

**SENATE BILL NO. 837**

December 30, 1997, Introduced by Senator ROGERS and SHUGARS  
and referred to the Committee on Technology and Energy.

A bill to prohibit the switching of a customer's telecommuni-  
cations provider without the authorization of the customer; to  
prescribe the powers and duties of certain state agencies and  
officials; and to provide for penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "Michigan slamming prohibition act".

3       Sec. 2. As used in this act:

4       (a) "Commission" means the Michigan public service commis-  
5 sion in the department of consumer and industry services.

6       (b) "Customer" means a person to whom telecommunications  
7 services are furnished.

8       (c) "Person" means an individual, corporation, partnership,  
9 association, governmental entity, or any other legal entity.

1 (d) "Telecommunications provider" or "provider" means a  
2 person that provides 1 or more telecommunications services for  
3 compensation.

4 (e) "Telecommunications services" or "services" includes  
5 regulated and unregulated intrastate services offered to custom-  
6 ers for the transmission of 2-way, interactive communications and  
7 associated usage.

8 Sec. 3. (1) A customer of a telecommunications provider  
9 shall not be switched to another provider without the authoriza-  
10 tion of the customer.

11 (2) The commission shall promulgate rules to ensure that a  
12 customer of a telecommunications provider is not switched to  
13 another provider without the customer's authorization. The rules  
14 promulgated under this subsection shall be consistent with the  
15 regulations established by the federal communications commission  
16 on verification procedures for the switching of a customer's  
17 telecommunications provider.

18 Sec. 4. (1) A customer who has been switched to another  
19 provider in violation of this act, a provider who has been  
20 removed as a customer's provider without the customer's authori-  
21 zation, or the commission on its own motion may file a complaint  
22 with the commission under this act.

23 (2) Hearings held under this act shall be held in the same  
24 manner as a proceeding under section 203 of the Michigan telecom-  
25 munications act, 1991 PA 179, MCL 484.2203.

26 (3) If after notice and hearing the commission finds that a  
27 person has violated this act or a rule promulgated under this

1 act, the commission shall order remedies and penalties to protect  
2 and make whole customers and other persons who have suffered dam-  
3 ages as a result of the violation, including, but not limited to,  
4 1 or more of the following:

5 (a) The person to pay a fine of not more than \$50,000.00 for  
6 each violation of this act.

7 (b) A refund to the customer of any collected excessive  
8 rates.

9 (c) If the person is a licensee under the Michigan telecom-  
10 munications act, 1991 PA 179, MCL 484.2101 to 484.2604, that the  
11 person's license may be revoked for a pattern of violations of  
12 this act.

13 (d) Cease and desist orders.

14 Sec. 5. A provider is not liable for a violation of this  
15 act if the provider has otherwise fully complied with this act  
16 and shows that the violation was an unintentional and bona fide  
17 error notwithstanding the maintenance of procedures reasonably  
18 adopted to avoid the error. Examples of a bona fide error  
19 include clerical, calculation, computer malfunction, programming,  
20 or printing errors. An error in legal judgment with respect to a  
21 person's obligations under this act is not a bona fide error.  
22 The burden of proving that a violation was an unintentional and  
23 bona fide error is on the provider.