

HOUSE No. 3133

By Mr. Walsh of Lynn, a petition (accompanied by bill, House, No. 3133) of Steven M. Walsh and others to establish a cell phone users' bill of rights. Telecommunication, Utilities and Energy.

The Commonwealth of Massachusetts

PRESENTED BY:

Steven M. Walsh

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act regulating the wireless telephone industry.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Steven M. Walsh	11th Essex
Timothy J. Toomey, Jr.	26th Middlesex
Thomas P. Kennedy	Second Plymouth and Bristol
Stephen R. Canessa	12th Bristol
Jennifer M. Callahan	18th Worcester
Denise Provost	27th Middlesex
John D. Keenan	7th Essex
Thomas M. McGee	Third Essex and Middlesex
Michael F. Rush	10th Suffolk
Bruce E. Tarr	First Essex and Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3389 OF 2007-2008.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
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AN ACT REGULATING THE WIRELESS TELEPHONE INDUSTRY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Chapter 93 of the General Laws, Official 2006 Edition, is hereby amended by inserting after
2 section 107, the following sections:—
- 3 Section 108. Short title. Section 108 to 116, inclusive, shall be known and may be cited as the "Wireless
4 Telephone Consumer Protection Act."
- 5 Section 109. Definitions.
- 6 "Department" means "Department of Telecommunications and Energy" as defined by Mass. Gen. Laws
7 ch. 25 § 1.
- 8 "Wireless telephone services" means commercial mobile radio services as defined by the federal
9 Telecommunications Act, 47 U.S.C. § 332(c).
- 10 "Wireless telephone service provider" means any entity that provides wireless telephone service within
11 the Commonwealth of Massachusetts.

12 "Wireless telephone number information" means the telephone number, electronic address, and any other
13 identifying information by which a calling party may reach a subscriber to commercial mobile services,
14 and which is assigned by a wireless telephone service provider to such subscriber.

15 Section 110. Disclosure requirements for plans and contracts for wireless telephone service.

16 (a) The Department of Telecommunications and Energy, within 180 days of the passage of this Act,
17 shall promulgate regulations requiring that any publication, including publication on the Internet, of a
18 wireless telephone service provider concerning the terms of its plans or contracts for wireless
19 telephone service shall set forth, in a plain and conspicuous manner, the following information:

- 20 (1) Information on charges, including calling-from area, monthly base charge, per-minute charges
21 for minutes not included in the plan, and the method of calculating minutes charged.
- 22 (2) Information on the minutes included in the plan, including weekday/daytime, nights/weekends,
23 or other differing charges; long-distance; roaming; incoming; and directory assistance.
- 24 (3) Information on plan or contract terms, including length of contract, early or other termination
25 fees, trial periods, and start-up fees.
- 26 (4) Information on taxes to be collected by the carrier for, and paid to, a state, local, or other
27 governmental agency.
- 28 (5) Information on surcharges imposed by the carrier for the costs of compliance with regulations
29 or for other purposes.
- 30 (6) Any other information that the Department considers appropriate to ensure that consumers of
31 wireless telephone service are fully informed of the terms of the plan or contract.

32 (b) Wireless telephone service providers must provide the information required by this section to a
33 consumer prior to entering into any contract with a consumer for wireless telephone service.

34 (c) The Department shall adopt rules requiring that the information required by this section be
35 published by wireless telephone service providers in a tabular format, in a clear and uniform manner,
36 and in at least 10 point font. This format shall be designed to ensure that consumers may accurately
37 compare the true cost of services among wireless service providers.

38 (d) Wireless telephone service providers must meet the disclosure requirements in this section in
39 advertising to the extent the medium allows.

40 Section 111. Disclosure requirements for wireless telephone service coverage.

41 (a) Each wireless telephone service provider shall make available maps showing the wireless telephone
42 service area of such provider and the wireless telephone service area of such provider within
43 Massachusetts. Such maps shall contain the maximum practicable level of granularity and shall be
44 updated quarterly.

45 (b) Each map of a service area under paragraph (a) shall be provided to a consumer (i) upon the request
46 of the consumer and (ii) whenever a plan or contract for the service is entered into.

47 (c) Each map of a service area under paragraph (a) shall be available (i) on the Internet web site of the
48 provider concerned; and (ii) on the Internet website of the Department.

49 Section 112. Service Quality Information.

50 (a) The Department shall monitor the quality of wireless telephone service provided in Massachusetts
51 by requiring semiannual reports by wireless telephone service providers on the following:

52 1) Dropped calls.

53 2) Blocked calls.

54 3) Known coverage gaps (including average signal strength) or dead zones.

55 4) Predicted street level signal strength.

56 5) Any other matters the Department considers appropriate.

57 (b) In monitoring the quality of wireless telephone service under paragraph (a), the Department shall
58 establish an Internet web site at which members of the public can submit to the Department their
59 comments and views on the quality of such service. The Department shall also accept written
60 complaints by mail.

61 (c) The Department shall make available to wireless telephone service providers and the public on a
62 semiannual basis information on the quality of wireless telephone service provided in Massachusetts.

63 Section 113. Contract extension, modification, or rescission.

64 (a) No contract for wireless telephone service shall be for a term longer than twelve months, except that
65 upon expiration of the contract, the wireless telephone service provider may offer to the subscriber the
66 right to renew the contract for a similar, shorter or longer period not to exceed twelve months.

67 (b) An extension of a contract for wireless telephone service shall not be valid unless the extension of the
68 contract is in writing and signed by the subscriber, or confirmed in writing and signed by the subscriber
69 within seven days.

70 (c) A wireless telephone service provider must provide subscribers with written notice of any change in
71 rates, terms, or conditions of service at least thirty days before the change is to take effect. If any such
72 change will result in higher rates or more restrictions on service or otherwise will result in a material,
73 adverse change for such subscriber, the subscriber may, within such thirty day period, terminate the
74 service without penalty and receive a pro rata refund of the charges, if any, paid for the handset used for
75 the service. The notice of change must inform the subscriber of the right to terminate the contract, the
76 right to a handset refund, and the steps to take to implement such a termination.

77 (a) A contract for wireless service may be canceled upon the request of the subscriber for any reason
78 during the first thirty days. There shall be no penalty or other costs to the subscriber for any
79 cancellation during these thirty days, except that the subscriber shall be responsible for the cost of the
80 service used during the time period the contract was in effect.

81 Section 114. Contract billing.

82 (a) A wireless telephone service provider shall provide bills for wireless telephone services that are
83 clearly organized and clearly describe in plain language the products and services for which charges
84 are imposed, and that conform to format standards established by the Department.

85 (b) Taxes and fees which are required by federal, state, or local statute or regulation to be collected
86 from the subscriber shall be set forth in a separate section of the bill and shall be itemized
87 separately. No charge which is not required to be recovered from subscribers may be included in this
88 section of the bill.

89 (c) Roaming or off-network charges shall be itemized on the subscriber's bill within sixty days of the
90 call being placed, and such roaming or off-network charges shall identify the date and originating
91 location of the call.

92 (d) Upon the request of a subscriber, a wireless telephone services provider shall provide an itemized
93 bill to the subscriber at no cost to the subscriber.

94 (e) Charges associated with the use of wireless telephone equipment or services shall not be the liability
95 of the subscriber if such use was unauthorized by the subscriber due to loss or theft, provided that
96 such loss or theft is promptly reported to the wireless telephone service provider.

97 (f) The Department shall promulgate regulations implementing this section and establishing complaint
98 handling procedures within the Department for billing disputes between wireless telephone service
99 providers and subscribers.

100 (g) A wireless telephone service provider shall refrain from terminating a subscriber's service for
101 nonpayment so long as the subscriber's billing complaint is pending before the Department and for
102 fifteen days thereafter, or for such period as the Department for good cause shall establish, provided
103 that as a condition of continued service during the pendency of any such dispute, the subscriber shall
104 pay the undisputed portions of any bill for service and any amounts the Department determines are
105 necessary to fairly compensate the wireless telephone provider for services rendered while the
106 complaint is pending and fifteen days thereafter.

107 Section 115. Wireless Customer Privacy.

108 (a) A wireless telephone service provider, or any direct or indirect affiliate or agent of a provider,
109 providing the name and wireless telephone number information of a subscriber for inclusion in any
110 directory of any form, or selling, leasing, licensing or sharing the contents of any directory database,
111 or any portion or segment thereof, shall not include the wireless telephone number information of any
112 subscriber without first obtaining the express consent of that subscriber. The provider's form for
113 obtaining the subscriber's express consent shall meet all of the following requirements:

- 114 (1) It shall be a separate document that is not attached to any other document.
- 115 (2) It shall be signed and dated by the subscriber.
- 116 (3) It shall be unambiguous, legible, and conspicuously disclose that, by signing, the subscriber is
117 consenting to have the subscriber's wireless telephone number information sold or licensed as part
118 of a list of subscribers and the subscriber's wireless telephone number information may be
119 included in a publicly available directory.
- 120 (4) If under the subscriber's calling plan the subscriber may be billed for receiving unsolicited calls
121 or text messaging from a telemarketer, the provider's form shall be unambiguous, legible, and
122 conspicuously disclose that, by consenting to have the subscriber's wireless telephone number

123 information sold or licensed as part of a list of subscribers or be included in a publicly available
124 directory, the subscriber may incur additional charges for receiving unsolicited calls or text
125 messages.

126 (b) A subscriber who provides express prior consent pursuant to paragraph (a) may revoke that consent
127 at any time. A wireless telephone service provider shall comply with the subscriber's request to opt
128 out within a reasonable period of time, not to exceed 60 days.

129 (c) A subscriber shall not be charged for making the choice to not be listed in a directory.

130 (d) This section does not apply to the provision of wireless telephone number information to the
131 following parties for the purposes indicated:

132 (1) To a collection agency, to the extent disclosures made by the provider are exclusively for the
133 collection of the subscriber's unpaid debt to the provider.

134 (2) To any law enforcement agency, fire protection agency, public health agency, public
135 environmental health agency, city or county emergency services planning agency, or private for-
136 profit agency operating under contract with, and at the direction of, one or more of these
137 agencies, for the exclusive purpose of responding to a 911 call or communicating an imminent
138 threat to life or property.

139 (3) To a lawful process issued under state or federal law.

140 (4) To a telephone corporation providing service between service areas for the provision to the
141 subscriber of telephone service between service areas, or to third parties for the limited purpose of
142 providing billing services.

143 (5) To a telephone corporation to effectuate a subscriber's request to transfer the customer's
144 assigned telephone number from the customer's existing provider of telecommunications services
145 to a new provider of telecommunications services.

146 (6) To the Department pursuant to its jurisdiction and control over wireless telephone providers.

147 (e) No telephone corporation, nor any official or employee thereof, shall be subject to criminal or civil
148 liability for the release of subscriber information as authorized by this section.

149 Section 116. Enforcement.

150 (a) The Department shall have the power and authority to enforce the provisions of this Act. The
151 Department shall have the power, consistent with federal law, to assess a penalty not to exceed one
152 thousand dollars against any company that neglects or knowingly fails to comply with any
153 requirement of this Act.

154 (b) Failure to comply with any provision of this Act or any regulation promulgated in accordance with
155 this Act shall constitute an unfair or deceptive act or practice under chapter ninety-three A.