

2009 DRAFTING REQUEST

Bill

Received: 12/12/2008

Received By: csundber

Wanted: As time permits

Identical to LRB:

For: Julie Lassa (608) 266-3123

By/Representing: Danielle Wilson

This file may be shown to any legislator: NO

Drafter: csundber

May Contact:

Addl. Drafters:

Subject: Trade Regulation - other

Extra Copies:

Submit via email: YES

Requester's email: Sen.Lassa@legis.wisconsin.gov

Carbon copy (CC:) to: christopher.sundberg@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Require cell phone companies to refund overcharges within a given period of time

Instructions:

Redraft 2007 SB 320 + SA1

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	csundber 12/16/2008	bkraft 12/23/2008		_____			State
/1			rschluet 12/23/2008	_____	sbasford 12/23/2008	cduerst 01/08/2009	

FE Sent For: "11" @ intro . 1/26/09

<END>

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/?	csundber	1 bjk <sup>12/23</sup>					

FE Sent For:

<END>

**Sundberg, Christopher**

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**From:** Wilson, Danielle  
**Sent:** Friday, December 12, 2008 11:17 AM  
**To:** Sundberg, Christopher  
**Cc:** Lueth, Teresa  
**Subject:** Drafting Request relating to refunds of overcharges by commercial mobile radio service providers, actions against commercial mobile radio service providers that fail to make timely refunds, and providing a penalty

Dear Chris,

Will you please draft a bill that is the same as Senator Lassa's 2007 LRB-2764/3, which relates to refunds of overcharges by commercial mobile radio service providers, actions against commercial mobile radio service providers that fail to make timely refunds, and providing a penalty, with the changes made by LRBA1176/1?

Thank you very much for your assistance. If you have any questions, please feel free to contact me.

Sincerely,

**Danielle Wilson**

*Clerk, Senate Committee on Economic Development*

Office of Senator Julie Lassa

P.O. Box 7882

Madison, WI 53707-7882

(608) 266-3123

[danielle.wilson@legis.wisconsin.gov](mailto:danielle.wilson@legis.wisconsin.gov)

In: 12/16/08

9 10  
2007 - 2008 LEGISLATURE

1121/1  
LRB-2764/3  
CTS:bjk&cjs:rs  
stays  
RMR

2009 BILL

## 2007 SENATE BILL 320

November 9, 2007 - Introduced by Senators LASSA, COGGS and VINEHOUT, cosponsored by Representatives MUSSER, ALBERS, BERCEAU, BOYLE, CULLEN, GRIGSBY, HAHN, HEBL, NASS, SCHNEIDER, SINICKI, A. WILLIAMS and ZEPNICK. Referred to Committee on Small Business, Emergency Preparedness, Workforce Development, Technical Colleges and Consumer Protection.

SAV  
X-refv

Inserts

regen

1 AN ACT *to create* 100.55 of the statutes; **relating to:** refunds of overcharges by  
2 commercial mobile radio service providers, actions against commercial mobile  
3 radio service providers that fail to make timely refunds, and providing a  
4 penalty.

90 days after the service provider

### ***Analysis by the Legislative Reference Bureau***

This bill requires a commercial mobile radio service provider (cellular telephone service provider) to refund to a customer or credit to the customer's account any amount charged to the customer in excess of the amount actually owed by the customer (overcharge). Under the bill, the service provider must make such a refund not later than the end of the billing cycle that follows the billing cycle in which the provider learns of, or reasonable should be aware of, the overcharge. A service provider that fails to make a timely refund must pay the customer twice the amount of the refund owed to the customer. The bill also specifies that a service provider may not impose an additional charge solely as a consequence of the service provider's compliance with the requirements of the bill.

→  
→

Under the bill, the Department of Agriculture, Trade and Consumer Protection may bring an action against a person who violates the provisions of the bill for a forfeiture up to \$200 for a first-time violation or up to \$500 for subsequent violations. In addition, a person who is injured by a violation may bring an action to recover three times the amount of the overcharge or \$200, whichever is greater, plus attorney's fees.

**SENATE BILL 320**

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

① SECTION 1. 100.55 of the statutes is created to read:

② **100.55 Commercial mobile radio service providers; overcharge**  
③ **refunds.** (1) In this section:

④ (a) "Commercial mobile radio service provider" has the meaning given in s.  
⑤ 196.01 (2g).

⑥ (b) "Overcharge" means an amount that a commercial mobile radio service  
⑦ provider has charged a customer of the commercial mobile radio service provider in  
⑧ excess of the amount actually owed by the customer.

⑨ (2) (a) A commercial mobile radio service provider shall refund to a customer  
⑩ or credit to the customer's account any overcharge. A commercial mobile radio  
⑪ service provider required to make a refund or credit an account under this paragraph  
⑫ shall make the refund or credit not later than the last day of the billing cycle that  
⑬ follows the billing cycle in which the commercial mobile radio service provider learns,  
⑭ or reasonably should be aware, of the overcharge.

⑮ (b) A commercial mobile radio service provider may not impose an additional  
⑯ charge upon a customer solely as a consequence of the commercial mobile radio  
⑰ service provider's compliance with this section.

⑱ (3) For purposes of sub. (2) (a), it is presumed that a commercial mobile radio  
⑲ service provider should reasonably be aware of an overcharge, unless the overcharge  
⑳ is an isolated incident not related to overcharges to other customers or repeated  
㉑ overcharges to the same customer.

INS  
2-11

INS  
2-17

**SENATE BILL 320**

1           (4) (a) A commercial mobile radio service provider that violates sub. (2) (a) shall  
2 pay to the customer an amount equal to twice the amount of the overcharge.

3           (b) The department or a district attorney may commence an action on behalf  
4 of the state against a person who violates this section to recover a forfeiture of not  
5 more than \$200 for a first violation and not more than \$500 for each subsequent  
6 violation.

7           (c) A person who is injured as a result of a violation of this section may bring  
8 an action against the violator for temporary or permanent injunctive relief or for  
9 damages in an amount equal to 3 times the amount of the amount of the overcharge,  
10 or \$200, whichever is greater, together with costs, including reasonable attorney's  
11 fees, notwithstanding s. 814.04 (1).

12

(END)

**SENATE AMENDMENT 1,  
TO 2007 SENATE BILL 320**

January 31, 2008 - Offered by Senators LASSA and KEDZIE.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 12: delete lines 12 and 13 and substitute <sup>INS</sup> "shall make the refund  
3 or credit not later than 90 days after the commercial mobile radio service provider  
4 learns,".

5 **2.** Page 2, line 18: delete lines 18 to 21 and substitute:

6 <sup>INS</sup> **(3)** For purposes of sub. (2) (a), if a customer reports an overcharge to a  
7 commercial mobile radio service provider, it is presumed that the commercial mobile  
8 radio service provider should reasonably be aware of similar overcharges to the  
9 customer or to other customers of the commercial mobile radio service provider.".

10

(END)

**Duerst, Christina**

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**From:** Lueth, Teresa  
**Sent:** Thursday, January 08, 2009 2:20 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-1121/1 Topic: Require cell phone companies to refund overcharges within a given period of time

Please Jacket LRB 09-1121/1 for the SENATE.

Thank you,

Teresa Lueth  
Office of Senator Julie Lassa