

**SENATE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Ms. Spilka**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing a cell phone users bill of rights.

PETITION OF:

NAME:

Ms. Spilka

DISTRICT/ADDRESS:

Second Middlesex and Norfolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S01982 OF 2007-2008.]

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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AN ACT ESTABLISHING A CELL PHONE USERS BILL OF RIGHTS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 93 of the General Laws is hereby amended by inserting after section 114,  
2 the following sections:-

3 Section 115. Section 116 to 123, inclusive, shall be known and may be cited as the "Wireless  
4 Telephone Consumer Protection Act."

5 Section 116. As used in sections 116 to 123, inclusive, the following words shall, unless the  
6 context clearly requires otherwise, have the following meanings:

7 "Department", the department of telecommunications and energy.

8 "Wireless telephone services", commercial mobile radio services as defined by the federal  
9 Telecommunications Act, 47 U.S.C. § 332(c).

10 "Wireless telephone service provider", any entity that provides wireless telephone service within  
11 the commonwealth.

12 "Wireless telephone number information", the telephone number, electronic address, and any  
13 other identifying information by which a calling party may reach a subscriber to commercial  
14 mobile services, and which is assigned by a wireless telephone service provider to such  
15 subscriber.

16 Section 117. (a) The department of telecommunications and energy shall promulgate regulations  
17 requiring that any publication, including publication on the internet, of a wireless telephone  
18 service provider concerning the terms of its plans or contracts for wireless telephone service shall  
19 set forth, in a plain and conspicuous manner, the following information:

20 (1) Information on charges, including calling-from area, monthly base charge, per-minute  
21 charges for minutes not included in the plan, and the method of calculating minutes charged.

22 (2) Information on the minutes included in the plan, including weekday/daytime,  
23 nights/weekends, or other differing charges; long-distance; roaming; incoming; and directory  
24 assistance.

25 (3) Information on plan or contract terms, including length of contract, early or other termination  
26 fees, trial periods, and start-up fees.

27 (4) Information on taxes to be collected by the carrier for, and paid to, a state, local, or other  
28 governmental agency.

29 (5) Information on surcharges imposed by the carrier for the costs of compliance with  
30 regulations or for other purposes.

31 (6) Any other information that the department considers appropriate to ensure that consumers of  
32 wireless telephone service are fully informed of the terms of the plan or contract.

33 (b) Wireless telephone service providers must provide the information required by this section to  
34 a consumer prior to entering into any contract with a consumer for wireless telephone service.

35 (c) The department shall adopt rules requiring that the information required by this section be  
36 published by wireless telephone service providers in a tabular format, in a clear and uniform  
37 manner, and in at least 10 point font. This format shall be designed to ensure that consumers may  
38 accurately compare the true cost of services among wireless service providers.

39 (d) Wireless telephone service providers must meet the disclosure requirements in this section in  
40 advertising to the extent the medium allows.

41 Section 118. (a) Each wireless telephone service provider shall make maps available that show  
42 the wireless telephone service area of such provider nationwide and the wireless telephone  
43 service area of such provider within Massachusetts. Such maps shall contain the maximum  
44 practicable level of granularity and shall be updated quarterly.

45 (b) Each map of a service area under paragraph (a) shall be provided to a consumer (i) upon the  
46 request of the consumer and (ii) whenever a plan or contract for the service is entered into.

47 (c) Each map of a service area under paragraph (a) shall be available (i) on the Internet web site  
48 of the provider concerned; and (ii) on the website of the department.

49 Section 119. (a) The department shall monitor the quality of wireless telephone service provided  
50 in Massachusetts by requiring semiannual reports by wireless telephone service providers on the  
51 following:

52 (1) Dropped calls.

53 (2) Blocked calls.

54 (3) Known coverage gaps (including average signal strength) or dead zones.

55 (4) Predicted street level signal strength.

56 (5) Any other matters the Department considers appropriate.

57 (b) In monitoring the quality of wireless telephone service under paragraph (a), the department  
58 shall establish a website at which members of the public can submit to the department their  
59 comments and views on the quality of such service. The department shall also accept written  
60 complaints by mail.

61 (c) The department shall make available to wireless telephone service providers and the public  
62 on a semiannual basis information on the quality of wireless telephone service provided in  
63 Massachusetts.

64 Section 120. (a) No contract for wireless telephone service shall be for a term longer than twelve  
65 months, except that upon expiration of the contract, the wireless telephone service provider may  
66 offer to the subscriber the right to renew the contract for a similar, shorter or longer period not to  
67 exceed twelve months.

68 (b) An extension of a contract for wireless telephone service shall not be valid unless the  
69 extension of the contract is in writing and signed by the subscriber, or confirmed in writing and  
70 signed by the subscriber within seven days.

71 (c) A wireless telephone service provider must provide subscribers with written notice of any  
72 change in rates, terms, or conditions of service at least thirty days before the change is to take  
73 effect. If any such change will result in higher rates or more restrictions on service or otherwise  
74 will result in a material, adverse change for such subscriber, the subscriber may, within such  
75 thirty day period, terminate the service without penalty and receive a pro rata refund of the  
76 charges, if any, paid for the handset used for the service. The notice of change must inform the  
77 subscriber of the right to terminate the contract, the right to a handset refund, and the steps to  
78 take to implement such a termination.

79 (d) A contract for wireless service may be canceled upon the request of the subscriber for any  
80 reason during the first thirty days. There shall be no penalty or other costs to the subscriber for  
81 any cancellation during these thirty days, except that the subscriber shall be responsible for the  
82 cost of the service used during the time period the contract was in effect.

83 Section 121. (a) A wireless telephone service provider shall provide bills for wireless telephone  
84 services that are clearly organized and clearly describe in plain language the products and  
85 services for which charges are imposed, and that conform to format standards established by the  
86 department.

87 (b) Taxes and fees which are required by federal, state, or local statute or regulation to be  
88 collected from the subscriber shall be set forth in a separate section of the bill and shall be

89 itemized separately. No charge which is not required by law to be recovered from subscribers  
90 may be included in this section of the bill.

91 (c) Roaming or off-network charges shall be itemized on the subscriber's bill within sixty days of  
92 the call being placed, and such roaming or off-network charges shall identify the date and  
93 originating location of the call.

94 (d) Upon the request of a subscriber, a wireless telephone services provider shall supply an  
95 itemized bill to the subscriber at no cost to the subscriber.

96 (e) Charges associated with the use of wireless telephone equipment or services shall not be the  
97 liability of the subscriber if such use was unauthorized by the subscriber due to loss or theft,  
98 provided that such loss or theft is promptly reported to the wireless telephone service provider.

99 (f) The department shall promulgate regulations implementing this section and establishing  
100 complaint handling procedures within the department for billing disputes between wireless  
101 telephone service providers and subscribers.

102 (g) A wireless telephone service provider shall refrain from terminating a subscriber's service for  
103 nonpayment so long as the subscriber's billing complaint is pending before the department and  
104 for fifteen days thereafter, or for such period as the department for good cause shall establish,  
105 provided that as a condition of continued service during the adjudication of any such dispute, the  
106 subscriber shall pay the undisputed portions of any bill for service and any amounts the  
107 department determines are necessary to fairly compensate the wireless telephone provider for  
108 services rendered while the complaint is pending and fifteen days thereafter.

109 Section 122. (a) A wireless telephone service provider, or any direct or indirect affiliate or agent  
110 of a provider, providing the name and wireless telephone number information of a subscriber for  
111 inclusion in any directory of any form, or selling, leasing, licensing or sharing the contents of  
112 any directory database, or any portion or segment thereof, shall not include the wireless  
113 telephone number information of any subscriber without first obtaining the express consent of  
114 that subscriber. The provider's form for obtaining the subscriber's express consent shall meet all  
115 of the following requirements:

116 (1) It shall be a separate document that is not attached to any other document.

117 (2) It shall be signed and dated by the subscriber.

118 (3) It shall be unambiguous, legible, and conspicuously disclose that, by signing, the subscriber  
119 is consenting to have the subscriber's wireless telephone number information sold or licensed as  
120 part of a list of subscribers and the subscriber's wireless telephone number information may be  
121 included in a publicly available directory.

122 (4) If under the subscriber's calling plan the subscriber may be billed for receiving unsolicited  
123 calls or text messaging from a telemarketer, the provider's form shall be unambiguous, legible,  
124 and conspicuously disclose that, by consenting to have the subscriber's wireless telephone  
125 number information sold or licensed as part of a list of subscribers or be included in a publicly  
126 available directory, the subscriber may incur additional charges for receiving unsolicited calls or  
127 text messages.



128 (b) A subscriber who provides express prior consent pursuant to paragraph (a) may revoke that  
129 consent at any time. A wireless telephone service provider shall comply with the subscriber's  
130 request to opt out within a reasonable period of time, not to exceed 60 days.

131 (c) A subscriber shall not be charged for making the choice to not be listed in a directory.

132 (d) This section does not apply to the provision of wireless telephone number information to the  
133 following parties for the purposes indicated:

134 (1) To a collection agency, to the extent disclosures made by the provider are exclusively for the  
135 collection of the subscriber's unpaid debt to the provider.

136 (2) To any law enforcement agency, fire protection agency, public health agency, public  
137 environmental health agency, city or county emergency services planning agency, or private for-  
138 profit agency operating under contract with, and at the direction of, one or more of these  
139 agencies, for the exclusive purpose of responding to a 911 call or communicating an imminent  
140 threat to life or property.

141 (3) To a lawful process issued under state or federal law.

142 (4) To a telephone corporation providing service between service areas for the provision to the  
143 subscriber of telephone service between service areas, or to third parties for the limited purpose  
144 of providing billing services.

145 (5) To a telephone corporation to effectuate a subscriber's request to transfer the customer's  
146 assigned telephone number from the customer's existing provider of telecommunications  
147 services to a new provider of telecommunications services.

148 (6) To the department pursuant to its jurisdiction and control over wireless telephone providers.

149 (e) No telephone corporation, nor any official or employee thereof, shall be subject to criminal or  
150 civil liability for the release of subscriber information as authorized by this section.

151 Section 123. (a) The department shall have the power and authority to enforce the provisions of  
152 this act. The department shall have the power, consistent with federal law, to assess a penalty for  
153 each violation not to exceed one thousand dollars against any company that neglects or  
154 knowingly fails to comply with any requirement of this act.

155 (b) Failure to comply with any provision of this act or any regulation promulgated in accordance  
156 with this act shall constitute an unfair or deceptive act or practice under chapter ninety-three A.