S T A T E O F N E W Y O R K

507

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. KAVANAGH, HOYT, FIELDS, BENEDETTO, GREENE, JACOBS, JAFFEE, N. RIVERA, P. RIVERA, ESPAILLAT -- Multi-Sponsored by -- M. of A. ALFANO, BOYLAND, DelMONTE, ENGLEBRIGHT, FARRELL, GALEF, GOTTFRIED, GUNTHER, McENENY, WEISENBERG -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to certain prohibitions regarding cellular telephone service and charges for telephone service on a by the second basis

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public service law is amended by adding a new section 92-g to read as follows:

S 92-G. CELLULAR TELEPHONE SERVICE; PROHIBITIONS. 1. AS USED IN THIS SECTION:

A. "CELLULAR TELEPHONE SERVICE SUPPLIER" MEANS A BUSINESS ENTITY WHICH PROVIDES RETAIL CELLULAR TELEPHONE SERVICE WITHIN NEW YORK STATE.

B. "CELLULAR TELEPHONE" MEANS A CELLULAR MOBILE RADIO TELEPHONE OR OTHER RADIO TELEPHONE NOT REQUIRING AN ACCESS LINE FOR SERVICE.

2. NO CELLULAR TELEPHONE SERVICE SUPPLIER SHALL IMPOSE ANY CHARGE FOR THE PLACEMENT OF A CELLULAR TELEPHONE CALL THAT RESULTS IN A BUSY SIGNAL, NO ANSWER OR IS OTHERWISE NOT COMPLETED.

3. A. WHERE CHARGES FOR CELLULAR SERVICE ARE IMPOSED BASED ON THE DURATION OF THE CALL, NO CHARGE SHALL BE IMPOSED UNTIL AFTER A TELEPHONE NUMBER AND, WHERE APPLICABLE, A PERSONAL IDENTIFICATION NUMBER HAVE BEEN ENTERED.

B. NO CHARGE SHALL BE MADE FOR TIME BETWEEN DIALING AND CONNECTION TO THE PARTY BEING CALLED.

4. NO PERSON WHO SELLS CELLULAR TELEPHONES AT RETAIL SHALL REQUIRE, AS A CONDITION OF THE SALE, THE PURCHASE OF A CONTRACT FOR CELLULAR TELEPHONE SERVICE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD00425-01-9

S 2. Subdivision 1 of section 91 of the public service law, as added by chapter 673 of the laws of 1910, is amended to read as follows:

1. Every telegraph corporation and every CELLULAR telephone [corporation] PROVIDER shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. All charges made or demanded by any telegraph corporation or CELLULAR telephone [corporation] PROVIDER for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order of the commission. ALL CHARGES FOR TELECOMMUNICATIONS SERVICE, WHETHER BY MEANS OF A LINE OR BY MEANS OF CELLULAR TELEPHONE COMMUNICATION, MADE ON THE BASIS OF THE DURATION OF THE COMMUNICATION SHALL BE CHARGED AND PRORATED BY THE SECOND. Every unjust or unreasonable charge made or demanded for any such service or in connection therewith or in excess of that allowed by law or by order of the commission is prohibited and declared to be unlawful.

S 3. This act shall take effect on the ninetieth day after it shall have become a law; provided that section two of this act shall take effect on the one hundred eightieth day after it shall have become a law; provided further that the public service commission is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement section two of this act on its effective date on or before such date.