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SFA BILL ANALYSIS

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Senate Bill 837 (as introduced 12-30-97)
Sponsor: Senator Mike Rogers
Committee: Technology and Energy

Date Completed: 5-19-98

CONTENT

The bill would create the "Michigan Slamming Prohibition Act" to provide that a customer of a telecommunications services provider could not be switched to another provider without the customer's authorization. A person who violated the bill would be subject to certain penalties, including a maximum fine of $50,000 for each violation and license revocation.

The Public Service Commission (PSC) would be required to promulgate rules to ensure that a customer of a telecommunications provider was not switched to another provider without the customer's authorization. The rules would have to be consistent with the regulations established by the Federal Communications Commission on verification procedures for the switching of a customer's telecommunications provider.

A customer who had been switched to another provider in violation of the bill, or a provider who had been removed as a customer's provider without the customer's authorization, could file a complaint with the PSC. The PSC also could file a complaint on its own motion. Hearings would have to be held in the same manner as a proceeding under Section 203 of the Michigan Telecommunications Act (which provides for the PSC to conduct contested case hearings pursuant to the Administrative Procedures Act). If the PSC found after notice and hearing that a person had violated the bill or a rule promulgated under it, the PSC would have to order remedies and penalties to protect and make whole customers and other persons who had suffered damages as a result of the violation. The remedies and penalties could include, but would not be limited to, one or more of the following:

- A fine of up to $50,000 for each violation.
- A refund to the customer of any collected excessive rates.
- Revocation of a person's license for a pattern of violations, if the person were a licensee under the Michigan Telecommunications Act.
- Cease and desist orders.

A provider would not be liable for a violation of the bill if the provider had otherwise fully complied with the bill and showed that the violation was an unintentional and bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error. Examples of a bona fide error would include clerical, calculation, computer malfunction, programming, or printing errors. An error in legal judgment with respect to a person's obligations under the bill would not be a bona fide error. The burden of proving that a violation was an unintentional and bona fide error would be on the provider.

"Telecommunications services" would include regulated and unregulated intrastate services offered to customers for the transmission of two-way, interactive communications and associated usage.

Legislative Analyst: S. Lowe

FISCAL IMPACT

According to the Public Service Commission, this bill would require the Commission to promulgate rules and hold hearings regarding unauthorized switching of a telecommunications provider. These additional administrative responsibilities could result in additional costs to the Commission. Additionally, this bill would authorize the Commission to impose a fine of up to $50,000 on those companies found to be in violation, which would be deposited into the General Fund. The number of violators that would be assessed a monetary penalty is unknown; therefore, the amount of revenue that would be generated is indeterminate.

Fiscal Analyst: M. Tyszkiewicz

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