

HOUSE BILL No. 4343

February 20, 1991, Introduced by Reps. Stallworth, Bartnik, Palamara, Hoffman, DeMars, Willis Bullard, Harrison, Joe Young, Jr., Middaugh, Jonker, Stopczynski, Varga, Dobronski, Kilpatrick, Murphy, Clack, Muxlow, Wozniak, Baade, Bankes, Kosteva, Joe Young, Sr., Wallace, Hertel, Webb, Clarke and Profit and referred to the Committee on Public Utilities.

A bill to regulate and insure the availability of certain telecommunication services; to create and transfer powers and duties to the Michigan telecommunications commission; to prescribe the powers and duties of certain state agencies and officials; to create the basic telecommunication service fund; to provide for remedies and to prescribe penalties; to provide for an appropriation; to repeal certain acts and parts of acts; and to repeal this act on a specific date.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

ARTICLE 1

GENERAL PROVISIONS

3 Sec. 101. This act shall be known and may be cited as the
4 "Michigan telecommunications act".

5 Sec. 102. (1) The telecommunication needs for this state
6 require a new regulatory approach to insure the development of a

1 modern, high-quality telecommunications infrastructure which will
2 allow the state to remain competitive in a national and interna-
3 tional information economy while insuring that basic and univer-
4 sal telecommunication service is available to each individual
5 within this state. The "modified final judgment" that resulted
6 in the restructuring and divestiture of the telephone industry in
7 this country had a valid purpose when entered, but is now causing
8 unintended consequences that are detrimental to the industry and
9 citizens of this state.

10 (2) The legislature finds all of the following:

11 (a) The Michigan telecommunications industry is in danger of
12 losing ground to other national and international competitors.

13 (b) The telecommunications industry is restricted from fully
14 utilizing the vast resources available to insure its competitive
15 position.

16 (c) The safety and well-being of the citizens of this state
17 require that all have access to certain essential telecommunica-
18 tion services at an affordable rate.

19 (d) That access to certain essential telecommunication serv-
20 ices is necessary to prevent a society of information haves and
21 have-nots.

22 (e) The telecommunication infrastructure has been improved
23 and built for the needs of the enhanced services users and it is
24 these users who should bear the primary costs of the system.

25 (3) The purpose of this act is to create an environment that
26 will place Michigan on the leading edge of telecommunication
27 technology, provide incentives to develop new products and

1 services, improve the quality of the Michigan telecommunications
2 infrastructure, provide viable alternatives to national and
3 international penetration, to insure certain services are univer-
4 sally available at a reasonable rate, and to provide affordable,
5 high-quality basic local service to every citizen of the state.

6 Sec. 103. As used in this act:

7 (a) "Affordable rate" means a rate as determined by the com-
8 mission that any person within a local exchange can bear without
9 economic detriment.

10 (b) "Alternative operator service" means an operator service
11 that is separate from the operator service provided by the local
12 exchange provider.

13 (c) "Basic local exchange service" means the provision of an
14 access line to customers within a local exchange area for, but
15 not limited to, the transmission of high-quality 2-way interac-
16 tive switched voice communication.

17 (d) "Basic telecommunication service fund" or "fund" means
18 the fund created in section 501.

19 (e) "Commission" means the Michigan telecommunications com-
20 mission created in section 201.

21 (f) "Contested case" means a proceeding as defined in sec-
22 tion 3 of the administrative procedures act of 1969, Act No. 306
23 of the Public Acts of 1969, being section 24.203 of the Michigan
24 Compiled Laws.

25 (g) "Educational customer" means a public institution of
26 elementary, secondary, or higher education within this state.

1 (h) "Exchange" means the geographical area in which local
2 exchange telecommunication services are offered by a provider,
3 consisting of 1 or more contiguous central offices and all asso-
4 ciated facilities.

5 (i) "General local exchange rate" means the monthly rate,
6 including all necessary and attendant charges, imposed for basic
7 local exchange service to customers other than residential
8 customers.

9 (j) "Governmental customer" means an agency or instrumental-
10 ity of federal, state, or local government.

11 (k) "Information services" or "enhanced services" means the
12 combining of basic local exchange service with computer process-
13 ing applications for generating, acquiring, storing, transform-
14 ing, processing, retrieving, utilizing, or making available
15 information that is conveyed by a telecommunication service.

16 (l) "LATA" means the local access and transport area within
17 which a provider may perform exchange and exchange-access
18 functions.

19 (m) "License" means a license issued pursuant to this act or
20 a certificate of convenience and necessity issued, or other
21 authority granted, to a provider before the effective date of
22 this act.

23 (n) "Line" or "access line" means the medium over which a
24 telecommunication user connects into the telecommunication
25 system.

1 (o) "Local exchange area" means a geographic area
2 encompassing 1 or more local communities as described in maps,
3 tariffs, or rate schedules filed with the commission.

4 (p) "Message telecommunication service" or "MTS" means the
5 transmission of 2-way interactive switched voice communication
6 between local exchange areas for which charges are made on a
7 per-unit basis. MTS does not include wide area telecommunica-
8 tions service or individually negotiated contracts for similar
9 telecommunication services.

10 (q) "Person" means an individual, corporation, partnership,
11 association, or any other legal entity.

12 (r) "Reasonable rate" means a rate that is not inadequate,
13 excessive, or discriminatory as determined by the commission.

14 (s) "Residential customer" means a person to whom telecom-
15 munication services are furnished for personal or domestic pur-
16 poses at the person's dwelling.

17 (t) "Residential local exchange rate" means an affordable
18 monthly rate, including all necessary and attendant charges,
19 imposed for basic local exchange service to residential customers
20 by a telecommunication provider.

21 (u) "Telecommunication provider" or "provider" means a cor-
22 poration or other legal entity who for compensation provides
23 telecommunication services.

24 (v) "Telecommunication services" includes, but is not
25 limited to, services offered to or for the public that transmit
26 2-way interactive switched signs, signals, writing, images,
27 sounds, messages, data, or other information by wire, radio,

1 lightwaves, microwaves, or other electromagnetic means that
2 originate or terminate in this state. Telecommunication services
3 also include 1-way transmission to subscribers of video program-
4 ming or other programming service, subscriber interaction that is
5 required for the selection of the video programming or other pro-
6 gramming service, radio paging, mobile radio telecommunication
7 services, and answering services, including computerized or oth-
8 erwise automated answering or voice message services.

9 (w) "Universal service" means basic local exchange service
10 and any other telecommunication services as the commission deter-
11 mines to be necessary to meet the objectives of this act. In
12 determining which other services will be included within the
13 meaning of universal service, the commission may consider 1 or
14 more of the following:

15 (i) Whether the service can be provided at a reasonable rate
16 to the customer at an acceptable level of quality.

17 (ii) The geographical availability and the number of custom-
18 ers utilizing the service within the state.

19 (iii) The public health, safety, and well-being.

20 (iv) The effect the service will have on the state's tele-
21 communication providers' competitive position in relationship to
22 other national and international telecommunication providers.

23 (v) The improvement the service will have on the state's
24 economic condition by providing needed resources to business and
25 the creation of jobs.

1 (vi) Whether the service will enhance for the citizens of
2 this state the quality of life, educational opportunities, or the
3 realization of their legal and civil rights.

4 (x) "Wide area telecommunications service" or "WATS" means
5 the transmission of 2-way interactive switched voice communica-
6 tion, either interstate or intrastate, over a dedicated access
7 line.

8 Sec. 104. Except as otherwise provided in this act, this
9 act shall not be construed to prevent any person from providing
10 telecommunication services in competition with another telecom-
11 munication provider.

12 Sec. 105. The legislature shall annually appropriate a sum
13 sufficient to implement this act.

14 ARTICLE 2

15 MICHIGAN TELECOMMUNICATIONS COMMISSION

16 Sec. 201. (1) A commission to be known and designated as
17 the "Michigan telecommunications commission" is created within
18 the department of commerce and shall consist of 3 members, not
19 more than 2 of whom shall be members of the same political party,
20 appointed by the governor with the advice and consent of the
21 senate. Each member will be a citizen of the United States and
22 of this state. A member of the commission shall not have a pecu-
23 niary interest in a telecommunication provider subject to this
24 act. During his or her term, a member will not serve as an offi-
25 cer or committee member of a political party organization, hold
26 an appointed or elected office, or be employed by any other
27 commission, board, department, or institution of this state. A

1 commission member shall not be retained or employed by a
2 telecommunication provider subject to this act during the time he
3 or she is acting as a commissioner and for 6 months after termi-
4 nation of his or her term as a commissioner.

5 (2) Members of the commission shall have at least 3 years of
6 experience in 1 or more of the following fields: economics, law,
7 finance, accounting, engineering, physical or natural sciences,
8 or other related areas as determined by the commission. At least
9 1 member shall be an attorney admitted to the practice of law in
10 this state.

11 (3) Members of the commission will be appointed by the gov-
12 ernor pursuant to this section and section 202 for terms of 6
13 years each. The members first appointed will have the following
14 terms: 1 for a term of 4 years, 1 for a term of 6 years, and 1
15 for a term of 8 years. Upon the expiration of the initial terms,
16 successors will be appointed for terms of 6 years each, or until
17 their successors are appointed and qualified. The members are
18 eligible for 1 consecutive reappointment.

19 (4) Members of the commission will qualify for office by
20 taking and subscribing to the constitutional oath of office, and
21 will hold office until the appointment and qualification of their
22 successor.

23 (5) A member of the commission may be removed by the gover-
24 nor for misfeasance, malfeasance, or nonfeasance in office.

25 (6) A vacancy created on the commission before the expira-
26 tion of a term will be filled by appointment in the same manner

1 as is provided for in subsection (3) and the new member will
2 serve for the balance of the term of the vacated seat.

3 (7) A vacancy on the commission does not impair the right of
4 the 2 remaining members to exercise all the powers of the
5 commission. Two members of the commission constitute a quorum.

6 (8) The governor shall designate 1 member to serve as chair-
7 person of the commission who will be the chief executive officer
8 and be responsible for the day-to-day operations of the
9 commission.

10 (9) The salary of the chairperson of the commission and the
11 other commissioners and the schedule for reimbursement of
12 expenses will be established annually by the legislature.

13 (10) The commission may appoint a commission secretary,
14 legal counsel, deputies, clerks, assistants, inspectors, heads of
15 divisions, and other employees as is necessary to exercise the
16 powers and duties of the commission. All salaries and other
17 expenses incurred by the commission will be paid out of funds
18 appropriated by the legislature.

19 (11) Except as otherwise provided by this act, the legal
20 counsel for the commission shall represent the commission in all
21 legal matters and perform such other duties as prescribed by the
22 commission.

23 (12) All fees and other money received by the commission
24 will be paid over at the end of each month to the state
25 treasurer.

1 (13) The department of commerce shall provide suitable
2 offices, supplies, and equipment for the commission in the city
3 of Lansing.

4 Sec. 202. (1) The telecommunications commission nominating
5 council is created within the department of commerce consisting
6 of the following members:

7 (a) Three members of the public appointed by the governor.

8 (b) A member of the public appointed by the majority leader
9 of the senate.

10 (c) A member of the public appointed by the speaker of the
11 house of representatives.

12 (2) Except as provided in subsection (3), the council mem-
13 bers will be appointed pursuant to subsection (1) not less than
14 120 days before the expiration of the term of a commissioner or
15 not more than 30 days after the death or resignation of, or ter-
16 mination of service by, a commissioner.

17 (3) The first council members will be appointed as provided
18 in subsection (1) not more than 30 days after the effective date
19 of this act.

20 (4) The term of service for the council members appointed
21 under either subsection (2) or (3) will expire upon the confirma-
22 tion of the commissioner for which the council was appointed to
23 submit recommendations.

24 (5) The council shall do all of the following:

25 (a) Evaluate possible appointees to the commission.

26 (b) Not less than 60 days before the expiration of the term
27 of a commissioner or not more than 60 days after the death or

1 resignation of, or termination of service by, a commissioner,
2 provide the governor with the names of 4 individuals who the
3 council finds are qualified to serve as a commissioner.

4 (c) In evaluating appointees, the council will accept and
5 consider comments and information submitted by any person.

6 (6) The governor may reject the initial persons recommended
7 by the council and request that the council submit the names of 4
8 additional persons not more than 30 days after the date the ini-
9 tial persons were rejected.

10 (7) The governor shall make his or her appointment from the
11 names on either the first or second list submitted pursuant to
12 subsection (5) or (6).

13 Sec. 203. (1) Information disclosed to the commission by
14 providers under this act will be provided by the commission with
15 appropriate safeguards for the protection of business or trade
16 secrets.

17 (2) Upon the request of a provider and if determined by the
18 commission to be necessary, the information may be exempt from
19 the freedom of information act, Act No. 442 of the Public Acts of
20 1976, being sections 15.231 to 15.246 of the Michigan Compiled
21 Laws.

22 Sec. 204. In addition to the other powers and duties pre-
23 scribed by this act, the commission shall do all of the
24 following:

25 (a) Determine and preserve the provision of high quality
26 basic local exchange service.

1 (b) Participate in all programs intended to preserve or
2 extend universal telecommunications service. The commission will
3 report on the progress of providing universal service in this
4 state in its annual report to the legislature.

5 (c) Establish a program to monitor the level of telecommuni-
6 cations subscriber connection within each exchange in the state,
7 and continually report to the legislature the results of its mon-
8 itoring and any actions it has taken or recommends be taken to
9 maintain and increase the subscriber levels. All reports made
10 pursuant to this subdivision shall be included in the
11 commission's annual report.

12 (d) Prescribe the manner and form in which all telecommuni-
13 cation providers within the state keep accounts, books of
14 accounts, records, and memoranda. The commission requirements
15 shall not be in conflict with or in addition to any regulations
16 covering the same subject matter made by the government of the
17 United States.

18 (e) On a continual basis report to the legislature and gov-
19 ernor on the status of the telecommunications industry and
20 regulation. The reports will be summarized in the annual report
21 to the legislature.

22 (f) Establish by order the telecommunication services to be
23 included within the basic local exchange service and universal
24 services.

25 (g) Develop and participate in programs relating to the
26 telecommunications industry that are designed to enhance the
27 economic development of the state.

1 (h) Establish by order the quality of service for each
2 telecommunication service offered in this state. The initial
3 order under this subdivision shall be issued not later than
4 January 1, 1993. Each provider shall maintain the quality of
5 service required on the effective date of this act until the ini-
6 tial order is entered. If the initial order is not issued by
7 January 1, 1993, the commission shall have no authority to regu-
8 late quality of service until the order required by this subdivi-
9 sion is entered.

10 (i) Establish by order that any provider may provide MTS
11 between any 2 points within the state.

12 (j) Issue an annual report on January 31 of each year begin-
13 ning in 1993. The report shall include all of the following:

14 (i) A review of commission decisions and actions from the
15 preceding year and a description of pending cases involving sig-
16 nificant telecommunication issues.

17 (ii) A description of the changes and trends in the telecom-
18 munications industry including the number, type, and size of pro-
19 viders offering telecommunication services, what providers are
20 subject to regulation, telecommunication technologies in place
21 and under development, variations in the geographic availability
22 of services, prices for services, penetration levels of sub-
23 scriber access to local exchange service in each exchange, and
24 issues related to the local exchange service.

25 (iii) The status of compliance by providers and the commis-
26 sion with the requirements of this act.

1 (iv) The effects and the projected effects of regulatory
2 policies and practices on telecommunication providers, services,
3 and customers.

4 (v) The status of market-share concentration, availability
5 of alternative services, patterns of price leadership, financial
6 viability of providers, and all barriers to competition.

7 (vi) Recommendations for legislation.

8 (vii) Other information or analysis that the commission is
9 required to provide by this act or considers important to provide
10 the legislature regarding telecommunications.

11 (k) Promulgate rules for the implementation and administra-
12 tion of this act pursuant to the administrative procedures act of
13 1969, Act No. 306 of the Public Acts of 1969, being sections
14 24.201 to 24.328 of the Michigan Compiled Laws.

15 Sec. 205. (1) A provider of basic local exchange service
16 shall not sell, lease, merge, acquire, or separate into subsid-
17 iary lines, facilities, or operations within its own company or
18 with any other provider unless the provider files an application
19 with and receives the approval of the commission.

20 (2) The application filed pursuant to subsection (1) shall
21 contain the terms and conditions, a description of the property
22 or operations, and an affidavit of an authorized representative
23 of the provider stating the fair market value of the property or
24 operations to be sold, leased, merged, acquired, or separated.

25 (3) The commission will hold a hearing not less than 30 days
26 after the date the application is filed and may approve by order
27 the purchase, lease, merger, acquisition, or separation if the

1 commission finds the proposed action to be in the public interest
2 and does not otherwise violate this act.

3 (4) The commission may approve an application filed pursuant
4 to this section subject to certain terms and conditions as deter-
5 mined by the commission.

6 Sec. 206. (1) If 2 or more telecommunication providers are
7 unable to agree on a matter relating to a telecommunication issue
8 between the parties, then either telecommunication provider may
9 apply to the commission for resolution of the matter.

10 (2) The commission shall have the authority to investigate
11 and resolve complaints made by subscribers of a telecommunication
12 provider that concern the quality and availability of telecommun-
13 ication services, price and conditions of service, deposit
14 requirements for service, disconnection of services, or any other
15 provision of this act.

16 (3) Upon receipt of an application or complaint under
17 subsection (1) or (2), or on its own motion, the commission shall
18 have jurisdiction to conduct an investigation, hold hearings, and
19 issue its findings and order in accordance with the contested
20 hearings provisions of the administrative procedures act of 1969,
21 Act No. 306 of the Public Acts of 1969, being sections 24.201 to
22 24.328 of the Michigan Compiled Laws.

23 Sec. 207. (1) The commission shall have and may exercise
24 all the powers, rights, and duties conferred by law on the
25 Michigan public service commission for all matters relating to
26 telecommunications.

1 (2) A reference in law to the Michigan public service
2 commission relating to matters of telecommunications shall be
3 construed to mean the Michigan telecommunications commission.

4 (3) All books, records, files, papers, documents, and other
5 property of the Michigan public service commission relating to
6 telecommunications are transferred to the Michigan telecommunica-
7 tions commission.

8 Sec. 208. The powers and duties of the Michigan public
9 service commission shall continue after the effective date of
10 this act until the commission provides written notice to the
11 public service commission that the commission is assuming the
12 powers and duties prescribed by this act.

13 Sec. 209. Except as otherwise provided by this act or upon
14 order of the commission, all complaints pending before the
15 Michigan public service commission as of the effective date of
16 this act and all investigations, examinations, and proceedings
17 undertaken, commenced, or instituted by the Michigan public serv-
18 ice commission under section 208 may be heard, conducted, and
19 continued to final determination by the Michigan public service
20 commission.

21 Sec. 210. Each telecommunication provider in this state
22 shall pay an assessment in an amount equal to the expenses of the
23 commission pursuant to Act No. 299 of the Public Acts of 1972,
24 being sections 460.11 to 460.120 of the Michigan Compiled Laws.

25 ARTICLE 3

LOCAL EXCHANGE SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Sec. 301. (1) A telecommunication provider not possessing a license on October 1, 1991 shall not provide basic local exchange service in this state until it has obtained a license from the commission pursuant to this act.

(2) A license granted by the Michigan public service commission to a telecommunications provider of basic local exchange service before October 1, 1991 shall remain in full force and effect, and the carriers need not apply for a new license in order to continue offering or providing service to the extent authorized in the license.

(3) Before substantially altering the nature or scope of the basic local exchange services provided under a license, or adding or expanding services beyond the authority contained in its license, the provider of the basic local exchange service shall apply for a new license for the alterations or additions pursuant to this act.

(4) The commission shall review and modify the terms of any license issued to a telecommunications provider of basic local exchange service before the effective date of this act in order to ensure its conformity with the requirements and policies of this act.

(5) After notice and hearing, a license may be altered, modified, or revoked by the commission upon its own motion or upon application of any affected person.

(6) Pending the determination of an application for a license, the commission without notice and hearing may issue a

1 temporary license for a period not to exceed 1 year in cases of
2 emergency to assure maintenance of adequate service or to serve
3 particular customers and may exempt from the requirements of this
4 section temporary acts or operations for which the issuance of a
5 license is not necessary in the public interest and is not
6 required.

7 Sec. 302. After notice and hearing, the commission shall
8 approve an application for a license if the commission finds all
9 of the following:

10 (a) The applicant possesses sufficient technical, financial,
11 and managerial resources and abilities to provide basic local
12 exchange service to every person within the local exchange area.

13 (b) The applicant possesses sufficient technical, financial,
14 and managerial resources and abilities to insure that each person
15 within the local exchange area has access to all universal
16 services.

17 (c) The granting of a license to the applicant would not
18 adversely affect prices or be contrary to the public interest.

19 Sec. 303. (1) The license granted pursuant to section 302
20 shall represent an exclusive service area franchise within the
21 licensed exchange area.

22 (2) The commission may alter or amend the geographic area of
23 a license upon a finding that an alteration or amendment would be
24 in the public interest.

25 (3) A telecommunication provider will not provide basic
26 local exchange service to customers or end-users located within
27 another telecommunication provider's licensed service area except

1 through interconnection arrangements consented to by the license
2 holder or as required by the commission.

3 Sec. 304. (1) The commission shall set for each provider
4 the residential and general local exchange rate that can be
5 charged by the provider.

6 (2) The rate set by the commission under subsection (1)
7 shall not be greater than any rate and charge imposed by any pro-
8 vider for such services as of November 1, 1990.

9 (3) If the commission finds that it is in the public inter-
10 est, it may order a provider to lower its residential or general
11 local exchange rate.

12 Sec. 305. Except as otherwise provided by this act, a pro-
13 vider of basic local exchange service may do any of the
14 following:

15 (a) Provide any telecommunication service.

16 (b) Manufacture in the state telecommunication products and
17 equipment.

18 (c) Provide, sell, or lease telecommunication products and
19 equipment.

20 (d) Provide telecommunication information services, includ-
21 ing content-based information services.

22 (e) Conduct and perform research and development within the
23 state of telecommunication products, equipment, and services.

24 Sec. 306. A provider of basic local exchange service shall
25 not do any of the following:

26 (a) Discriminate against another provider by refusing access
27 to the local exchange.

1 (b) Charge another provider an access rate that is greater
2 than the actual cost to the provider for the functional element
3 that the other provider utilizes in providing a service. As used
4 in this subdivision, actual cost does not include profit or rate
5 of return.

6 (c) Delay interconnections or provide inferior connections
7 to another provider.

8 (d) Manipulate the quality of access lines for another
9 provider.

10 (e) Impair the speed, quality, and efficiency of dedicated
11 private lines used by another provider.

12 (f) Develop new services to take advantage of planned but
13 not publicly known changes in the underlying network.

14 (g) Refuse another provider the benefit of the knowledge of
15 the design, nature, equipment capabilities, geographic coverage,
16 and traffic patterns of the local network.

17 (h) Refuse access or be unreasonable in connecting another
18 provider to the local exchange whose product or service requires
19 novel or specialized access requirements.

20 (i) Fail to fully disclose in a timely manner all informa-
21 tion necessary for the design of equipment that will meet the
22 specifications of the local exchange network.

23 (j) Discriminate against any other provider in the avail-
24 ability of customer proprietary information.

25 (k) Refuse access by a user to another provider.

26 (l) Perform any act that has been prohibited by this act or
27 by order of the commission.

1 Sec. 307. A provider of basic local exchange service will
2 provide, at the actual cost to the provider, services to govern-
3 mental and educational customers necessary for such customers to
4 perform legally mandated programs. As used in this section,
5 actual cost does not include profit or rate of return.

6 Sec. 308. A telecommunication provider of basic local
7 exchange service is not required to provide message telecommuni-
8 cation services as part of the basic local exchange service. If
9 a telecommunication provider that provides basic local exchange
10 service does not offer MTS or have interconnection with an MTS
11 provider, the commission may order an MTS provider to intercon-
12 nect with the telecommunication provider upon terms that are fair
13 to both providers.

14 Sec. 309. (1) A telecommunication provider that provides
15 either basic local exchange or message telecommunication service,
16 or both, may not discontinue either service to a local exchange
17 area unless 1 or more alternative telecommunication providers are
18 furnishing the same telecommunication service to the customers in
19 the local exchange area.

20 (2) A telecommunication provider proposing to discontinue
21 services to a local exchange area shall file a notice of the dis-
22 continuance of service with the commission, publish the notice in
23 a newspaper of general circulation within the local exchange
24 area, and provide other reasonable notice as required by the
25 commission.

26 (3) A person or telecommunication provider affected by a
27 discontinuance of services by a telecommunication provider,

1 within 30 days after the date of publication of the notice
2 required by subsection (2), may apply to the commission to deter-
3 mine if the discontinuance of service is authorized pursuant to
4 this section.

5 ARTICLE 4

6 UNREGULATED TELECOMMUNICATION SERVICES

7 Sec. 401. (1) After filing the notice required by subsec-
8 tion (2), a telecommunication provider may offer telecommunica-
9 tion services allowed under section 305, except basic local
10 exchange service, without a license.

11 (2) A telecommunication provider under subsection (1) shall
12 not provide any telecommunication service until it has filed a
13 notice with the commission providing all of the following
14 information:

15 (a) The name of the telecommunication provider and the
16 address of its principal place of business within the state.

17 (b) A description of the telecommunication services offered
18 by the telecommunication provider and the area served by it or in
19 which it offers the telecommunication services.

20 (c) The terms and conditions, including the rate and any
21 charges, the provider will impose for the service.

22 (3) The provider shall notify the commission within 10 days
23 of any changes in the information required under subsection (2).

24 (4) Except as otherwise provided by this article, the notice
25 shall be filed annually with the commission on or before January
26 1 of each year.

1 Sec. 402. (1) The commission shall have authority to review
2 the quality of the service, its general availability, and the
3 terms and conditions under which it is offered for any telecom-
4 munication service that becomes subject to this act pursuant to
5 section 401.

6 (2) If the commission finds, after notice and hearing, that
7 the quality, general availability, or the terms and conditions
8 for the service are adverse to the public interest and the intent
9 of this act, the commission may require changes in how the tele-
10 communication services are provided. The commission's authority
11 includes, but is not limited to, issuing cease and desist
12 orders.

13 Sec. 403. A telecommunication provider that provides MTS or
14 WATS service or access to a local exchange network for the provi-
15 sion of such services by the use of special access or private
16 line and switched access, or their equivalents, shall file a
17 notice with the commission not less than 10 days before a change
18 in the rate, terms, or conditions for the services. Unless
19 ordered otherwise by the commission, the changes contained in the
20 notice are considered approved 10 days after the filing of the
21 notice with the commission.

22 Sec. 404. (1) A provider of MTS that provides service to
23 all points within the state shall average its rates for the serv-
24 ice on its routes of similar distance within the state unless
25 otherwise authorized by the commission. This section does not
26 prohibit volume discounts or other discounts in promotional
27 offerings.

1 (2) If an MTS provider does not provide service to all
2 points within the state, then the commission shall set the rates
3 for the services of the provider to insure fair competition
4 within the service area of the provider.

5 Sec. 405. (1) A telecommunication provider of basic local
6 exchange service and message telecommunications service shall
7 impute to itself its prices of special access or private line and
8 switched access for the use of essential facilities used in the
9 provision of intrastate special access or private line access
10 services, MTS, and WATS. The imputation of prices shall be in
11 the aggregate on a service by service basis. All other providers
12 of intrastate special access or private line access services,
13 MTS, and WATS shall impute to themselves in the aggregate on a
14 service by service basis their individual cost of special or
15 switched access or its equivalent in their pricing. The commis-
16 sion shall determine what are essential facilities for the pur-
17 pose of this section and shall resolve any dispute that may arise
18 under this section.

19 (2) Telecommunication services that utilize special or
20 switched access will be made available for resale by the telecom-
21 munication provider offering the service.

22 (3) The telecommunication provider shall not make or grant
23 any preference or advantage to any other telecommunication pro-
24 vider with respect to its prices or charges for or the provision
25 of services or subject any telecommunication provider to any
26 prejudice or competitive disadvantage with respect to its prices
27 or charges for providing access to its local exchange network.

1 (4) Disputes under this section between telecommunication
2 providers shall be resolved by the commission upon its own motion
3 or by the petition of any affected party.

4 Sec. 406. (1) An alternative operator service provider
5 shall do all of the following:

6 (a) Furnish each entity with which it contracts a sticker,
7 card, or other form for each telephone that has access to the
8 operator service and is intended to be used by the public. The
9 form shall contain information that will include the name of the
10 alternative operator service provider, a toll-free customer serv-
11 ice telephone number, and a statement that charges will be
12 imposed by the alternative operator service and that additional
13 information may be obtained by calling the toll-free telephone
14 number. The alternative operator service provider shall require
15 by contract that the information be displayed on or near each
16 telephone that has access to the service and is intended for use
17 by the public. This information will be displayed before imple-
18 menting the contract. If the operator service provider owns
19 telephones through which it provides operator services, the
20 information will also be displayed on or near such telephones.

21 (b) Before the connection of each alternative operator serv-
22 ice call, do all of the following:

23 (i) Announce the alternative operator service provider's
24 name.

25 (ii) At the caller's request and without charge, quote the
26 rate and any other fees or surcharges applicable to the call
27 charged for the alternative operator service.

1 (c) Allow a caller to the alternative operator service to
2 choose the carrier of his or her choice by doing either of the
3 following:

4 (i) After informing the caller that the rates for the call
5 may not reflect the rates for a call from the location of the
6 caller and receiving the caller's consent, transfer the caller to
7 the carrier of his or her choice without charge.

8 (ii) Instruct the caller how to reach his or her carrier of
9 choice by dialing the carrier's 950, 1-800, or 10-xxx access
10 method.

11 (d) Allow callers to the alternative operator service to
12 reach emergency services without charge.

13 (2) In addition to any other penalty provided for in this
14 act, a person who is charged for the use of an alternative opera-
15 tor service in violation of this section may bring an action to
16 recover actual damages or \$250.00, whichever is greater, along
17 with reasonable attorney fees.

18 (3) This section does not apply to and the commission shall
19 set the rates for specialized telecommunications in local,
20 county, or state correctional or other confinement facilities,
21 including juvenile and mental health facilities.

22 Sec. 407. If a telecommunication provider imposes a special
23 rate, charge, or fee for the provider's service that is not set
24 by the commission or agreed to by the user before the utilization
25 of the service, the provider shall not connect or otherwise pro-
26 vide the service to the user without first notifying the user of
27 the rate, charge, or fee required to receive the service.

1 Sec. 408. Except with the approval of the commission, a
2 telecommunication provider shall not offer as a package 1 or more
3 unregulated services at a discounted rate with a regulated
4 service.

5 Sec. 409. If a telecommunication provider offers 1-way or
6 2-way transmission to subscribers of video programming or other
7 programming service, the provider shall not offer the service
8 unless as part of the service the provider includes, without com-
9 pensation to the provider, access channels for public, local gov-
10 ernment, and educational programming.

11 ARTICLE 5

12 BASIC TELECOMMUNICATION SERVICE FUND

13 Sec. 501. (1) The basic telecommunication service fund is
14 created within the state treasury for the purpose of maintaining
15 the availability of basic local exchange service at affordable
16 rates, providing the accessibility of universal services, promot-
17 ing the availability of message telecommunications service at
18 reasonably comparable prices throughout this state, and making
19 distributions pursuant to section 503. The fund shall be admin-
20 istered by the commission, but shall not be used for expenses
21 incurred in the administration of this act.

22 (2) The state treasurer shall credit to the fund all amounts
23 collected pursuant to section 502 and amounts appropriated from
24 public or private sources consistent with the purposes of the
25 fund.

26 (3) The state treasurer shall direct the investment of the
27 fund in the same manner as required by Act No. 314 of the Public

1 Acts of 1965, being sections 38.1132 to 38.1140i of the Michigan
2 Compiled Laws, and all interest and earnings from the fund shall
3 be credited to the fund.

4 (4) Money in the fund at the end of the fiscal year shall
5 not revert to the general fund but be carried over in the fund to
6 the next and succeeding fiscal years.

7 Sec. 502. (1) The department of treasury shall annually
8 calculate for each telecommunication provider an amount equal to
9 5% of the provider's single business tax as required by the
10 single business tax act, Act No. 228 of the Public Acts of 1975,
11 being sections 208.1 to 208.145 of the Michigan Compiled Laws.

12 (2) The tax amount calculated pursuant to subsection (1)
13 shall be credited to the fund.

14 Sec. 503. In addition to distributions made for the pur-
15 poses provided for in section 501, distributions from the fund
16 may be made to telecommunication providers in this state for any
17 of the following:

18 (a) To reimburse a provider for costs to the provider that
19 exceed the regulated residential local exchange rate.

20 (b) To reimburse a provider for costs to the provider that
21 exceed the reasonable rate of providing universal services.

22 (c) To reduce a provider's regulated residential local
23 exchange rate.

24 (d) To provide certain health, safety, or other universal
25 telecommunication services to qualified individuals as determined
26 by the commission to be in need of such services.

ARTICLE 6

SERVICES FOR THE HEARING IMPAIRED

1
2
3 Sec. 601. (1) The commission shall design and implement a
4 program requiring each telecommunication provider providing basic
5 residential local exchange service to provide a telecommunica-
6 tions device capable of servicing the needs of the deaf or
7 severely hearing-impaired together and a single party line at a
8 charge not greater than the residential local exchange rate to
9 each subscriber who is certified as deaf or severely
10 hearing-impaired by a licensed physician, audiologist, or a qual-
11 ified state agency and to each subscriber that is an organization
12 representing the deaf or severely hearing-impaired as determined
13 by the commission pursuant to subsection (4).

14 (2) The commission shall design and implement a program
15 requiring each telecommunication provider providing basic local
16 exchange service to provide a dual party system using third party
17 intervention to connect deaf or severely hearing-impaired persons
18 and offices of organizations representing the deaf or severely
19 hearing-impaired as determined by the commission pursuant to sub-
20 section (4) with persons of normal hearing by way of intercommu-
21 nications devices for the deaf or severely hearing-impaired and
22 the telecommunication network, making available reasonable access
23 to all phases of public telecommunication services to deaf or
24 severely hearing-impaired. In order to design a dual party relay
25 system that meets the requirements of deaf and severely
26 hearing-impaired persons available at a reasonable rate, the
27 commission will initiate an investigation and conduct public

1 hearings to determine the most cost-effective method of providing
2 dual party relay service to the deaf or severely hearing-impaired
3 when using telecommunications devices and solicit the advice,
4 counsel, and physical assistance of the statewide nonprofit con-
5 sumer organizations servicing the deaf.

6 (3) The commission shall establish a rate that will not
7 exceed 3 cents per month for each subscriber line of a provider
8 to allow the provider to recover costs incurred under this
9 article.

10 (4) The commission shall determine the statewide organi-
11 zations representing the deaf or severely hearing-impaired that
12 will receive a telecommunications device pursuant to subsection
13 (1) or a dual party relay system pursuant to subsection (2), or
14 both, and in which offices the equipment will be installed in the
15 case of an organization having more than 1 office.

16 ARTICLE 7

17 EMERGENCY TELEPHONE SERVICE

18 Sec. 701. This article shall be known and may be cited as
19 the "emergency telephone service enabling act".

20 Sec. 702. As used in this article:

21 (a) "Automatic location identification" or "ALI" means a
22 9-1-1 service feature in which a telecommunication provider auto-
23 matically forwards the name or address, or both, associated with
24 the calling party's telephone number, as identified by automatic
25 number identification, to the public safety answering point.

26 (b) "Automatic number identification" or "ANI" means a 9-1-1
27 service feature in which a provider automatically forwards the

1 calling party's billing telephone number to the public safety
2 answering point for display.

3 (c) "Direct dispatch method" means the method of responding
4 to a telephone request for emergency service whereby the person
5 receiving the call at the public safety answering point decides
6 on the proper action to be taken and dispatches the appropriate
7 available emergency service unit located closest to the request
8 for emergency service.

9 (d) "Emergency telephone charge" means a charge for the net-
10 work start-up costs, customer notification costs, billing costs
11 including an allowance for uncollectibles, and network nonrecur-
12 ring and recurring installation, maintenance, service, and equip-
13 ment network charges of a provider providing 9-1-1 service pursu-
14 ant to this article.

15 (e) "Exchange access facility" means the access from a par-
16 ticular service user's premises to the telecommunications
17 network. Exchange access facilities include a provider's access
18 lines, PBX trunks, and centrex line trunk equivalents, all as
19 defined by commission. Exchange access facilities do not include
20 provider owned and operated telephone pay station lines, WATS,
21 FX, or incoming only lines.

22 (f) "Final 9-1-1 service plan" means a tentative 9-1-1 serv-
23 ice plan that has been modified only to reflect necessary changes
24 resulting from any exclusions of public agencies from the 9-1-1
25 service district of the tentative 9-1-1 service plan pursuant to
26 section 715 and any failure of public safety agencies to be
27 designated as PSAPs or secondary PSAPs pursuant to section 713.

1 (g) "Private safety entity" means a private entity that
2 provides emergency fire, ambulance, or medical services.

3 (h) "Public agency" means any village, township, charter
4 township, or city within the state and any special purpose dis-
5 trict located, in whole or in part, within the state that pro-
6 vides or has authority to provide fire fighting, law enforcement,
7 ambulance, medical, or other emergency services.

8 (i) "Public safety agency" means a functional division of a
9 public agency, county, or the state of Michigan that provides
10 fire fighting, law enforcement, ambulance, medical, or other
11 emergency services.

12 (j) "Public safety answering point" or "PSAP" means a commu-
13 nications facility operated or answered on a 24-hour basis that
14 is assigned responsibility by a public agency or county to
15 receive 9-1-1 calls and to directly dispatch emergency response
16 services or to transfer or relay emergency 9-1-1 calls to other
17 public safety agencies. A PSAP is the first point of reception
18 by a public safety agency of a 9-1-1 call and serves the juris-
19 diction in which it is located and other participating
20 jurisdictions.

21 (k) "Relay method" means the method of responding to a tele-
22 phone request for emergency service whereby a PSAP notes perti-
23 nent information and relays it by telephone, radio, or private
24 line to the appropriate public safety agency or other provider of
25 emergency services that has an available emergency service unit
26 located closest to the request for emergency service for dispatch
27 of an emergency service unit.

1 (l) "Secondary public safety answering point" or "secondary
2 PSAP" means a communications facility of a public safety agency
3 or private safety entity that receives 9-1-1 calls by the trans-
4 fer method only and serves as a centralized location for a par-
5 ticular type of emergency call.

6 (m) "Service user" means any customer of a provider within a
7 9-1-1 system.

8 (n) "Service rate" means the rate approved by the commission
9 for 9-1-1 service.

10 (o) "Tentative 9-1-1 service plan" means a plan for imple-
11 menting a 9-1-1 system in a specified 9-1-1 service district,
12 after consultation with the director of the department of state
13 police or his or her designated representative, that complies
14 with this article and that addresses the following system
15 considerations:

16 (i) Technical considerations of the provider including
17 system equipment for facilities that would be used in providing
18 emergency telephone service.

19 (ii) Operational considerations including the designation of
20 PSAPs and secondary PSAPs and the manner in which 9-1-1 calls
21 would be processed, dispatch functions performed, and information
22 systems utilized.

23 (iii) Managerial considerations including the organizational
24 form and agreements that would control technical, operational,
25 and fiscal aspects of the emergency telephone service.

1 (iv) Fiscal considerations including projected nonrecurring
2 and recurring costs with a financial plan for implementing and
3 operating the system.

4 (v) The tentative 9-1-1 service plan will require each
5 public agency and county operating a PSAP under the 9-1-1 system
6 to pay directly for all installation and recurring charges for
7 terminal equipment, including customer premises equipment, asso-
8 ciated with the public agency's or the county's PSAP, and may
9 require each public agency and county operating a PSAP under the
10 9-1-1 system to pay directly to the provider all installation and
11 recurring charges for all 9-1-1 lines associated with the public
12 agency's or the county's PSAP.

13 (p) "Transfer method" means the method of responding to a
14 telephone request for emergency service whereby a PSAP transfers
15 the call directly to the appropriate public safety agency or
16 other provider of emergency service that has an available emer-
17 gency service unit located closest to the request for emergency
18 service for dispatch of an emergency service unit.

19 (q) "Universal emergency number service" or "9-1-1 service"
20 means public telecommunication service that provides service
21 users with the ability to reach a public safety answering point
22 by dialing the digits "9-1-1".

23 (r) "Universal emergency number service district" or "9-1-1
24 service district" means the area in which 9-1-1 service is pro-
25 vided or is planned to be provided to service users under a 9-1-1
26 system implemented pursuant to this article.

1 (s) "Universal emergency number service system" or "9-1-1
2 system" means a system for providing 9-1-1 service pursuant to
3 this article.

4 Sec. 703. A 9-1-1 system will not be implemented pursuant
5 to this article unless a 9-1-1 service rate exists for each pro-
6 vider designated by the final 9-1-1 service plan to provide 9-1-1
7 service in the 9-1-1 system.

8 Sec. 704. A public agency that is excluded from a 9-1-1
9 service district in a 9-1-1 system implemented pursuant to this
10 article, but which is operating an existing emergency telephone
11 service at the time the 9-1-1 system is implemented, will permit
12 any technical modifications to its existing system that are nec-
13 essary for compatibility with the 9-1-1 system. The cost to the
14 provider associated with the modifications are not the responsi-
15 bility of the excluded public agency but are part of the costs
16 collected from service users in the 9-1-1 service district pursu-
17 ant to section 729.

18 Sec. 705. The digits 9-1-1 shall be the primary emergency
19 telephone number within each 9-1-1 system established pursuant to
20 this article. A public safety agency whose services are avail-
21 able through a 9-1-1 system implemented pursuant to this act may
22 maintain a separate secondary backup number for emergencies, and
23 will maintain a separate number for nonemergency telephone
24 calls.

25 Sec. 706. (1) A 9-1-1 system implemented pursuant to this
26 article will be designed to meet the individual circumstances of
27 each county and the public agencies participating in the 9-1-1

1 system and will be within the service limitations of providers
2 providing the 9-1-1 service in the 9-1-1 system. System designs
3 will include provision for expansion of the system to include
4 capabilities not required in initial implementation including the
5 addition of PSAPs and secondary PSAPs.

6 (2) Each 9-1-1 system will be designed so that a 9-1-1 call
7 is processed by means of either the direct dispatch method, the
8 relay method, or the transfer method. At least 2 of the speci-
9 fied methods shall be available for use by the PSAP receiving the
10 call. The PSAP may handle nonemergency calls by referring the
11 caller to another number.

12 Sec. 707. (1) A 9-1-1 system established pursuant to this
13 article will be capable of transmitting requests for law enforce-
14 ment, fire fighting, and emergency medical and ambulance services
15 to 1 or more public safety agencies which provide the requested
16 service to the place where the call originates.

17 (2) A 9-1-1 system will process all 9-1-1 calls originating
18 from telephones served by the central office serving the receiv-
19 ing PSAP, whether or not the calling telephone is situated within
20 the geographical boundaries of the 9-1-1 service district.

21 (3) A 9-1-1 system may provide for transmittal of requests
22 for other emergency services, such as poison control, suicide
23 prevention, and civil defense. Conferencing capability with
24 counseling, aid to handicapped, and other services as considered
25 necessary for emergency response determination may be provided by
26 the 9-1-1 system.

1 Sec. 708. A PSAP may transmit emergency response requests
2 to private safety entities under a 9-1-1 system.

3 Sec. 709. The installation of automatic intrusion alarms
4 and other automatic alerting devices that cause the number 9-1-1
5 to be dialed is prohibited in a 9-1-1 system.

6 Sec. 710. (1) The board of commissioners of a county may
7 establish an emergency telephone district within all or part of
8 the county and may cause 9-1-1 service to be implemented within
9 the emergency telephone district pursuant to this article.

10 (2) The board of commissioners of a county, all or part of
11 which is operating an existing emergency telephone service, may
12 modify an existing emergency telephone service or alter the scope
13 or method of financing of 9-1-1 service within all or part of the
14 county by establishing an emergency telephone district and caus-
15 ing 9-1-1 service to be implemented within the emergency tele-
16 phone district pursuant to this article.

17 Sec. 711. Two or more county boards of commissioners may
18 jointly establish an emergency telephone district within all or
19 part of the counties and may require 9-1-1 service to be imple-
20 mented within the emergency telephone district pursuant to this
21 article. If 2 or more county boards of commissioners jointly
22 establish an emergency telephone district pursuant to this arti-
23 cle, then all actions required or permitted to be taken by a
24 county or its officials pursuant to this article will be taken by
25 each county or the officials of each county and all notices
26 required or permitted to be given to a county or its officials

1 pursuant to this article will be given to each county or the
2 officials of each county.

3 Sec. 712. To establish an emergency telephone district and
4 require 9-1-1 service to be implemented within the emergency
5 telephone district, the board of commissioners of a county will
6 first adopt a tentative 9-1-1 service plan by resolution. A ten-
7 tative 9-1-1 service plan may specify whether telecommunication
8 equipment for the deaf or severely hearing impaired is being con-
9 sidered and that 9-1-1 service features, including ANI and ALI,
10 are being considered for the emergency telephone district.

11 Sec. 713. A resolution adopting a tentative 9-1-1 service
12 plan pursuant to section 712 shall specify a time, date, and
13 place for the public hearing to be held on the final 9-1-1 serv-
14 ice plan pursuant to section 718, which date will be not less
15 than 90 days after the date of the adoption of the resolution
16 authorized by this section.

17 Sec. 714. Within 5 days after the adoption of a resolution
18 authorized in section 712, the county clerk shall forward a copy
19 of the resolution, together with a copy of the tentative 9-1-1
20 service plan by certified mail, return receipt requested, to the
21 clerk or other appropriate official of each public agency located
22 within the 9-1-1 district of the tentative 9-1-1 service plan.

23 Sec. 715. (1) Except for a public agency that has filed
24 with the county clerk a notice of exclusion from 9-1-1 service
25 district pursuant to this section within 45 days after receipt of
26 a copy of the resolution and a copy of the tentative 9-1-1
27 service plan adopted pursuant to section 712, the entire

1 jurisdiction of the public agency or, if less than the entire
2 jurisdiction of the public agency is included within the 9-1-1
3 service district of the tentative 9-1-1 service plan, then such
4 portion of the jurisdiction of the public agency included within
5 the 9-1-1 service district of the tentative 9-1-1 service plan
6 will be included within the 9-1-1 district of the final 9-1-1
7 service plan. A public agency may exclude less than the entire
8 portion of its jurisdiction included in the 9-1-1 service dis-
9 trict of the tentative 9-1-1 service plan. Each public agency
10 included within the 9-1-1 service district of the final 9-1-1
11 service plan shall assist the county in the preparation of the
12 final 9-1-1 service plan.

13 (2) If the entire jurisdiction of a public agency is to be
14 excluded from the 9-1-1 service district pursuant to subsection
15 (1), then the notice of exclusion from 9-1-1 service district
16 shall be in substantially the following form:

NOTICE OF EXCLUSION
FROM 9-1-1 SERVICE DISTRICT

Pursuant to section 715 of the emergency telephone service enabling act, the _____ of _____ notifies the board of commissioners of the county of _____ that the _____ of _____ is excluded from the 9-1-1 service district established by the tentative 9-1-1 service plan adopted by the board of commissioners on _____, 19____.

(Clerk)

(Acknowledgment)

(3) If less than the entire jurisdiction of a public agency is to be excluded from the 9-1-1 service district pursuant to subsection (1), then the notice of exclusion from 9-1-1 service district shall be in substantially the following form:

NOTICE OF EXCLUSION
FROM 9-1-1 SERVICE DISTRICT

Pursuant to section 715 of the emergency telephone service enabling act, the _____ of _____ notifies the board of commissioners of the county of _____ that the portion of the _____ of _____ described on the attached map is excluded from the 9-1-1 service district established by the tentative 9-1-1 service plan adopted by the board of commissioners on _____, 19____.

1
2

(Clerk)

3

(Acknowledgment)

4 (4) A notice of exclusion from 9-1-1 service district will
5 be signed by the clerk of the public agency or if the public
6 agency has no clerk by any other appropriate official of the
7 public agency.

8 Sec. 716. (1) A public safety agency designated in the ten-
9 tative 9-1-1 service plan to function as a PSAP or secondary PSAP
10 will be so designated under the final 9-1-1 service plan if the
11 public safety agency files with the county clerk a notice of
12 intent to function as a PSAP or secondary PSAP within 45 days
13 after the public agency which the public safety agency has been
14 designated to serve by the tentative 9-1-1 service plan receives
15 a copy of the resolution and the tentative 9-1-1 service plan
16 adopted pursuant to section 712. The notice of intent to func-
17 tion as a PSAP or secondary PSAP shall be in substantially the
18 following form:

1 NOTICE OF INTENT TO FUNCTION
2 AS A PSAP OR SECONDARY PSAP

3 Pursuant to section 716 of the emergency telephone service
4 enabling act, _____ shall function as a
5 (check one) _____ PSAP _____ Secondary PSAP within the
6 9-1-1 service district of the tentative 9-1-1 service plan
7 adopted by resolution of the board of commissioners for the
8 county of _____, on _____, 19____.

9 _____
10 (Acknowledgment)

11 (2) If a public safety agency designated as a PSAP or sec-
12 ondary PSAP in the tentative 9-1-1 service plan fails to file a
13 notice of intent to function as a PSAP or secondary PSAP within
14 the time period specified in subsection (1), the public safety
15 agency will not be designated as a PSAP or secondary PSAP in the
16 final 9-1-1 service plan.

17 Sec. 717. The clerk of each county that has adopted a ten-
18 tative 9-1-1 service plan pursuant to section 712 shall give
19 notice by publication of the hearing on the final 9-1-1 service
20 plan to be held pursuant to section 718. The notice shall be
21 published twice in a newspaper of general circulation within the
22 county, the first publication of the notice occurring not more
23 than 30 days before the date of the hearing. The notice will
24 state all of the following:

25 (a) The time, date, and place of the hearing.

26 (b) A description of the boundaries of the 9-1-1 service
27 district of the final 9-1-1 service plan as determined at the

1 expiration of the time for filing a notice of exclusion from the
2 9-1-1 service district pursuant to section 712.

3 (c) The emergency telephone charge that will be collected on
4 a uniform basis from all service users within the 9-1-1 service
5 district if the board of commissioners adopts the final 9-1-1
6 service plan.

7 Sec. 718. The board of commissioners will conduct a hearing
8 on the final 9-1-1 service plan at the time, place, and date
9 specified in the notice published pursuant to section 717. All
10 persons attending the meeting shall be afforded a reasonable
11 opportunity to be heard.

12 Sec. 719. After conducting the hearing on the final 9-1-1
13 service plan pursuant to this article, the board of commissioners
14 of the affected county may adopt by resolution the final 9-1-1
15 service plan. Upon adoption of the resolution, the county on
16 behalf of public agencies located within the 9-1-1 service dis-
17 trict shall apply in writing to the provider designated to pro-
18 vide 9-1-1 service within the 9-1-1 service district under the
19 final 9-1-1 service plan.

20 Sec. 720. (1) As soon as feasible after receipt of a writ-
21 ten application from a county requesting 9-1-1 service within a
22 9-1-1 service district described in a final 9-1-1 service plan
23 adopted pursuant to this article, each provider designated in the
24 final 9-1-1 service plan shall implement 9-1-1 service within the
25 9-1-1 service district in accordance with the final 9-1-1 service
26 plan.

1 (2) Upon implementation of 9-1-1 service in a 9-1-1 service
2 district pursuant to subsection (1), each public safety agency
3 designated as a PSAP or secondary PSAP in the final 9-1-1 service
4 plan shall begin to function as a PSAP or secondary PSAP.

5 (3) The costs of the provider for equipment installation or
6 system modification, or both, necessary for a public safety
7 agency to function as a PSAP or secondary PSAP will be paid
8 directly by the public safety agency and will not be collected
9 from service users within the 9-1-1 service district.

10 Sec. 721. After a final 9-1-1 service plan has been adopted
11 pursuant to section 719, a county may amend the final 9-1-1 serv-
12 ice plan only by complying with the procedures described in sec-
13 tions 710 to 719. Upon adoption of an amended final 9-1-1 serv-
14 ice plan by the county board of commissioners, the county will
15 forward the amended final 9-1-1 service plan to the provider des-
16 igned to provide 9-1-1 service within the 9-1-1 service dis-
17 trict as amended. Upon receipt of the amended final 9-1-1 serv-
18 ice plan, each designated provider shall implement as soon as
19 feasible the amendments to the final 9-1-1 service plan in the
20 9-1-1 service district as amended.

21 Sec. 722. A 9-1-1 system implemented pursuant to this arti-
22 cle will be terminated only if each public agency, all or part of
23 which was included within the 9-1-1 service district of the final
24 9-1-1 service plan, withdraws its entire jurisdiction from the
25 9-1-1 service district pursuant to section 738.

26 Sec. 723. (1) At the time that a 9-1-1 system becomes
27 operational or as soon as feasible thereafter, each provider or

1 other owner or lessee of a telephone pay station to be operated
2 within the 9-1-1 service district shall do both of the
3 following:

4 (a) Convert each telephone to permit a caller to dial 9-1-1
5 without first inserting a coin or paying any other charge.

6 (b) Prominently display on each telephone a notice advising
7 callers to dial 9-1-1 in an emergency and that deposit of a coin
8 is not required.

9 (2) After commencement of 9-1-1 service in a 9-1-1 service
10 district, a person shall not install, cause to be installed, or
11 offer for use within the 9-1-1 district a telephone pay station,
12 whether on public or private premises, unless the telephone is
13 capable of accepting a 9-1-1 call without prior insertion of a
14 coin or payment of any other charge and displays the notice
15 described in subsection (1).

16 (3) All costs of a provider associated with converting tele-
17 phone pay stations and maintaining the required notices under
18 this section will be borne by the service users within the 9-1-1
19 district.

20 Sec. 724. If the 9-1-1 system does not provide ALI, then
21 each provider, owner, or lessee of a telephone pay station shall
22 prominently display on each telephone or telephone pay station
23 the address of the location of the telephone.

24 Sec. 725. If ALI is not offered by the provider with the
25 9-1-1 system and the 9-1-1 system requires the information, a
26 provider shall provide current customer telephone numbers and
27 service addresses to each PSAP and secondary PSAP within the

1 9-1-1 system and will periodically update customer telephone
2 numbers and service addresses and provide the information to each
3 PSAP and secondary PSAP within the 9-1-1 system. The 9-1-1 serv-
4 ice district will determine the period within which the provider
5 will update customer telephone numbers and service addresses.
6 Expenses incurred in providing this information will be included
7 in the price of the system. The privacy afforded by nonlisted
8 and nonpublished numbers within the 9-1-1 service district is
9 waived to the extent that the name and address associated with
10 the telephone number may be furnished to the 9-1-1 system.

11 Sec. 726. Name, address, and telephone number information
12 provided to a 9-1-1 system by a provider shall be used only for
13 the purpose of identifying the telephone location or identity, or
14 both, of a person calling the 9-1-1 emergency telephone number
15 and not be used or disclosed by the 9-1-1 system agencies, their
16 agents, or their employees for any other purpose unless the
17 information is used or disclosed pursuant to a court order. A
18 person who violates this section is guilty of a misdemeanor.

19 Sec. 727. A county or public agency may enter into an
20 agreement with a public safety agency of another county or public
21 agency or of the state to serve as a PSAP or secondary PSAP for
22 the county or public agency in a 9-1-1 system implemented pursu-
23 ant to this article.

24 Sec. 728. A public agency that plans to establish a 9-1-1
25 system without using the financing method provided by section 729
26 shall do all of the following:

1 (a) Provide public notice of its intent to enter into a
2 contract for 9-1-1 services. The public notice shall be provided
3 in the same manner as required under section 717.

4 (b) Provide public notice of its intent to enter into a con-
5 tract for 9-1-1 services to the county board of commissioners of
6 the county within which the public agency is located and to all
7 other public agencies that share line centers with the contract-
8 ing public agency. The public notice shall be provided in the
9 same manner as required under section 717.

10 (c) Conduct a public hearing in the same manner as required
11 under section 718.

12 Sec. 729. (1) As soon as feasible after installation and
13 commencement of operation of a 9-1-1 system in a 9-1-1 service
14 district, the provider shall provide a billing and collection
15 service for an emergency telephone charge from all service users
16 of the provider within the 9-1-1 service district. The emergency
17 telephone charge shall be uniform per each exchange access facil-
18 ity within the 9-1-1 service district. The portion of the emer-
19 gency telephone charge that represents start-up costs, nonrecur-
20 ring billing, installation, service, and equipment charges of the
21 provider, including the costs of updating equipment necessary for
22 conversion to 9-1-1 service, will be amortized over a period not
23 to exceed 10 years, as approved by the commission, and shall be
24 billed and collected from all service users only until the
25 amounts are fully recouped by the provider. Recurring costs and
26 charges included in the emergency telephone charge will continue
27 to be billed to the service user. Subject to the limitation

1 provided by subsection (2), the amount of the emergency telephone
2 charge to be billed to the service user will be computed by
3 dividing the total emergency telephone charge by the number of
4 exchange access facilities within the 9-1-1 service district.

5 (2) The amount of emergency telephone charge payable monthly
6 by a service user for recurring costs and charges shall not
7 exceed 4% of the highest monthly base rate charged by the pro-
8 vider for 1-party unlimited calling within the 9-1-1 service
9 district. The amount of emergency telephone charge payable
10 monthly by a service user for nonrecurring costs and charges
11 shall not exceed 5% of the highest monthly base rate charged by
12 the provider for 1-party unlimited calling within the 9-1-1 serv-
13 ice district. The difference, if any, between the amount of the
14 emergency telephone charge computed under subsection (1) and the
15 maximum permitted under this subsection shall be paid by the
16 county from funds available to the county or through cooperative
17 arrangements with public agencies within the 9-1-1 service
18 district.

19 (3) The emergency telephone charge shall be collected in
20 accordance with the regular billings of the provider. The emer-
21 gency telephone charge payable by service users pursuant to this
22 article shall be added to and may be stated separately in the
23 billings to service users.

24 Sec. 730. Each billed service user is liable for any emer-
25 gency telephone charge imposed on the service user pursuant to
26 this article.

1 Sec. 731. Each provider is solely responsible for the
2 collection of the emergency telephone charge and may take any
3 legal action to collect these charges. The county implementing
4 9-1-1 service pursuant to this article and public agencies all or
5 part of which are included within the 9-1-1 service district are
6 not liable for the collection of emergency telephone charges
7 imposed on service users pursuant to this article.

8 Sec. 732. After commencement of collection of the emergency
9 telephone charge within a particular 9-1-1 service district, the
10 provider will not alter the emergency telephone charge collected
11 from service users within the 9-1-1 service district pursuant to
12 this act except as follows:

13 (a) As provided in section 733.

14 (b) Subject to the limitations provided by section 729(2),
15 if additions or withdrawals of PSAPs or secondary PSAPs are made
16 to the 9-1-1 service within a 9-1-1 service district pursuant to
17 this article, the emergency telephone charge shall be increased
18 or decreased in an amount that the total emergency telephone
19 charges to be collected in each billing period will equal the
20 total cost of providing 9-1-1 service within the 9-1-1 service
21 district based on the rates and charges of the provider.

22 (c) Subject to the limitations provided by section 729(2),
23 if a public agency is added to or withdraws from a 9-1-1 service
24 district pursuant to this article, the emergency telephone charge
25 shall be increased or decreased within the jurisdiction of the
26 particular public agency in an amount that the total emergency
27 telephone charges to be collected in each billing period will

1 equal the total cost of providing 9-1-1 service within the
2 modified 9-1-1 service district based on the rates and charges of
3 the provider.

4 Sec. 733. (1) Within 90 days after the first day of the
5 calendar year following the year in which a provider commenced
6 collection of the emergency telephone charge pursuant to section
7 729, and within 90 days after the first day of every calendar
8 year thereafter, a provider providing 9-1-1 service pursuant to
9 this article shall make an annual accounting to the 9-1-1 service
10 district of the total emergency telephone charges collected
11 during the preceding calendar year.

12 (2) If an annual accounting made pursuant to subsection (1)
13 discloses that the total emergency telephone charges collected
14 during the preceding calendar year exceeded the total cost of
15 installing and providing 9-1-1 service within the 9-1-1 service
16 district for the preceding calendar year according to the rates
17 and charges of the provider, the provider shall credit the emer-
18 gency telephone charge collected from service users in the 9-1-1
19 service district in an amount computed pursuant to this section.
20 The amount of the credit will be computed by dividing the excess
21 by the number of exchange access facilities within the 9-1-1
22 service district as the district existed for the billing period
23 immediately following the annual accounting. Costs of the pro-
24 vider associated with making credit under this subsection as part
25 of the billing and collection service will be deducted from the
26 amount to be credited.

1 (3) If the annual accounting discloses that the total
2 emergency telephone charges collected during the calendar year
3 are less than the total cost of installing and providing 9-1-1
4 service within the 9-1-1 service district for the preceding cal-
5 endar year according to the costs and rates of the provider, the
6 provider may collect an additional charge from service users in
7 the 9-1-1 service district in an amount computed pursuant to this
8 section. Subject to the limitations provided by section 729(2),
9 the amount of the additional charge will be computed by dividing
10 the amount by which the total cost exceeded the total emergency
11 telephone charges collected during the preceding calendar year by
12 the number of exchange access facilities within the 9-1-1 service
13 district as the district existed for the billing period immedi-
14 ately following the annual accounting.

15 Sec. 734. (1) After installation and commencement of opera-
16 tion of a 9-1-1 system implemented pursuant to this article, a
17 public safety agency serving a public agency or county within the
18 9-1-1 service district may be added to the 9-1-1 system as a PSAP
19 or a secondary PSAP by giving written notice of intent to func-
20 tion as a PSAP or secondary PSAP as provided in section 716 to
21 the county clerk. Within 5 days after receipt of the notice, the
22 county clerk will forward the written notice to the provider.
23 The public safety agency shall commence to function as a PSAP or
24 secondary PSAP as soon as feasible after giving the written
25 notice.

26 (2) The costs of equipment installation or system
27 modification, or both, necessary for a public safety agency to

1 function as a PSAP or secondary PSAP pursuant to subsection (1)
2 shall be paid directly by the public safety agency and shall not
3 be collected from service users in the 9-1-1 service district.

4 Sec. 735. (1) After installation and commencement of opera-
5 tion of a 9-1-1 system implemented pursuant to this article, a
6 public safety agency serving a public agency or county within the
7 9-1-1 service district will cease to function as a PSAP or a sec-
8 ondary PSAP 60 days after giving written notice to the county
9 clerk. Within 5 days after receipt of the notice, the county
10 clerk shall forward the written notice to the provider.

11 (2) Notwithstanding any other provision of this article, any
12 costs incurred by a provider for equipment removal or system mod-
13 ification necessary for a public safety agency to cease function-
14 ing as a PSAP or secondary PSAP pursuant to subsection (1) shall
15 be paid directly by the public safety agency and shall not be
16 collected from service users in the 9-1-1 service district.

17 Sec. 736. After installation and commencement of operation
18 of a 9-1-1 system implemented pursuant to this article, all or
19 part of the jurisdiction of a public agency within the county
20 will be added to the 9-1-1 service district pursuant to section
21 737 if both of the following occur:

22 (a) The legislative body of the public agency adopts a reso-
23 lution including all or part of the public agency within the
24 9-1-1 service district.

25 (b) A certified copy of the resolution adopted by the legis-
26 lative body of the public agency is forwarded by certified mail,
27 return receipt requested, to the county clerk.

1 Sec. 737. Within 5 days after receipt of a certified copy
2 of a resolution adopted by a public agency pursuant to section
3 736, the county clerk shall forward the certified copy of the
4 resolution to the provider by certified mail, return receipt
5 requested. Within a reasonable time after the provider receives
6 the certified copy of the resolution, the provider shall commence
7 9-1-1 service to all or part of the jurisdiction of the public
8 agency and after commencement of the service will commence the
9 collection of the emergency telephone charge in accordance with
10 this act from service users within all or part of the jurisdic-
11 tion of the public agency added to the 9-1-1 service district.

12 Sec. 738. After installation and commencement of operation
13 of a 9-1-1 system implemented pursuant to this act, a public
14 agency, all or part of which is included within a 9-1-1 service
15 district, may withdraw all or part of its jurisdiction from a
16 9-1-1 service district effective January 1 of the following year
17 if all of the following occur:

18 (a) The public agency after giving notice required in subdi-
19 visions (b) and (c) conducts a public hearing on the withdrawal
20 at which all persons attending are afforded a reasonable opportu-
21 nity to be heard.

22 (b) Written notice of the time, date, and place of the
23 public hearing conducted by the public agency is given to the
24 county clerk and the clerk of each public agency within the 9-1-1
25 service district at least 30 days before the date of the
26 hearing.

1 (c) Notice of the time, date, place, and purpose of the
2 public hearing is published twice in a newspaper of general
3 circulation within the geographical area of the public agency,
4 the first publication of the notice occurring not more than 30
5 days before the date of the hearing.

6 (d) After the public hearing on withdrawal but before 90
7 days before the end of the calendar year, the legislative body of
8 the public agency adopts a resolution withdrawing all or part of
9 the area of the public agency from the 9-1-1 service district.
10 The resolution shall describe the area of the public agency with-
11 drawing from the 9-1-1 service district. The resolution shall
12 also state the emergency telephone number to be used within the
13 jurisdiction of the public agency following withdrawal from the
14 9-1-1 service district.

15 (e) Within 5 days after adoption of the resolution by the
16 legislative body of the public agency, the clerk or other appro-
17 priate official of the public agency shall forward the resolution
18 by certified mail, return receipt requested, to the county
19 clerk. Within 5 days after receipt of a certified copy of the
20 resolution adopted pursuant to this section, the county clerk
21 shall forward the resolution by certified mail, return receipt
22 requested, to the provider providing or designated to provide
23 9-1-1 service to the area of the public agency withdrawing from
24 the 9-1-1 service district.

25 Sec. 739. Subject to the service limitations of the provid-
26 er, a provider shall cease 9-1-1 service in the area of a public
27 agency withdrawing from the 9-1-1 service district on the first

1 day of the calendar year following the year in which the provider
2 received a copy of the resolution adopted pursuant to section
3 738. The provider shall continue to collect the emergency tele-
4 phone charge from all service users who continue to have 9-1-1
5 service, but the provider shall not collect the emergency tele-
6 phone charge from service users within the area of the public
7 agency withdrawing from the 9-1-1 service district and who do not
8 continue to have 9-1-1 service after the billing period in which
9 the first day of the calendar year is included. The provider,
10 using the calculations provided in section 733, may credit or
11 collect any additional charge from service users within the
12 public agency withdrawing from the 9-1-1 service district.

13 Sec. 740. This article shall not be construed to prohibit a
14 public agency or a county from contracting with a provider for
15 9-1-1 service within all or part of the jurisdiction of the
16 public agency or county and paying for the service directly from
17 the funds of the public agency or county.

18 Sec. 741. (1) The commission, the department of management
19 and budget, and the emergency telephone service committee created
20 in section 744, upon request by a provider, county, public
21 agency, or public service agency, shall provide, to the extent
22 possible, technical assistance regarding the formulation or
23 implementation, or both, of a 9-1-1 service plan and assistance
24 in resolving disputes between providers, counties, public agen-
25 cies, or public safety agencies regarding their respective rights
26 and duties under this article.

1 (2) A provider, county, public agency, public service
2 agency, or a combination thereof that has a dispute with another
3 arising from the formulation or implementation, or both, of a
4 9-1-1 service plan shall request assistance from the public serv-
5 ice commission, the department of management and budget, or the
6 emergency telephone service committee in resolving the dispute.

7 Sec. 742. (1) Subject to subsection (2), a dispute between
8 or among 1 or more providers, counties, public agencies, public
9 service agencies, or any combination thereof regarding their
10 respective rights and duties under this article shall be heard as
11 a contested case before the commission pursuant to the adminis-
12 trative procedures act of 1969, Act No. 306 of the Public Acts of
13 1969, being sections 24.201 to 24.328 of the Michigan Compiled
14 Laws.

15 (2) If a dispute described in subsection (1) arises from the
16 formulation or implementation of a 9-1-1 service plan, a con-
17 tested case proceeding to resolve the dispute shall not be initi-
18 ated unless the commission, the department of management and
19 budget, or the emergency telephone service committee have pro-
20 vided assistance in resolving the dispute under section 741 and
21 the dispute remains unresolved.

22 Sec. 743. Other than for pro rata charges for the service
23 during a period when the service may be fully or partially inop-
24 erative, a provider, public agency, PSAP, or an officer, agent,
25 or employee of any provider, public agency, or PSAP, or an owner
26 or lessee of a telephone pay station is not liable for civil
27 damages to any person as a result of an act or omission on the

1 part of the provider, public agency, PSAP, or an officer, agent,
2 or employee of any provider, public agency, or PSAP, or an owner
3 or lessee in complying with any provision of this article, unless
4 the act or omission amounts to gross negligence or willful and
5 wanton misconduct.

6 Sec. 744. An emergency telephone service committee is cre-
7 ated within the department of management and budget to develop
8 statewide standards and model system considerations and make
9 other recommendations for emergency telephone services.

10 Sec. 745. (1) The committee shall consist of 13 members as
11 follows:

12 (a) The director of the department of state police or his or
13 her designated representative.

14 (b) The director of public health or his or her designated
15 representative.

16 (c) The chair of the Michigan telecommunication commission
17 or his or her designated representative.

18 (d) The president of the Michigan sheriff's association or
19 his or her designated representative.

20 (e) The president of the Michigan association of chiefs of
21 police or his or her designated representative.

22 (f) The president of the Michigan fire chiefs association or
23 his or her designated representative.

24 (g) The executive director of the Michigan association of
25 counties or his or her designated representative.

26 (h) The director of the office of criminal justice or his or
27 her designated representative.

1 (i) Three members of the general public, 1 member to be
2 appointed by the governor, 1 member to be appointed by the
3 speaker of the house of representatives, and 1 member to be
4 appointed by the majority leader of the senate. The 3 members of
5 the general public shall have expertise relating to emergency
6 radio communications, dispatching, and services or to telephone
7 systems. The members of the general public shall serve for terms
8 of 2 years.

9 (j) The executive director of the Michigan fraternal order
10 of police or his or her designated representative.

11 (k) The president of the Michigan state police troopers
12 association or his or her designated representative.

13 (2) The committee shall elect 1 of its members to serve as
14 chairperson. The chairperson of the committee shall serve for a
15 term of 1 year.

16 (3) Members of the committee shall serve without compensa-
17 tion, but are entitled to actual and necessary expenses incurred
18 in the performance of official duties under this article.

19 Sec. 746. (1) The committee shall do all of the following:

20 (a) Organize and adopt standards governing the committee's
21 formal and informal procedures.

22 (b) Meet not less than 4 times per year at a place and time
23 specified by the chairperson

24 (c) Keep a record of the proceedings and activities of the
25 committee.

26 (d) Provide recommendations to public safety answering
27 points and secondary public safety answering points on statewide

1 technical and operational standards for PSAPs and secondary
2 PSAPs.

3 (e) Provide recommendations to public agencies concerning
4 model systems to be considered in preparing a 9-1-1 service
5 plan.

6 (f) Assess the progress of implementing the 9-1-1 system
7 statewide.

8 (g) Develop a model 9-1-1 implementation plan.

9 (h) Provide the technical and dispute resolution assistance
10 required under section 742.

11 (i) Perform other duties as necessary to promote successful
12 development, implementation, and operation of 9-1-1 systems
13 across the state.

14 (j) Assess, report, and make recommendations to the legisla-
15 ture, the department of management and budget, and the commission
16 at least once every 2 years on the progress made in developing,
17 implementing, and operating 9-1-1 systems and coordinating and
18 establishing emergency telephone service statewide.

19 (2) The department of management and budget and the commis-
20 sion shall provide staff assistance to the committee as necessary
21 to carry out the committee's duties under this section.

22 Sec. 747. The business that the committee may perform shall
23 be conducted at a public meeting of the committee held in compli-
24 ance with the open meetings act, Act No. 267 of the Public Acts
25 of 1976, being sections 15.261 to 15.275 of the Michigan Compiled
26 Laws. Public notice of the time, date, and place of the meeting

1 shall be given in the manner required by Act No. 267 of the
2 Public Acts of 1976.

3 Sec. 748. A writing prepared, owned, used, in the posses-
4 sion of, or retained by the committee in the performance of an
5 official function shall be made available to the public in com-
6 pliance with the freedom of information act, Act No. 442 of the
7 Public Acts of 1976, being sections 15.231 to 15.246 of the
8 Michigan Compiled Laws.

9 ARTICLE 8

10 PROHIBITED ACTIVITY

11 Sec. 801. (1) If the commission determines that a person
12 has offered and provided a telecommunication service that is
13 harmful to any person under 18 years of age, the commission shall
14 request the attorney general to bring an action in the circuit
15 court to enjoin such acts or practices that violate this
16 section.

17 (2) If the court finds the telecommunication service to be
18 harmful to minors, it shall issue an injunction to prohibit the
19 service and the collection of a service charge, surcharge, or any
20 other fee required to receive the service.

21 (3) As used in this section:

22 (a) "Harmful to minors" means sexually explicit matter that
23 meets all of the following criteria:

24 (i) Considered as a whole, it appeals to the prurient inter-
25 est of minors as determined by contemporary local community
26 standards.

1 (ii) It is patently offensive to contemporary local
2 community standards of adults as to what is suitable for minors.

3 (iii) Considered as a whole, it lacks serious literary,
4 artistic, political, educational, and scientific value for
5 minors.

6 (b) "Local community" means the county in which the telecom-
7 munication service is received.

8 (c) "Prurient interest" means a lustful interest in sexual
9 stimulation or gratification. In determining whether sexually
10 explicit matter appeals to the prurient interest, the matter will
11 be judged with reference to average 17-year-old minors. If it
12 appears from the character of the matter that it is designed to
13 appeal to the prurient interest of a particular group of persons,
14 including, but not limited to, homosexuals or sadomasochists,
15 then the matter shall be judged with reference to average
16 17-year-old minors within the particular group for which it
17 appears to be designed.

18 Sec. 802. (1) A person shall not maliciously use a telecom-
19 munication service with the intent to terrorize, frighten, intim-
20 idate, threaten, harass, molest, or annoy any other person, or to
21 disturb the peace and quiet of any other person by any of the
22 following:

23 (a) Threatening physical harm or damage to any person or
24 property in the course of a telephone conversation.

25 (b) Falsely and deliberately reporting by telephone or other
26 telecommunication service that any person has been injured, has

1 suddenly taken ill, has suffered death, or has been the victim of
2 a crime or of an accident.

3 (c) Deliberately refusing or failing to disengage a connec-
4 tion between a telephone and another telephone or between a tele-
5 phone and other equipment that results in interfering with any
6 telecommunication service.

7 (d) Using any vulgar, indecent, obscene, or offensive lan-
8 guage or suggesting any lewd or lascivious act in the course of a
9 telephone conversation.

10 (e) Repeatedly initiating a telephone call and without
11 speaking deliberately hanging up or breaking the telephone con-
12 nection as or after the telephone call is answered.

13 (f) Making an unsolicited commercial telephone call that is
14 received between the hours of 9 p.m. and 9 a.m. For the purpose
15 of this subdivision, "an unsolicited commercial telephone call"
16 means a call made by a person or recording device, on behalf of a
17 person, corporation, or other entity, soliciting business or
18 contributions.

19 (g) Deliberately calling a telephone of another person in a
20 repetitive manner which causes interruption in telephone service
21 or prevents the person from utilizing his or her telephone
22 service.

23 (2) A person who violates this section is guilty of a misde-
24 meanor, punishable by imprisonment for not more than 6 months, or
25 by a fine of not more than \$500.00, or both. Each call or act
26 that violates this section is considered a separate offense
27 punishable under this subsection.

1 (3) An offense is committed under this section if the.
2 communication either originates or terminates, or both, in this
3 state and may be prosecuted at the place of origination or
4 termination.

5 Sec. 803. (1) A person shall not send an advertisement to
6 another person by means of a facsimile machine without first
7 obtaining, by means other than by a facsimile machine, the con-
8 sent of the person who will receive the advertisement.

9 (2) Consent may be given by telephone to a particular vendor
10 or by general notification to marketing or industry trade
11 associations.

12 (3) Consent to have a facsimile machine telephone number
13 published in a directory or disseminated in any other manner will
14 not be construed as consent to receive an advertisement under
15 this act.

16 (4) If the commission has reason to believe that a person
17 has engaged, is engaging, or is about to engage in an act that
18 violates this section, it shall notify the person of the viola-
19 tion and order the person to cease and desist from the act and
20 provide the person the opportunity to confer with the commission
21 in person, by counsel, or by other representative.

22 (5) The notice may be given to the person by mail, postage
23 prepaid, to his or her usual place of business or, if the person
24 does not have a usual place of business, to his or her last known
25 address, or, with respect to a corporation, to the resident agent
26 who is designated to receive service of process or to an officer
27 of the corporation.

1 (6) A prosecuting attorney or law enforcement officer having
2 reason to believe an alleged violation of this section has
3 occurred shall immediately forward written notice of the alleged
4 violation, together with any information he or she may have, to
5 the commission.

6 (7) The commission may accept an assurance of discontinuance
7 of an act that is a violation under this section from the person
8 who has engaged, is engaging, or is about to engage in the act.

9 (8) Except for an action commenced pursuant to subsection
10 (11), the assurance shall not constitute an admission nor be
11 introduced in any other proceeding.

12 (9) An assurance of discontinuance shall be in writing and
13 filed with the commission. The commission shall maintain a
14 record of all filings.

15 (10) The terms of the assurance of discontinuance may be
16 enforced in an action commenced pursuant to subsection (11).

17 (11) If the commission has probable cause to believe a
18 person has continued to violate this section after notice has
19 been provided under subsection (4) or that the person has vio-
20 lated an assurance of discontinuance entered under subsection
21 (7), the commission may request the attorney general to bring an
22 action to restrain the person by temporary or permanent injunc-
23 tion from engaging in the act or to enforce the terms of the
24 assurance of discontinuance. The action may be brought in the
25 circuit court for the county in which the person is established
26 or conducts business or in the circuit court of Ingham county.

1 (12) A person who knowingly violates the terms of an
2 injunction, order, decree, or judgment issued pursuant to this
3 section or the terms of an assurance of discontinuance under sub-
4 section (7) shall pay to the state a civil fine of not more than
5 \$500.00 for each violation.

6 (13) The court issuing an injunction, order, decree, or
7 judgment retains jurisdiction, and the attorney general may peti-
8 tion the court for recovery of the civil fine as provided by this
9 section.

10 (14) The person receiving an advertisement in violation of
11 this section may file a civil suit in the court of proper juris-
12 diction to recover actual damages, or \$250.00, whichever is
13 greater, if any 1 of the following had occurred before the person
14 received the advertisement:

15 (a) The commission had issued a notice to cease and desist
16 under subsection (4) to the person who sent the advertisement.

17 (b) The person who sent the advertisement had entered into
18 an assurance of discontinuance under subsection (11).

19 (c) The person had notified the sender in writing that the
20 sender did not have the person's consent to send an
21 advertisement.

22 (15) As used in this section:

23 (a) "Advertisement" means a message or material transmitted
24 over a facsimile machine for the purpose of inducing, or that is
25 likely to induce, directly or indirectly, the purchase of real or
26 personal property, goods, or services.

1 (b) "Facsimile machine" means a machine that electronically
2 transmits facsimiles of documents through connection with a
3 telephone network.

4 Sec. 804. A telecommunication provider shall not at any
5 time refuse, charge, delay, or impair the speed of the connecting
6 of a person to a telecommunication emergency service.

7 ARTICLE 9

8 PENALTIES, REPEALS, AND EFFECTIVE DATES

9 Sec. 901. In addition to any other penalties and remedies
10 provided by this act, if after notice and hearing the commission
11 finds a person has violated a provision of this act, the commis-
12 sion may order either or both of the following:

13 (a) The person to pay a fine for the first offense of not
14 less than \$500.00 or more than \$10,000.00, and for each subse-
15 quent offense, a fine of not less than \$1,000.00 or more than
16 \$20,000.00.

17 (b) If the person is a licensee under this act, that the
18 person's license is revoked.

19 Sec. 902. The following acts and parts of acts are
20 repealed:

<u>1 Year</u> <u>2 of Act</u>	<u>Public Act</u> <u>Number</u>	<u>Section</u> <u>Numbers</u>	<u>Compiled Law</u> <u>Sections (1979)</u>
3 1883	72		484.51
4 1883	129		484.1 to 484.10
5 1913	206		484.101 to 484.126
6 1913	383		469.491 to 469.493
7 1931	328	540e	750.540e
8 1986	32		484.1101 to 484.1707
9 1990	48		445.1771 to 445.1776
10	Sec. 903. This act is repealed effective September 30,		
11	1995.		
12	Sec. 904. This act shall take effect October 1, 1991.		