

## Assembly Bill No. 2244

### CHAPTER 778

An act to amend Section 17538.9 of the Business and Professions Code, relating to prepaid calling cards and services.

[Approved by Governor September 21, 2002. Filed  
with Secretary of State September 22, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2244, Wayne. Prepaid calling cards and services.

Existing law regulates the sale of prepaid calling cards and services. Existing law requires a company that sells prepaid calling cards and services to make certain disclosures regarding fees and surcharges, and regulates the manner in which these fees are imposed.

This bill would add to the list of specified fees and charges that are required to be disclosed and would impose additional restrictions on the manner in which these fees and charges are imposed.

Existing law requires a company that sells prepaid calling cards and services to maintain a toll-free customer service number.

This bill would impose additional requirements in operating and maintaining the company's customer service number.

The bill would include certain transition provisions and make other related changes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 17538.9 of the Business and Professions Code is amended to read:

17538.9. (a) For the purposes of this section:

(1) "Company" refers to any entity providing prepaid calling services to the public using its own or a resold telecommunications network.

(2) "Prepaid calling services" or "services" refers to any prepaid telecommunications service that allows consumers to originate calls through an access number and authorization code, whether manually or electronically dialed.

(3) "Prepaid calling card" or "card" means any object containing an access number and authorization code that enables a consumer to use prepaid calling services. It does not include any object of that type used for promotional purposes.

(4) “Cellular telephone services” means facilities-based, commercial mobile telephone services.

(b) The following standards and requirements for consumer disclosure and services shall apply to the advertising and sale of prepaid calling cards and prepaid calling services:

(1) Any advertisement of the price, rate, or unit value in connection with the sale of prepaid calling cards or services shall include a disclosure of any geographic limitation to the advertised price, rate, or unit value, as well as a disclosure of any additional surcharges, call setup charges, or fees or surcharges applicable to the advertised price, rate, or unit value.

(2) The following information shall be legibly printed on the card:

(A) The name of the company.

(B) A toll-free customer service number.

(C) A toll-free network access number, if required to access service.

(D) The authorization code, if required to access service.

(E) The expiration date or policy, if applicable, except where paragraph (8) applies.

(3) The company shall print legibly on the card or packaging, and the vendor shall make available clearly and conspicuously in a prominent area immediately proximate to the point of sale of the prepaid calling card or prepaid calling services the following information:

(A) The value of the card and any surcharges, taxes, or fees, including monthly or other periodic fees, maintenance fees, per-call access fees, surcharges for calls made on pay telephones, or surcharges for the first minute or other period of use that may be applicable to the use of the prepaid calling card or prepaid calling services within the United States.

(B) Any surcharges for international calls or, in lieu of disclosing each surcharge, the highest surcharge for any international calls applicable on that card and any additional or different prices, rates, or unit values applicable to international usage of the prepaid calling card or prepaid calling services.

(C) The minimum charge per call, such as a three-minute minimum charge, if any.

(D) The definition of the term “unit,” if applicable.

(E) The billing decrement.

(F) The name of the company.

(G) The recharge policy, if any.

(H) The refund policy, if any.

(I) The expiration policy, if any.

(J) The 24-hour customer service toll-free telephone number required in paragraph (6).

(4) If a language other than English is used on the card or packaging to provide dialing instructions to place a call or to contact customer service, the information required by paragraph (3) shall also be disclosed in that language in the point of sale disclosure in the manner described in paragraph (3).

(5) If a language other than English is used in the advertising or promotion of the card or prepaid calling services or is used on the card or packaging other than for dialing instructions, the information required by paragraph (3) shall also be disclosed in that language on the card or packaging and in the point of sale disclosure in the manner described in paragraph (3).

(6) A company shall establish and maintain a toll-free customer service telephone number that shall meet the following requirements:

(A) A live operator shall answer incoming calls to the telephone number 24 hours a day, seven days a week.

(B) The telephone number shall have sufficient capacity and staffing to accommodate a reasonably anticipated number of calls without incurring a busy signal or undue wait. The company shall provide customer service in each language used on a prepaid calling card or its packaging and in the advertising or promotion of the prepaid calling card or prepaid calling services.

(C) The telephone number shall allow consumers to lodge complaints and obtain information on all of the following:

(i) All rates, surcharges, and fees.

(ii) The company's recharge, refund, and expiration policies.

(iii) The balance of use available in the consumer's account, if applicable.

(D) A company shall not impose a fee or surcharge related to obtaining customer service, including any charge related to connecting with the customer service number or waiting to speak to a live operator.

A company offering prepaid cellular telephone services shall be deemed to be in compliance with the requirements of this paragraph if, when a request for information is made outside of normal business hours, that company provides the information requested on the next business day.

(7) A company that issues prepaid calling cards or prepaid calling services shall provide a refund to any purchaser of a prepaid calling card or prepaid calling services if the network services associated with that card or services fail to operate in a commercially reasonable manner. The refund shall be in an amount not less than the value remaining on the card or in the form of a replacement card, and shall be provided to the consumer within 60 days from the date of receipt of notification from the

consumer that the card has failed to operate in a commercially reasonable manner.

(8) Cards without a specific expiration date or policy printed on the card, and with a balance of service remaining, shall be considered active for a minimum of one year from the date of purchase, or if recharged, from the date of the last recharge.

(9) In the case of prepaid calling cards or services utilized at a pay phone, the company may provide voice prompt notification of any applicable pay phone surcharges, in lieu of providing notice of surcharges as required by paragraph (1) and by subparagraph (A) of paragraph (3), provided that the company provides users of prepaid calling cards or services with reasonable time to terminate the call after notification of applicable pay phone surcharges without incurring any charge for the call.

(10) A company shall maintain access numbers with sufficient capacity to accommodate a reasonably anticipated number of calls without incurring a busy signal or undue delay.

(11) A company may not impose any fee or surcharge that is not disclosed as required by this section or that exceeds the amount disclosed by the company.

(12) A company may not impose any charges if the consumer is not connected to the number called. For the purpose of this paragraph, the customer shall not be considered connected to the number called if the customer receives a busy signal or the call is unanswered.

(13) The value of the card and the amount of the various charges, however denominated, that are required to be disclosed by paragraph (3), shall be expressed in the same format. If the value of a card is expressed in minutes, the minutes shall be identified as domestic or international and the identification shall be printed on the same line or next line as the value of the card in minutes.

SEC. 2. Notwithstanding any other provision of this act, prepaid calling cards in compliance with the disclosure requirements of paragraphs (2) and (3) of subdivision (b) of Section 17538.9 of the Business and Professions Code as it existed immediately prior to the effective date of this act may continue to be sold to the public until July 1, 2003.

