

4189

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. FLANAGAN, ALESİ, LARKIN, MAZIARZ, PADAVAN, SEWARD,
VOLKER -- read twice and ordered printed, and when printed to be
committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, the executive law and the gener-
al business law, in relation to the provision of residential wireless
telephone service

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "wireless telephone service consumer protection act".
3 S 2. Statement of legislative findings and purpose. The legislature
4 finds that residential consumers in New York are offered the opportunity
5 to purchase wireless telephone service from a variety of service provid-
6 ers and that the conduct of such providers in making and implementing
7 these offers varies widely. In many instances, consumers are required to
8 evaluate service offerings without receiving a full and fair disclosure
9 of the terms of the service offering or an adequate means to evaluate
10 the offering in practice. This lack of disclosure extends, but is not
11 necessarily limited, to the essential financial terms of the offer, the
12 specific characteristics and capabilities of the service being offered,
13 the geographic area covered by the service being offered, and the capa-
14 bility of the service to meet the customer's needs in emergency circum-
15 stances. Furthermore, after the consumer has established service, the
16 bills for such service may be unclear, misleading, or untimely, and the
17 service provider may change the material terms for such service unila-
18 terally and without adequate notice to and approval by the consumer.
19 Finally, procedures currently available to consumers to resolve
20 complaints concerning their wireless telephone service are often untime-
21 ly, inefficient, or ineffective for the resolution of these complaints,
22 and wireless telephone service providers are provided with an inadequate
23 incentive to minimize and effectively address these complaints. The

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

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1 purpose of this legislation is to provide a regulatory program for wire-
2 less telephone service provider conduct and for the terms and conditions
3 of such service other than the entry of or the rates charged by any such
4 provider.

5 S 3. Paragraph a of subdivision 6 of section 5 of the public service
6 law, as added by chapter 684 of the laws of 1997, is amended to read as
7 follows:

8 a. Application of the provisions of this chapter to cellular telephone
9 services is suspended unless the commission, no sooner than one year
10 after the effective date of this subdivision, makes a determination,
11 after notice and hearing, that suspension of the application of the
12 provisions of this chapter shall cease to the extent found necessary to
13 protect the public interest; PROVIDED, HOWEVER, THAT NOTHING IN THIS
14 PARAGRAPH SHALL SUSPEND OR LIMIT THE AUTHORITY PROVIDED TO THE CONSUMER
15 PROTECTION BOARD IN SECTION FIVE HUNDRED FIFTY-THREE OF THE EXECUTIVE
16 LAW AND ARTICLE TWENTY-EIGHT-F OF THE GENERAL BUSINESS LAW TO IMPLEMENT
17 THE PROVISIONS OF LAW CONTAINED THEREIN OR TO PROMULGATE AND ENFORCE
18 REGULATIONS TO AFFORD CONSUMER PROTECTIONS TO RESIDENTIAL CUSTOMERS OF
19 WIRELESS TELEPHONE SERVICE PROVIDERS.

20 S 4. Subdivision 1 of section 553 of the executive law is amended by
21 adding a new paragraph a-2 to read as follows:

22 A-2. IMPLEMENT THE PROVISIONS OF ARTICLE TWENTY-EIGHT-F OF THE GENERAL
23 BUSINESS LAW AND TO ASSERT SUCH JURISDICTION OVER WIRELESS TELEPHONE
24 SERVICE PROVIDERS AS MAY BE NECESSARY FOR SUCH IMPLEMENTATION; AND

25 S 5. The general business law is amended by adding a new article 28-F
26 to read as follows:

27 ARTICLE 28-F

28 WIRELESS TELEPHONE CONSUMER PROTECTION ACT

29 SECTION 495. WIRELESS TELEPHONE CONSUMER PROTECTION.

30 495-A. COMPLAINT PROCEDURES AND ADJUDICATION OF COMPLAINTS.

31 495-B. COMPLAINT AND COMPLIANCE METRICS.

32 495-C. APPLICABILITY.

33 S 495. WIRELESS TELEPHONE CONSUMER PROTECTION. 1. WHEN USED IN THIS
34 SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE FOLLOWING MEAN-
35 INGS:

36 A. "ENHANCED WIRELESS 911 SERVICE" MEANS THE SERVICE REQUIRED TO BE
37 PROVIDED BY WIRELESS TELEPHONE SERVICE PROVIDERS PURSUANT TO THE FCC
38 ORDER.

39 B. "FCC ORDER" MEANS ALL ORDERS ISSUED BY THE FEDERAL COMMUNICATIONS
40 COMMISSION PURSUANT TO THE PROCEEDING ENTITLED "REVISION OF THE COMMIS-
41 SION'S RULE TO ENSURE COMPATIBILITY WITH ENHANCED 911 EMERGENCY CALLING
42 SYSTEMS" (CC DOCKET NO. 94-102; RM-8143), OR ANY SUCCESSOR PROCEEDING,
43 REGARDING THE DELIVERY OF ANI AND ALI AS OF THE DATES AND ACCORDING TO
44 THE OTHER CRITERIA ESTABLISHED THEREIN AND THE RULES ADOPTED BY THE
45 FEDERAL COMMUNICATIONS COMMISSION IN ANY SUCH PROCEEDING, AS SUCH RULES
46 MAY BE AMENDED FROM TIME TO TIME.

47 C. "BASIC WIRELESS 911 SERVICE" MEANS THE ABILITY OF WIRELESS TELE-
48 PHONE SERVICE SUBSCRIBERS TO DIAL DIGITS 9-1-1 AND BE CONNECTED TO A
49 LOCAL PUBLIC SAFETY ANSWERING POINT OR A STATE PUBLIC SAFETY ANSWERING
50 POINT.

51 D. "STATE PUBLIC SAFETY ANSWERING POINT" MEANS A SITE DESIGNATED AND
52 OPERATED BY THE DIVISION OF STATE POLICE FOR THE PURPOSES OF RECEIVING
53 EMERGENCY CALLS FROM CUSTOMERS OF A WIRELESS TELEPHONE SERVICE PROVIDER.

54 E. "LOCAL PUBLIC SAFETY ANSWERING POINT" MEANS A SITE DESIGNATED AND
55 OPERATED BY A LOCAL GOVERNMENTAL ENTITY FOR THE PURPOSE OF RECEIVING
56 EMERGENCY CALLS FROM CUSTOMERS OF A WIRELESS TELEPHONE SERVICE PROVIDER.

1 2. THE CONSUMER PROTECTION BOARD, ACTING THROUGH ITS EXECUTIVE DIREC-
2 TOR, IS HEREBY AUTHORIZED AND DIRECTED TO PROMULGATE RULES AND REGU-
3 LATIONS AND SHALL, WITHIN ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE
4 OF THIS ARTICLE, PROMULGATE SUCH REGULATIONS AND IS FURTHER AUTHORIZED
5 AND DIRECTED TO TAKE SUCH ACTIONS OR ISSUE SUCH ORDERS AS MAY BE NECES-
6 SARY TO ENFORCE SUCH RULES AND REGULATIONS. EXCEPT AS SHALL BE PRE-EMPT-
7 ED BY FEDERAL LAW REGULATING WIRELESS TELEPHONE SERVICE PROVIDERS, SUCH
8 RULES AND REGULATIONS SHALL BE CONSISTENT WITH FEDERAL LAW REGULATING
9 WIRELESS TELEPHONE SERVICE OR PROVIDERS OF WIRELESS TELEPHONE SERVICE.

10 3. AT A MINIMUM, SUCH REGULATIONS SHALL:

11 A. PROVIDE FOR THE TIMELY WRITTEN DISCLOSURE TO EACH CUSTOMER OR
12 POTENTIAL CUSTOMER OF, AT A MINIMUM, THE FOLLOWING INFORMATION CONCERN-
13 ING ANY PLAN OR PROPOSED PLAN OFFERED FOR THE PROVISION OF RESIDENTIAL
14 WIRELESS TELEPHONE SERVICE TO SUCH CUSTOMER:

15 I. THE CALLING AREA FOR THE PLAN;

16 II. THE MONTHLY ACCESS FEE OR BASE CHARGE;

17 III. THE NUMBER OF AIRTIME MINUTES INCLUDED IN THE PLAN;

18 IV. ANY NIGHT AND WEEKEND MINUTES INCLUDED IN THE PLAN OR OTHER
19 DIFFERING CHARGES FOR DIFFERING TIME PERIODS AND THE TIME PERIODS WHEN
20 NIGHT AND WEEKEND MINUTES OR OTHER CHARGES APPLY;

21 V. THE CHARGES FOR EXCESS OR ADDITIONAL MINUTES;

22 VI. WHETHER OR NOT, AND THE EXTENT TO WHICH, PER-MINUTE DOMESTIC OR
23 INTERNATIONAL LONG DISTANCE CHARGES ARE INCLUDED IN OTHER RATES, AND, TO
24 THE EXTENT NOT INCLUDED, THE APPLICABLE PER-MINUTE LONG DISTANCE RATES;

25 VII. PER-MINUTE ROAMING OR OFF-NETWORK CHARGES;

26 VIII. THE AMOUNT OF ANY ADDITIONAL TAXES, FEES, OR SURCHARGES THAT
27 WILL BE COLLECTED OR RETAINED BY THE WIRELESS TELEPHONE SERVICE PROVID-
28 ER;

29 IX. IF THE PLAN REQUIRES A FIXED-TERM CONTRACT, THE DURATION OF SUCH
30 CONTRACT;

31 X. THE AMOUNT OF ANY EARLY TERMINATION FEE AND THE CONDITIONS UNDER
32 WHICH ANY SUCH EARLY TERMINATION FEE WOULD APPLY, INCLUDING THE LENGTH
33 OF ANY TRIAL PERIOD DURING WHICH NO EARLY TERMINATION FEE WOULD APPLY.
34 IN ADDITION TO ANY OTHER DISCLOSURES OF SUCH INFORMATION, THE FIRST BILL
35 RENDERED BY THE WIRELESS TELEPHONE SERVICE PROVIDER TO THE CUSTOMER
36 SHALL INCLUDE NOTICE OF THE TERMS ON AND THE PERIOD OF TIME DURING WHICH
37 SUCH SERVICE MAY BE TERMINATED WITHOUT PENALTY;

38 XI. A STATEMENT NOTIFYING THE CUSTOMER THAT THE SERVICE INCLUDES BASIC
39 WIRELESS 911 SERVICE;

40 XII. THE INFORMATION WHICH IS INCLUDED IN THE EDUCATIONAL PLAN FOR
41 INFORMING THE PUBLIC ABOUT THE ENHANCED WIRELESS 911 SERVICE IN NEW YORK
42 STATE REQUIRED BY SUBDIVISION EIGHT OF SECTION THREE HUNDRED
43 TWENTY-EIGHT OF THE COUNTY LAW AND WHICH IS AN EXPLANATION OF THE
44 ENHANCED WIRELESS 911 SYSTEM AND A PROGRESS REPORT ON THE
45 COUNTY-BY-COUNTY IMPLEMENTATION OF THE STATEWIDE SYSTEM;

46 XIII. WEBSITE INFORMATION TO PERMIT THE CONSUMER TO ACCESS SUCH INFOR-
47 MATION VIA THE INTERNET IN ACCORDANCE WITH SUBDIVISION EIGHT OF SECTION
48 THREE HUNDRED TWENTY-EIGHT OF THE COUNTY LAW;

49 XIV. THE TOLL-FREE HOTLINE NUMBER BY WHICH SUCH INFORMATION MAY BE
50 ACCESSED BY THE CONSUMER IN ACCORDANCE WITH SUBDIVISION EIGHT OF SECTION
51 THREE HUNDRED TWENTY-EIGHT OF THE COUNTY LAW; AND

52 XV. BASED UPON CUSTOMER SUPPLIED INFORMATION REGARDING ANTICIPATED
53 USAGE PATTERNS AND UPON SUCH CUSTOMER'S REQUEST, A GOOD FAITH ESTIMATE
54 OF THE MONTHLY FIXED AND USAGE CHARGES AND ADDITIONAL TAXES, FEES, OR
55 SURCHARGES AND OF THE ANTICIPATED TOTAL MONTHLY BILL FOR SUCH CUSTOMER
56 UNDER SUCH PLAN.

1 B. ESTABLISH PROCEDURES FOR DISCLOSURE AT ANY POINT OF SALE OR OF
2 CONTACT WITH POTENTIAL OR EXISTING RESIDENTIAL CUSTOMERS OF MAPS
3 DISPLAYING THE WIRELESS TELEPHONE SERVICE PROVIDER'S OUTSIDE COVERAGE
4 WITHIN THE STATE AND WITHIN EACH COUNTY OF THE STATE IN WHICH SUCH
5 PROVIDER PROVIDES SERVICE. SUCH MAPS SHALL BE PREPARED BY EACH WIRELESS
6 TELEPHONE SERVICE PROVIDER IN THE STATE USING GENERALLY ACCEPTED METHOD-
7 OLOGIES AND STANDARDS AS ESTABLISHED BY THE BOARD. SUCH MAPS PREPARED ON
8 THE COUNTY LEVEL SHALL IDENTIFY ALL GEOGRAPHIC AREAS WITHIN THE COUNTY
9 LARGER THAN FOUR SQUARE MILES WHERE CELL PHONE COVERAGE IS NOT SUPPLIED.

10 C. REQUIRE OF EACH WIRELESS TELEPHONE SERVICE PROVIDER AN INFORMA-
11 TIONAL FILING WITH THE BOARD OF THE RATES, CHARGES, AND RATE PLANS
12 OFFERED BY SUCH PROVIDER TO RESIDENTIAL CUSTOMERS; PROVIDED, HOWEVER,
13 THAT NO SUCH INFORMATIONAL FILING REQUIREMENT SHALL, DIRECTLY OR INDI-
14 RECTLY, REGULATE THE ENTRY OF OR THE RATES CHARGED BY ANY WIRELESS TELE-
15 PHONE SERVICE PROVIDER.

16 D. REQUIRE THAT:

17 I. THE BILL FOR WIRELESS TELEPHONE SERVICE SHALL BE CLEARLY ORGANIZED,
18 SHALL CLEARLY DESCRIBE IN PLAIN LANGUAGE THE PRODUCTS AND SERVICES FOR
19 WHICH CHARGES ARE IMPOSED, AND SHALL CONFORM TO FORMAT STANDARDS ESTAB-
20 LISHED BY THE BOARD;

21 II. THE BILL FOR WIRELESS TELEPHONE SERVICE SHALL CONTAIN ONLY CHARGES
22 FOR PRODUCTS AND SERVICES AUTHORIZED BY THE CUSTOMER;

23 III. ROAMING CHARGES SHALL BE ITEMIZED ON THE CUSTOMER'S BILL WITHIN
24 SIXTY DAYS OF THE CALL'S BEING PLACED, AND SUCH ROAMING CHARGES SHALL
25 IDENTIFY THE DATE AND ORIGINATING LOCATION OF THE CALL;

26 IV. TAXES AND FEES WHICH ARE REQUIRED BY FEDERAL OR STATE STATUTE OR
27 REGULATION TO BE COLLECTED FROM THE CUSTOMER SHALL BE SET FORTH IN A
28 SEPARATE SECTION OF THE BILL;

29 V. CHARGES ASSOCIATED WITH THE USE OF WIRELESS TELEPHONE EQUIPMENT OR
30 SERVICE SHALL NOT BE THE LIABILITY OF THE CUSTOMER IF SUCH USE WAS UNAU-
31 THORIZED BY THE CUSTOMER DUE TO LOSS OR THEFT; PROVIDED THAT SUCH LOSS
32 OR THEFT IS PROMPTLY REPORTED TO THE WIRELESS TELEPHONE SERVICE PROVID-
33 ER; AND

34 VI. THE TERMS ON WHICH SUCH WIRELESS TELEPHONE SERVICES ARE PROVIDED
35 TO ANY CUSTOMER SHALL INCLUDE A TRIAL PERIOD WHICH SHALL END NO EARLIER
36 THAN FIFTEEN DAYS AFTER THE FIRST BILL IS RENDERED TO SUCH CUSTOMER FOR
37 MONTHLY SERVICE FOLLOWING SERVICE ACTIVATION AND DURING WHICH PERIOD
38 SUCH CUSTOMER MAY, AFTER PAYMENT FOR SERVICES USED, TERMINATE SUCH
39 SERVICE WITHOUT INCURRING ANY TERMINATION FEES OR CHARGES OR ANY OTHER
40 PENALTY OF ANY KIND AND MAY, UPON THE RETURN OF ANY HANDSET BOUGHT OR
41 LEASED IN CONNECTION WITH SUCH SERVICE, RECEIVE A PRO RATA REFUND OF ANY
42 AMOUNTS PAID FOR SUCH HANDSET.

43 E. ESTABLISH PROCEDURES FOR THE NOTIFICATION OF RESIDENTIAL CUSTOMERS
44 AT LEAST THIRTY DAYS IN ADVANCE OF ANY CHANGE IN RATES, CHARGES, TERMS,
45 OR CONDITIONS OF SERVICE FOR SUCH CUSTOMERS.

46 F. ESTABLISH PROCEDURES FOR THE TIMELY PRIOR NOTICE TO RESIDENTIAL
47 CUSTOMERS OF THE WIRELESS TELEPHONE SERVICE PROVIDER'S INTENT TO TERMI-
48 NATE SUCH CUSTOMER'S SERVICE SUCH THAT, AT A MINIMUM, SUCH CUSTOMER IS
49 FULLY ADVISED OF:

50 I. THE AMOUNT WHICH MUST BE PAID TO MAINTAIN SERVICE;

51 II. THE PROCEDURES AVAILABLE TO MAKE SUCH PAYMENTS SO THAT THE TERMI-
52 NATION MAY BE AVOIDED; AND

53 III. THE BOARD'S COMPLAINT HANDLING PROCEDURES.

54 G. ESTABLISH PROCEDURES FOR THE HANDLING OF RESIDENTIAL CUSTOMER
55 COMPLAINTS WHICH, AT A MINIMUM, SHALL REQUIRE THAT EACH WIRELESS TELE-
56 PHONE SERVICE PROVIDER SHALL:

I. MAINTAIN PROCEDURES FOR PROMPT INVESTIGATION OF ANY COMPLAINT ON A BILL FOR RESIDENTIAL WIRELESS TELEPHONE SERVICE RENDERED OR ON ANY OTHER TERM OF A CONTRACT FOR SUCH SERVICES, AND FOR PROMPT REPORTING TO THE COMPLAINANT OF THE RESULT OF SUCH INVESTIGATION. IF SUCH REPORT IS MADE ORALLY, THE WIRELESS TELEPHONE SERVICE PROVIDER SHALL OFFER THE COMPLAINANT, UPON A WRITTEN REQUEST, THE OPPORTUNITY TO RECEIVE THE REPORT IN WRITING;

II. INFORM ANY COMPLAINANT WHOSE COMPLAINT IS RESOLVED IN FAVOR OF WIRELESS TELEPHONE SERVICE PROVIDER, IN WHOLE OR IN PART, OF THE AVAILABILITY OF THE BOARD'S COMPLAINT HANDLING PROCEDURES;

III. REFRAIN FROM TERMINATING SERVICE FOR NONPAYMENT SO LONG AS A COMPLAINT IS PENDING BEFORE A WIRELESS TELEPHONE SERVICE PROVIDER OR THE BOARD AND FOR FIFTEEN DAYS THEREAFTER, OR FOR SUCH PERIOD AS THE BOARD FOR GOOD CAUSE SHALL ESTABLISH; PROVIDED, HOWEVER, THAT, AS A CONDITION OF CONTINUED SERVICE DURING THE PENDENCY OF ANY SUCH DISPUTE, A CUSTOMER SHALL PAY THE UNDISPUTED PORTIONS OF ANY BILL FOR SERVICE, INCLUDING BILLS FOR CURRENT CHARGES OR SUCH GREATER OR LESSER AMOUNTS AS THE BOARD DETERMINES REASONABLY REFLECT THE UNDISPUTED COSTS OF SERVICE TO SUCH CUSTOMER OR ARE NECESSARY TO FAIRLY COMPENSATE THE WIRELESS TELEPHONE SERVICE PROVIDER FOR SERVICES RENDERED WHILE THE COMPLAINT IS PENDING AND FOR FIFTEEN DAYS THEREAFTER; AND

IV. REFRAIN FROM TREATING THE DISPUTED PORTION OF ANY BILL AS LATE DURING THE PENDENCY OF ANY COMPLAINT BEFORE THE WIRELESS TELEPHONE SERVICE PROVIDER OR THE BOARD.

H. INCLUDE SUCH FURTHER REGULATIONS AS ARE NECESSARY TO ENSURE THAT THE RESIDENTIAL CONSUMER PROTECTIONS ESTABLISHED BY OR PURSUANT TO THIS SECTION ARE, AT A MINIMUM, COMPARABLE TO THOSE PROMULGATED BY THE PUBLIC SERVICE COMMISSION AND APPLICABLE TO PROVIDERS OF WIRELINE TELEPHONE SERVICE; PROVIDED, HOWEVER, THAT NOTHING IN THIS PARAGRAPH SHALL PROHIBIT THE BOARD FROM PROMULGATING REGULATIONS PURSUANT TO THIS SECTION THAT AFFORD GREATER CONSUMER PROTECTIONS TO RESIDENTIAL WIRELESS TELEPHONE SERVICE CUSTOMERS THAN ARE OTHERWISE PROVIDED BY STATUTE OR REGULATION TO RESIDENTIAL WIRELINE TELEPHONE SERVICE CUSTOMERS.

S 495-A. COMPLAINT PROCEDURES AND ADJUDICATION OF COMPLAINTS. 1. THE CONSUMER PROTECTION BOARD SHALL ESTABLISH PROCEDURES FOR THE ADMINISTRATION AND ADJUDICATION BY THE BOARD, OR UPON DELEGATION BY THE BOARD TO THE EXECUTIVE DIRECTOR, BY THE EXECUTIVE DIRECTOR OF COMPLAINTS BY RESIDENTIAL WIRELESS TELEPHONE CUSTOMERS OR BY STAFF OF THE BOARD CONCERNING COMPLIANCE BY THEIR WIRELESS TELEPHONE SERVICE PROVIDERS WITH THE REQUIREMENTS OF THIS ARTICLE OR THE REGULATIONS PROMULGATED TO IMPLEMENT THIS ARTICLE. IN ADJUDICATING SUCH COMPLAINTS, THE BOARD, ACTING THROUGH ITS EXECUTIVE DIRECTOR, IS AUTHORIZED TO AND MAY ENTER AND ENFORCE ANY ORDER DEEMED NECESSARY TO SECURE COMPLIANCE WITH THIS ARTICLE OR WITH THE REGULATIONS PROMULGATED TO IMPLEMENT THIS ARTICLE. SUCH PROCEDURES SHALL INCLUDE, AT A MINIMUM:

A. PROVISION FOR INVESTIGATION AND INFORMAL REVIEW BY STAFF OF THE CONSUMER PROTECTION BOARD AND FOR APPEAL TO THE EXECUTIVE DIRECTOR OR TO THE CONSUMER PROTECTION BOARD IN ITS DISCRETION;

B. THAT THE BURDEN OF PROOF IN ALL PROCEEDINGS SHALL BE ON THE WIRELESS TELEPHONE SERVICES PROVIDER, EXCEPT AS OTHERWISE PROVIDED BY THE BOARD FOR GOOD CAUSE; AND

C. PROVISIONS FOR PARTIES TO RECEIVE A WRITTEN DETERMINATION OF ANY COMPLAINT, UPON REQUEST, IN PLAIN AND SIMPLE ENGLISH, WHICH DETERMINATION SHALL SET FORTH THE RELEVANT FACTS ESTABLISHED, THE REASONS FOR THE DETERMINATION, WHAT ACTIONS MUST BE TAKEN, AND WHAT FURTHER PROCEDURES ARE AVAILABLE TO A COMPLAINANT.

1 2. AS A CONDITION OF CONTINUED SERVICE DURING THE PENDENCY OF ANY SUCH
2 COMPLAINT, A CUSTOMER SHALL PAY THE UNDISPUTED PORTIONS OF ANY BILL FOR
3 SERVICE, INCLUDING BILLS FOR CURRENT CHARGES, OR SUCH GREATER OR LESSER
4 AMOUNTS AS THE BOARD OR THE EXECUTIVE DIRECTOR DETERMINES REASONABLY
5 REFLECT THE UNDISPUTED COST OF SERVICE TO SUCH CUSTOMER, OR AS THE BOARD
6 OR EXECUTIVE DIRECTOR DETERMINES ARE NECESSARY TO FAIRLY COMPENSATE THE
7 WIRELESS TELEPHONE SERVICE PROVIDER FOR SERVICES RENDERED WHILE THE
8 COMPLAINT IS PENDING AND FOR FIFTEEN DAYS THEREAFTER, AND THE WIRELESS
9 TELEPHONE SERVICE PROVIDER SHALL NOT TREAT THE DISPUTED PORTION OF ANY
10 BILL AS LATE DURING THE PENDENCY OF SUCH COMPLAINT BEFORE THE PROVIDER
11 OR THE BOARD.

12 3. THE BOARD OR, UPON DELEGATION BY THE BOARD TO THE EXECUTIVE DIREC-
13 TOR, THE EXECUTIVE DIRECTOR SHALL HAVE THE POWER TO ASSESS AN ADMINIS-
14 TRATIVE PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS AGAINST ANY WIRELESS
15 TELEPHONE SERVICE PROVIDER THAT NEGLECTS OR KNOWINGLY FAILS TO COMPLY
16 WITH ANY REQUIREMENT OF THIS ARTICLE OR ANY ORDER OF THE COMMISSION
17 IMPLEMENTING OR ENFORCING THIS ARTICLE OR ANY SUCH REGULATION. ALL
18 MONEYS RECOVERED FROM ANY SUCH ADMINISTRATIVE PENALTY SHALL BE PAID INTO
19 THE STATE TREASURY TO THE CREDIT OF THE GENERAL FUND.

20 S 495-B. COMPLAINT AND COMPLIANCE METRICS. 1. THE CONSUMER PROTECTION
21 BOARD SHALL MAINTAIN RECORDS CONCERNING AND REPORT ANNUALLY THE NUMBER
22 AND NATURE OF COMPLAINTS RECEIVED CONCERNING WIRELESS TELEPHONE SERVICE.
23 SUCH REPORT SHALL BE TRANSMITTED TO THE GOVERNOR AND THE LEGISLATURE AND
24 SHALL BE MADE AVAILABLE TO THE PUBLIC IN WRITING AT THE BOARD'S COST AND
25 ON THE INTERNET AT NO CHARGE. SUCH RECORDS SHALL INCLUDE, BUT ARE NOT
26 LIMITED TO, DATA IDENTIFYING THE WIRELESS TELEPHONE SERVICE PROVIDER
27 ASSOCIATED WITH EACH SUCH COMPLAINT, THE PROVISIONS OF THIS ARTICLE OR
28 THE REGULATIONS PROMULGATED HEREUNDER, IF ANY, ON WHICH EACH SUCH
29 COMPLAINT IS BASED, THE ACTIONS TAKEN BY THE BOARD OR THE EXECUTIVE
30 DIRECTOR TO ADDRESS EACH SUCH COMPLAINT, THE ACTIONS TAKEN TO RESOLVE
31 EACH SUCH COMPLAINT, THE PERIOD OF TIME BETWEEN THE TIME WHEN THE BOARD
32 OR EXECUTIVE DIRECTOR IS FIRST NOTIFIED OF THE FACTS UNDERLYING THE
33 CONSUMER'S COMPLAINT, THE TIME WHEN THE COMPLAINT IS RECORDED AS SUCH BY
34 THE BOARD OR THE EXECUTIVE DIRECTOR, THE TIME WHEN THE COMPLAINT IS
35 RESOLVED, AND THE RELIEF, IF ANY, AFFORDED TO THE CONSUMER IN THE RESOL-
36 UTION OF EACH SUCH COMPLAINT.

37 2. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION, THE BOARD
38 SHALL ESTABLISH AND, AT ANY TIME THEREAFTER, MAY AMEND CONSUMER SATIS-
39 FACTION METRICS TO ASSIST CUSTOMERS IN THE EVALUATION OF WIRELESS TELE-
40 PHONE SERVICE PROVIDERS IN THE STATE. SUCH METRICS SHALL BE BASED ON THE
41 COMPLAINT DATA AVAILABLE PURSUANT TO THIS SECTION AND SUCH OTHER DATA OR
42 FACTORS RELATED TO A PROVIDER'S COMPLIANCE WITH THIS SECTION AS THE
43 BOARD SHALL PRESCRIBE.

44 S 495-C. APPLICABILITY. FOR PURPOSES OF THIS ARTICLE, THE WIRELESS
45 TELEPHONE SERVICE TO WHICH THE PROVISIONS OF THIS ARTICLE APPLY IS SUCH
46 SERVICE BEING PROVIDED OR BEING PROPOSED TO BE PROVIDED TO A RESIDENTIAL
47 CUSTOMER WHERE THE PLACE OF PRIMARY USE, AS THAT TERM IS USED IN SECTION
48 ONE HUNDRED EIGHTY-SIX-E OF THE TAX LAW, FOR SUCH SERVICE IS LOCATED IN
49 THIS STATE.

50 S 6. The provisions of this act are severable, and if any part or
51 provision hereof, or the application thereof to any person or circum-
52 stance, shall be adjudged by any court of competent jurisdiction to be
53 invalid or unenforceable, such judgment shall not affect, impair or
54 invalidate the remaining provisions of this act or the application of
55 any such remaining provisions to any person or circumstance, but shall
56 be confined in its operation to the provision, person or circumstance

1 directly involved in the controversy in which such judgment shall have
2 been rendered.

3 S 7. This act shall take effect on the one hundred eightieth day after
4 it shall have become a law. Effective immediately the consumer
5 protection board is authorized, on or before such date, to promulgate
6 any and all rules and regulations and to take any other measures neces-
7 sary to implement this act on such effective date.