CUSTOMER DIALED, IF ANY, TO OBTAIN THE THIRD PARTY VENDOR PRODUCT OR SERVICE WHICH RESULTED IN A CHARGE APPEARING ON THE CUSTOMER'S BILL;~~

~~(IV) (E) THE A CUSTOMER IS NOT LIABLE FOR THIRD-PARTY VENDOR BILLING CHARGES UNLESS:~~

~~(1) THE CUSTOMER HAS BEEN GIVEN NOTICE THAT THE TELEPHONE COMPANY OR RESELLER MAY ALLOW THIRD-PARTY VENDOR BILLING AND THAT FREE BLOCKING OF CERTAIN THIRD-PARTY VENDOR BILLING MAY BE AVAILABLE TO THE CUSTOMER; AND~~

~~(2) THE CUSTOMER IS PROVIDED ACCESS TO:~~

~~(I) AN ITEMIZATION OF THE THIRD-PARTY VENDOR BILLING CHARGES IDENTIFYING THEM SEPARATELY FROM OTHER CHARGES; AND~~

~~(II) THE NAME AND TELEPHONE NUMBER OF THE THIRD-PARTY VENDOR; AND OR ITS BILLING AGENT.~~

~~(V) INFORMATION ABOUT HOW TO RESOLVE ANY DISPUTE ABOUT A CHARGE FROM THE THIRD PARTY VENDOR, INCLUDING:~~

~~1. THE NAME AND TELEPHONE NUMBER OF ANY BILLING AGGREGATOR OR CLEARINGHOUSE WITH THE AUTHORITY TO RESOLVE A DISPUTE; AND~~

~~2. A LOCAL OR TOLL FREE TELEPHONE NUMBER FOR INQUIRIES AND COMPLAINTS TO THE TELEPHONE COMPANY OR RESELLER.~~

~~§ 705.~~

~~A TELEPHONE COMPANY OR RESELLER MAY NOT DISCONNECT A CUSTOMER'S TELEPHONE SERVICE OR IMPOSE ADDITIONAL FEES OR INTEREST CHARGES FOR NONPAYMENT OF CHARGES FROM A THIRD PARTY VENDOR.~~

~~§ 706.~~

~~TO IMPLEMENT THIS SUBTITLE THE COMMISSION MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE THAT ARE CONSISTENT WITH FEDERAL LAW.~~

~~§ 707.~~

~~A TELEPHONE COMPANY OR RESELLER THAT IS SUBJECT TO THIS SUBTITLE IS LIABLE TO A CUSTOMER FOR ALL UNAUTHORIZED THIRD PARTY VENDOR BILLING CHARGES.~~

~~§ 708.~~

~~(A) IN ADDITION TO ANY OTHER AVAILABLE PENALTY, THE COMMISSION MAY ASSESS DIRECTLY, AFTER AN OPPORTUNITY FOR HEARING, AN ADMINISTRATIVE PENALTY ON A TELEPHONE COMPANY OR RESELLER THAT VIOLATES:~~

~~(1) THIS SUBTITLE;~~

~~(2) A REGULATION ADOPTED UNDER THIS SUBTITLE; OR~~

~~(3) A FEDERAL LAW OR REGULATION ON UNAUTHORIZED THIRD PARTY VENDOR BILLING.~~

~~(B) THE ADMINISTRATIVE PENALTY ASSESSED UNDER THIS SECTION MAY NOT EXCEED \$1,000 FOR EACH VIOLATION ASSOCIATED WITH A SPECIFIC TELEPHONE ACCESS LINE IN THE STATE.~~

~~(C) AN ADMINISTRATIVE PENALTY COLLECTED UNDER THIS SECTION SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.~~

(F) UNLESS THE THIRD-PARTY VENDOR OR BILLING AGENT PROVIDES A COPY OF THE AUTHORIZATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION TO THE CUSTOMER AND TO THE TELEPHONE COMPANY OR RESELLER, A CUSTOMER IS NOT LIABLE FOR THIRD-PARTY VENDOR BILLING CHARGES IF THE CUSTOMER, IN GOOD FAITH AND IN A REASONABLY TIMELY MANNER, BUT NOT OUTSIDE THE TIME PERIOD SPECIFIED IN SUBSECTION (D) OF THIS SECTION, DISPUTES THAT THE CHARGES WERE AUTHORIZED.

(G) AN AGREEMENT FOR THIRD-PARTY VENDOR BILLING ENTERED INTO BY A TELEPHONE COMPANY OR RESELLER AND A THIRD-PARTY VENDOR OR BILLING AGENT ON OR AFTER OCTOBER 1, 2010, IS VOID AND UNENFORCEABLE TO THE EXTENT THAT IT DOES NOT REQUIRE THE THIRD-PARTY VENDOR TO COMPLY WITH SUBSECTION (B) OF THIS SECTION.

(H) A VIOLATION OF THIS SECTION BY A THIRD-PARTY VENDOR OR BILLING AGENT:

(1) IS AN UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE 13 OF THIS ARTICLE; AND

(2) EXCEPT FOR THE PROVISIONS OF § 13-411 OF THIS ARTICLE, IS SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2010.

Approved by the Governor, April 13, 2010.