

HOUSE BILL No. 4506

April 20, 1999, Introduced by Reps. Brewer, Neumann, Rick Johnson and Schermesser and referred to the Committee on Energy and Technology.

A bill to amend 1991 PA 179, entitled
"Michigan telecommunications act,"
by amending sections 505 and 506 (MCL 484.2505 and 484.2506),
section 505 as added by 1998 PA 260 and section 506 as added by
1998 PA 259, and by adding sections 507 and 508.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 505. (1) An end user of a telecommunications provider
2 shall not be switched to another provider without the authoriza-
3 tion of the end user AS PROVIDED BY THIS SECTION.

4 (2) ~~The commission shall issue orders to ensure that an end~~
5 ~~user of a telecommunications provider is not switched to another~~
6 ~~provider without the end user's oral authorization, written con-~~
7 ~~firmation, confirmation through an independent third party, or~~
8 ~~other verification procedures subject to commission approval,~~
9 ~~confirming the end user's intent to make a switch and that the~~

~~1 end user has approved the specific details of the switch. The~~
~~2 order issued under this section shall require that all providers~~
~~3 comply with the regulations established by the federal communica-~~
~~4 tions commission on verification procedures for the switching of~~
~~5 an end user's telecommunications provider.~~ THE COMMISSION, AFTER
6 NOTICE AND COMMENT, SHALL ISSUE AN ORDER PROVIDING FOR COMPETI-
7 TIVELY NEUTRAL VERIFICATION PROCEDURES BY WHICH AN END USER MAY
8 AUTHORIZE THE SWITCHING OF THE END USER'S TELECOMMUNICATIONS
9 PROVIDER.

10 (3) IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS SECTION,
11 THE ORDER ISSUED UNDER SUBSECTION (2) SHALL BE CONSISTENT WITH
12 THE REGULATIONS OF THE FEDERAL COMMUNICATIONS COMMISSION ON VERI-
13 FICATION PROCEDURES FOR THE SWITCHING OF AN END USER'S TELECOM-
14 MUNICATIONS PROVIDER.

15 (4) THE ORDER ISSUED UNDER SUBSECTION (2) SHALL PROVIDE THAT
16 THE END USER MAY SELECT ORAL AUTHORIZATION, WRITTEN CONFIRMATION,
17 OR CONFIRMATION THROUGH AN INDEPENDENT THIRD PARTY AS HIS OR HER
18 VERIFICATION PROCEDURE AND MAY REQUIRE THAT VERIFICATION BE COM-
19 MUNICATED DIRECTLY BY THE END USER TO EITHER THE NEW PROVIDER OR
20 TO THE END USER'S EXISTING LOCAL EXCHANGE SERVICE PROVIDER, OR
21 BOTH. THE ORDER SHALL ALSO PROVIDE THE METHOD BY WHICH AN END
22 USER MAY AMEND OR REVOKE THE END USER'S SELECTED VERIFICATION
23 PROCEDURE.

24 (5) THE COMMISSION SHALL ANNUALLY PROVIDE ALL END USERS IN
25 THIS STATE A WRITTEN STATEMENT OUTLINING THE OPTIONS AVAILABLE TO
26 THE END USER UNDER SUBSECTION (4) AND THE PROCESS BY WHICH THE
27 END USER MAY MAKE A DECISION REGARDING THE SELECTION OF A

1 VERIFICATION PROCEDURE. TELECOMMUNICATIONS PROVIDERS SHALL NOT
2 COMMUNICATE DIRECTLY WITH END USERS REGARDING THE AVAILABILITY
3 AND SELECTION OF OPTIONS UNDER SUBSECTION (4).

4 (6) IN ADDITION TO THE ORDER ISSUED UNDER SUBSECTION (2),
5 THE COMMISSION SHALL ISSUE AN ORDER NO LATER THAN OCTOBER 1, 1999
6 ESTABLISHING THE METHODS AND PROCEDURES BY WHICH THE SELECTION,
7 AMENDMENT, OR REVOCATION OF A VERIFICATION PROCEDURE IS IMPLE-
8 MENTED AND ADMINISTERED IN A COMPETITIVELY NEUTRAL MANNER. THE
9 METHOD AND PROCEDURES ORDERED UNDER THIS SUBSECTION SHALL BE CON-
10 SISTENT WITH THE REGULATIONS ESTABLISHED BY THE FEDERAL COMMUNI-
11 CATIONS COMMISSION AND SHALL ENSURE THAT THE VERIFICATION PROCE-
12 DURES ARE NOT USED IN AN ANTICOMPETITIVE MANNER AND THAT THE END
13 USER HAS THE PROVIDER OF HIS OR HER CHOICE. THE COMMISSION MAY
14 ISSUE OTHER ORDERS AND AT SUCH TIME AS IT CONSIDERS NECESSARY TO
15 PROVIDE CONSUMER PROTECTION AND SAFEGUARDS FOR COMPETITION IN THE
16 METHODS AND PROCEDURES BY WHICH AN END USER MAY SWITCH HIS OR HER
17 PROVIDER.

18 (7) THE ORDERS ISSUED UNDER THIS SECTION SHALL ALSO REQUIRE
19 THAT ALL TELECOMMUNICATIONS PROVIDERS IMPLEMENT METHODS THAT WILL
20 PROMPTLY AND EFFECTIVELY RECEIVE AND PROCESS REQUESTS TO CHANGE
21 THE END USER'S PROVIDER. THE ORDER SHALL INCLUDE, BUT IS NOT
22 LIMITED TO, THE MAXIMUM TIME BY WHICH THE PROVIDER SHALL EFFECTU-
23 ATE A REQUESTED CHANGE IN A PROVIDER AS REQUIRED UNDER THIS
24 SECTION.

25 (8) THE COMMISSION SHALL ESTABLISH MINIMUM STANDARDS FOR THE
26 FORM AND CONTENT OF ALL DISCLOSURES, EXPLANATIONS, OR SALES
27 INFORMATION DISSEMINATED BY A PERSON SELLING A COMPETITIVE

1 TELECOMMUNICATION SERVICE TO ENSURE THAT THE PERSON PROVIDES
2 ADEQUATE, ACCURATE, AND UNDERSTANDABLE INFORMATION ABOUT THE
3 SERVICE WHICH ENABLES A CUSTOMER TO MAKE AN INFORMED DECISION
4 RELATING TO THE SOURCE AND TYPE OF SERVICE PURCHASED.

5 (9) THE COMMISSION SHALL REQUIRE PROVIDERS TO CARRY OUT AN
6 EDUCATIONAL PROGRAM FOR CUSTOMERS TO DO ALL OF THE FOLLOWING:

7 (A) INFORM CUSTOMERS OF THE CHANGES IN THE PROVISION OF
8 TELECOMMUNICATION SERVICE, INCLUDING, BUT NOT LIMITED TO, THE
9 AVAILABILITY OF ALTERNATIVE PROVIDERS OF TELECOMMUNICATION
10 SERVICE.

11 (B) INFORM CUSTOMERS OF THE REQUIREMENTS RELATING TO DISCLO-
12 SURES, EXPLANATIONS, OR SALES INFORMATION FOR SELLERS OF COMPETI-
13 TIVE TELECOMMUNICATION SERVICES.

14 (C) PROVIDE ASSISTANCE TO CUSTOMERS IN UNDERSTANDING AND
15 USING THE INFORMATION TO MAKE REASONABLY INFORMED CHOICES ABOUT
16 THEIR TELECOMMUNICATION SERVICE.

17 (10) ~~-(3)-~~ As used in this section and ~~section 506-~~
18 SECTIONS 506, 507, AND 508:

19 (a) "End user" means the retail subscriber of a telecommuni-
20 cations service.

21 (b) "Telecommunications provider" or "provider" means a
22 person that provides 1 or more telecommunications services for
23 compensation. Telecommunications provider does not include a
24 provider of commercial mobile service as defined in section
25 332(d)(1) or part I of title III of the communications act of
26 1934, chapter 652, 96 Stat. 1096, 47 U.S.C. 332.

1 Sec. 506. (1) Upon the receipt of a complaint filed by a
2 person alleging a violation of section 505, ~~an end user who has~~
3 ~~been switched to another provider in violation of section 505, or~~
4 ~~a provider who has been removed as an end user's provider without~~
5 ~~the end user's authorization,~~ 507, OR 508 or upon the
6 commission's own motion, the commission may conduct a contested
7 case as provided under section 203.

8 (2) If the commission finds that a person has violated
9 section 505, 507, OR 508 or an order issued under section 505,
10 507, OR 508, the commission shall order remedies and penalties to
11 protect and make whole end users and other persons who have suf-
12 fered damages as a result of the violation, including, but not
13 limited to, 1 or more of the following:

14 (a) Order the person to pay a fine for the first offense of
15 not less than ~~\$10,000.00 or more than~~ \$20,000.00. For a second
16 and any subsequent offense, the commission shall order the person
17 to pay a fine of not less than ~~\$25,000.00 or more than~~
18 \$40,000.00. If the commission finds that the second or any of
19 the subsequent offenses were knowingly made in violation of
20 section 505, 507, OR 508, the commission shall order the person
21 to pay a fine of not ~~more~~ LESS than \$50,000.00. Each ~~switch~~
22 ~~made in~~ violation of section 505, 507, OR 508 shall be a sepa-
23 rate offense under this subdivision.

24 (b) Order an unauthorized provider to refund to the end user
25 any amount greater than the end user would have paid to an autho-
26 rized provider.

1 (c) Order an unauthorized provider to reimburse an
2 authorized provider an amount equal to the amount paid by the end
3 user that should have been paid to the authorized provider.

4 (d) If the person is licensed under this act, revoke the
5 license if the commission finds a pattern of violations of
6 section 505, 507, OR 508.

7 (e) Issue cease and desist orders.

8 (3) Notwithstanding subsection (2), a fine shall not be
9 imposed for a violation of section 505 if the provider has other-
10 wise fully complied with ~~section 505~~ SECTIONS 505, 507, AND 508
11 and shows that the violation was an unintentional and bona fide
12 error notwithstanding the maintenance of procedures reasonably
13 adopted to avoid the error. Examples of a bona fide error
14 include clerical, calculation, computer malfunction, programming,
15 or printing errors. An error in legal judgment with respect to a
16 person's obligations under section 505 is not a bona fide error.
17 The burden of proving that a violation was an unintentional and
18 bona fide error is on the provider.

19 (4) If the commission finds that a party's complaint or
20 defense filed under this section is frivolous, the commission
21 shall award to the prevailing party costs, including reasonable
22 attorney fees, against the nonprevailing party and their
23 attorney.

24 SEC. 507. (1) A TELECOMMUNICATIONS PROVIDER SHALL NOT
25 INCLUDE OR ADD OPTIONAL SERVICES IN AN END USER'S TELECOMMUNICA-
26 TIONS SERVICE PACKAGE WITHOUT THE AUTHORIZATION OF THE END USER.

1 (2) THE COMMISSION SHALL ISSUE ORDERS TO ENSURE THAT A
2 TELECOMMUNICATIONS PROVIDER DOES NOT INCLUDE OR ADD OPTIONAL
3 SERVICES IN THE END USER'S TELECOMMUNICATIONS SERVICE PACKAGE
4 WITHOUT THE END USER'S ORAL AUTHORIZATION, WRITTEN CONFIRMATION,
5 CONFIRMATION THROUGH AN INDEPENDENT THIRD PARTY, OR OTHER VERIFI-
6 CATION PROCEDURES APPROVED BY THE COMMISSION, CONFIRMING THE END
7 USER'S INTENT TO RECEIVE THE OPTIONAL SERVICES. THE ORDERS
8 ISSUED UNDER THIS SECTION SHALL REQUIRE THAT ALL PROVIDERS COMPLY
9 WITH ANY REGULATIONS ESTABLISHED BY THE FEDERAL COMMUNICATIONS
10 COMMISSION REGARDING THE PROVIDING OF OPTIONAL TELECOMMUNICATIONS
11 SERVICES.

12 SEC. 508. (1) ALL BILLINGS BY A TELECOMMUNICATIONS PROVIDER
13 SHALL BE WRITTEN IN A CLEAR AND CONSPICUOUS MANNER AND PROVIDE
14 THE NECESSARY INFORMATION TO ALLOW AN END-USER TO MAKE INFORMED
15 DECISIONS REGARDING THEIR SERVICES AND SERVICE PROVIDERS.

16 (2) ALL BILLINGS SHALL BE CLEARLY ORGANIZED AND SHALL
17 INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

18 (A) IDENTIFICATION OF ANY NEW CHARGES OR CHANGES TO THE
19 END-USER'S SERVICES FROM THE PREVIOUS BILLING PERIOD.

20 (B) COMPLETE DESCRIPTIONS OF ALL CHARGES AND THE SERVICE
21 PROVIDER RESPONSIBLE FOR EACH CHARGE, INCLUDING THE PROVIDER'S
22 ADDRESS AND TOLL-FREE TELEPHONE NUMBER.

23 (C) INFORMATION REGARDING HOW THE END-USER MAY DISPUTE A
24 CHARGE AND HOW TO FILE A COMPLAINT WITH THE COMMISSION UNDER
25 SECTION 506.