

1999 SENATE BILL 7

January 20, 1999 – Introduced by Senators MOORE, BURKE, DARLING, ERPENBACH and CLAUSING, cosponsored by Representatives COLON, YOUNG, TURNER, LA FAVE, PLALE, BOCK, RILEY, J. LEHMAN, BOYLE, RYBA, POCAN, ZIEGELBAUER, KREUSER, GRONEMUS, MILLER, MUSSER and ALBERS. Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

1 **AN ACT** *to amend* 196.208 (5t) (b), 196.208 (7) (b) (intro.), 196.208 (11) (a) 1. and
2 196.208 (11) (d); and *to create* 196.208 (1) (bm), 196.208 (2) (cm), 196.208 (7)
3 (a) 1m., 196.208 (7m), 196.208 (9m) and 196.208 (11) (bm) of the statutes;
4 **relating to:** transferring toll-free calls to pay-per-call services or
5 international numbers, creating certain disclosure and reporting requirements
6 and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, providers of pay-per-call services, or 900-number services, are subject to a number of requirements. A pay-per-call service must generally begin with a preamble that discloses information about the provider of the service and the cost of the call. Billing may commence only after a specific identified event, such as an audible signal tone, after the preamble and after the caller has a reasonable opportunity to disconnect the call. A provider may not charge for time that the caller is placed on hold and is subject to certain other limitations regarding charges. A toll-free vendor may not transfer the calling party to a pay-per-call service or call the calling party back collect. Unless the calling party has a preexisting subscription relationship with the toll-free vendor or unless the caller discloses a credit card account number during the call, the toll-free vendor may not charge the calling party for information provided during the call. Telecommunications utilities are required to provide certain disclosures on bills

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containing pay-per-call services, informing the customer of the customer's right to dispute pay-per-call charges and informing the customer that his or her telephone service may not be disconnected for failure to pay for pay-per-call services. Telecommunications utilities are subject to additional requirements relating to the provision of billing services for pay-per-call service providers, to billing collection practices and to the provision of blocking services to prohibit the access of pay-per-call services. The department of justice (DOJ) is given authority to enforce provisions relating to pay-per-call service providers, and the public service commission (PSC) is responsible for administering the provisions relating to telecommunications utilities.

This bill makes a number of changes to the provisions governing pay-per-call services, including the following:

1. Transfers to international numbers. The bill prohibits a toll-free vendor from transferring a toll-free call to an international number.

2. Additional disclosure requirements. The bill requires the preamble at the beginning of a pay-per-call service to include a statement that it is illegal for a person to transfer a toll-free call to a pay-per-call service and that, if the caller has been transferred to this pay-per-call service from a toll-free number, the caller should report the information to DOJ. Telecommunications utilities are required to place similar disclosures on bills containing a charge for pay-per-call services.

3. Reporting requirements. The bill requires telecommunications utilities, as well as the PSC and the department of agriculture, trade and consumer protection, to report information that they may obtain regarding the transfer of toll-free calls to international numbers or pay-per-call services. The bill requires DOJ to submit biennial reports to the legislature on its activities relating to the enforcement of the pay-per-call service provisions, together with recommendations for legislation, if DOJ determines that additional legislation is needed to enforce the pay-per-call service provisions effectively.

4. Billing services. The bill prohibits a telecommunications utility from providing billing services to a pay-per-call service provider that has been convicted of a violation of the pay-per-call service provisions, without the prior approval of the PSC. The PSC may approve the provision of billing services to a provider that has been convicted of a violation of the pay-per-call provisions only if the PSC determines that the provider has established safeguards that are sufficient to prevent further violations of these provisions.

5. Penalties. Under current law, whoever violates any of the pay-per-call service provisions is subject to a forfeiture of not less than \$25 nor more than \$5,000. The bill changes the forfeiture (civil penalty) to a criminal penalty of a fine of not less than \$100 nor more than \$10,000 per violation or imprisonment for not more than 90 days, or both.

6. Civil liability. Under current law, a person who has been adversely affected by a violation of the pay-per-call service provisions has a claim for appropriate relief, including damages, injunctive or declaratory relief, specific performance and rescission, costs, disbursements and reasonable attorney fees. This bill modifies the civil liability provisions to provide for treble damages.

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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.** 196.208 (1) (bm) of the statutes is created to read:

2 196.208 (1) (bm) “Toll-free call” means a call that can be made at no charge to
3 the calling party.

4 **SECTION 2.** 196.208 (2) (cm) of the statutes is created to read:

5 196.208 (2) (cm) A preamble shall include a statement that it is illegal for a
6 person to transfer a toll-free call to this pay-per-call service and that, if the caller
7 has been transferred to this pay-per-call service from a toll-free call, the caller
8 should contact the department of justice to report the transfer.

9 **SECTION 3.** 196.208 (5t) (b) of the statutes is amended to read:

10 196.208 (5t) (b) Transfer the calling party to a pay-per-call service or to an
11 international number.

12 **SECTION 4.** 196.208 (7) (a) 1m. of the statutes is created to read:

13 196.208 (7) (a) 1m. Include on each billing statement that includes charges for
14 pay-per-call services a clear and conspicuous notice that states: “It is illegal to
15 transfer a call made to a toll-free number to a ‘900’ number. If you were transferred
16 to a ‘900’ number service from a toll-free number, you should contact the state
17 department of justice to report the transfer.”

18 **SECTION 5.** 196.208 (7) (b) (intro.) of the statutes is amended to read:

19 196.208 (7) (b) (intro.) A telecommunications utility may not provide billing
20 services to a provider that has been convicted of a violation of this section, without
21 the prior approval of the commission. The commission may approve the provision

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1 of billing services to a provider that has been convicted of a violation of this section
2 only if the commission determines that the provider has established safeguards that
3 are sufficient to prevent further violations of this section. If a telecommunications
4 utility provides billing services to a provider, the telecommunications utility shall do
5 all of the following:

6 **SECTION 6.** 196.208 (7m) of the statutes is created to read:

7 196.208 (7m) REPORTING BY TELECOMMUNICATIONS UTILITIES. A
8 telecommunications utility shall report to the department of justice any information
9 that it obtains concerning a possible violation of sub. (5t).

10 **SECTION 7.** 196.208 (9m) of the statutes is created to read:

11 196.208 (9m) BIENNIAL REPORT. No later than January 1 of every
12 odd-numbered year, the department of justice shall submit a report to the legislature
13 under s. 13.172 (2). The report shall describe efforts of the department of justice in
14 enforcing this section over the previous 2-year period. The report shall include
15 recommendations for legislation, if the department of justice determines that
16 additional legislation is needed to enforce the pay-per-call service provisions
17 effectively.

18 **SECTION 8.** 196.208 (11) (a) 1. of the statutes is amended to read:

19 196.208 (11) (a) 1. If a provider or a toll-free service vendor fails to comply with
20 this section, any person or class of persons adversely affected by the failure to comply
21 has a claim for appropriate relief, including ~~but not limited to~~ treble damages,
22 injunctive or declaratory relief, specific performance and rescission.

23 **SECTION 9.** 196.208 (11) (bm) of the statutes is created to read:

24 196.208 (11) (bm) The commission and the department of agriculture, trade
25 and consumer protection shall report to the department of justice any information

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1 obtained by the commission or the department of agriculture, trade and consumer
2 protection concerning a possible violation of sub. (5t).

3 **SECTION 10.** 196.208 (11) (d) of the statutes is amended to read:

4 196.208 **(11)** (d) ~~Any person who~~ Whoever violates subs. (2) to (9) ~~shall be~~
5 ~~required to forfeit~~ may be fined not less than ~~\$25~~ \$100 nor more than \$5,000 for each
6 ~~offense. Forfeitures under this \$10,000 or imprisoned for not more than 90 days or~~
7 both. This paragraph shall be enforced ~~by action on behalf of the state by the~~
8 department of justice or, upon informing the department of justice, by the district
9 attorney of the county where the violation occurs.

10 (END)