

AMENDED IN ASSEMBLY MAY 5, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2799

Introduced by Assembly Members Calderon

February 20, 2004

An act to amend Section 2890 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 2799, as amended, Calderon. Telecommunications: billings.

Existing law requires that when a person or corporation obtains a written order for a telecommunications product or service, the written order be a separate document from any solicitation material. Existing law requires that written orders and written solicitation materials be unambiguous, legible, be in at least 10-point type, and be in the same language. Existing law prohibits written orders being used as entry forms for sweepstakes, contests, or other programs that offer prizes or gifts.

This bill would instead require that when a telephone corporation mails solicitation materials ~~that were not requested~~, that advertise a product or service that may be ordered through execution and return of an enclosed ordering form that is not conditioned upon the telephone corporation providing further documentation or disclosure of the terms of the agreement, then the essential terms of the agreement are to be set forth clearly, conspicuously, and legibly in the ordering form, in a minimum 10-point type, and in the same language as the solicitation materials. The bill would prohibit a telephone corporation from using

as an order form for product or services, an entry form for sweepstakes, contests, or other programs that offer prizes or gifts.

Existing law requires a telephone bill to only contain charges for products or services the purchase of which the subscriber has authorized. Existing law requires that telephone bills include information concerning the nature of the charges, dispute resolution, and complaint procedures that establish certain rebuttable presumptions relative to whether a charge has been authorized.

This bill would provide means to make a prima facie showing of authorization.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 2890 of the Public Utilities Code is
2 amended to read:

3 2890. (a) A telephone bill may only contain charges for
4 products or services, the purchase of which the subscriber has
5 authorized.

6 (b) When a telephone corporation mails written solicitation
7 materials to an existing or prospective customer that advertise a
8 product or service that may be ordered through execution and
9 return of an enclosed ordering form not conditioned upon the
10 telephone corporation providing further documentation or
11 disclosure of the terms of the agreement, ~~without having first~~
12 ~~received a request for information about its products or services,~~
13 the essential terms of the agreement shall be set forth clearly,
14 conspicuously, and legibly in the ordering form, in a minimum
15 10-point type, and in the same language as the solicitation
16 materials. No telephone corporation may use an order form for
17 product or services that is an entry form for a sweepstakes,
18 contests, or any other program that offers prizes or gifts.

19 (c) The commission may only permit a subscriber's local
20 telephone service to be disconnected for nonpayment of charges
21 relating to the subscriber's basic local exchange telephone service,
22 long-distance telephone service within a local access and transport
23 area (intraLATA), long-distance telephone service between local
24 access and transport areas (interLATA), and international
25 telephone service.



(d) A billing telephone company shall clearly identify, and use a separate billing section for, each person, corporation, or billing agent that generates a charge on a subscriber's telephone bill. A billing telephone company may not bill for a person, corporation, or billing agent, unless that person, corporation or billing agent complies with subdivision (e).

(e) Any person, corporation, or billing agent that charges subscribers for products or services on a telephone bill shall do all of the following:

(1) Include, or cause to be included, in the telephone bill the amount being charged for each product or service, including any taxes or surcharges, and a clear and concise description of the service, product, or other offering for which a charge has been imposed.

(2) Include, or cause to be included, for each entity that charges for a product or service, information with regard to how to resolve any dispute about that charge, including the name of the party responsible for generating the charge and a toll-free telephone number or other no cost means of contacting the entity responsible for resolving disputes regarding the charge and a description of the manner in which a dispute regarding the charge may be addressed. Each telephone bill shall include the appropriate telephone number of the commission that a subscriber may use to register a complaint.

(3) Establish, maintain, and staff a toll-free telephone number to respond to questions or disputes about its charges and to provide the appropriate addresses to which written questions or complaints may be sent. The person, corporation, or billing agent that generates a charge may also contract with a third party, including, but not limited to, the billing telephone corporation, to provide that service on behalf of the person, corporation or billing agent.

(4) Provide a means for expeditiously resolving subscriber disputes over charges for a product or service, the purchase of which was not authorized by the subscriber. In the case of a dispute, there is a rebuttable presumption that an unverified charge for a product or service was not authorized by the subscriber and that the subscriber is not responsible for that charge. With regard to direct dialed telecommunications services, evidence that a call was dialed is prima facie evidence of authorization. If recurring charges arise from the use of those subscriber-initiated services,

1 the recurring charges are subject to this section. For any charge
2 subject to a rebuttable presumption under this paragraph, the
3 existence of a customer contract with terms requiring or
4 authorizing the telephone corporation to provide the product or
5 service, or the existence of a pattern of usage of the product or
6 service, is prima facie evidence of authorization.

7 (f) If an entity responsible for generating a charge on a
8 telephone bill receives a complaint from a subscriber that the
9 subscriber did not authorize the purchase of the product or service
10 associated with that charge, the entity, not later than 30 days from
11 the date on which the complaint is received, shall verify the
12 subscriber's authorization of that charge or undertake to resolve
13 the billing dispute to the subscriber's satisfaction.

14 (g) For purposes of this section, "billing agent" is the
15 clearinghouse or billing aggregator.

16 (h) *For purposes of this section, "pattern of usage" means*
17 *conduct composed of a series of acts over a period of time, however*
18 *short, evidencing a purpose to use a product or service.*

