

1999 DRAFTING REQUEST

Senate Amendment (SA-SB7)

Received: **02/22/99**

Received By: **hubliks**

Wanted: **Today**

Identical to LRB:

For: **Gwendolynne Moore (608) 266-5810**

By/Representing: **Darren Magree**

This file may be shown to any legislator: **NO**

Drafter: **hubliks**

May Contact:

Alt. Drafters:

Subject: **Public Util. - telco and cable**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Various changes relating to reporting responsibility and relating to penalties

Instructions:

See Attached.

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> |
|--------------|---------------------|---------------------|----------------------|----------------|--------------------------|--------------------------|-----------------|
| /1 | hubliks 02/22/99 | gilfokm 02/22/99 | jfrantze 02/22/99 | _____ | lrb_docadmin 02/22/99 | lrb_docadmin 02/22/99 | |

FE Scent For:

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /1 | hubliks | 1-2-22 KMG | 2/22 | JKA 2/22 | | | |

FE Sent For:

<END>

State Senator GWENDOLYNNE MOORE



Capitol Office:
 P. O. Box 7882, Madison, WI 53707-7882
 Phone: (608) 266-5810 Fax: (608) 267-2353
 District Telephone: (414) 442-3080
 Toll-free Legislative Hotline: 1-800-362-9472
 E-Mail: sen.moore@legis.state.wi.us
 Member: Joint Finance Committee
 Board Member: Wisconsin Housing and
 Economic Development Authority

FACSIMILE COVER SHEET FAX # 608/267-2353

Number of pages, including cover page: 2

Please Deliver To:

Scott Hubli, - LRB

Fax Number of Addressee: 264-8522

From: **SENATOR GWENDOLYNNE S. MOORE**
Senate District 4
State Capitol
P.O. Box 7882
Madison, WI 53708
608/266-5810
Legislative Hotline 1/800/362-WISC

Staff: Shirley Ellis, Leanne Bergstrom, Kelly Bablitch, Darren Magee

MESSAGE:

Scott,

Here are some changes to SB-7 that Ameritech would like to see. I would like your input on them. Specifically, what sort of information could be reported and is there a way to avoid problems with the federal law.

If possible I would like to speak with you today.

Please call me or e-mail me when you get a chance. Thanks!!

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Subject: SB 7

196.208(7)(b)(intro) would prohibit our billing for someone who has been "convicted" but we might not know of such conviction--we need a mechanism by which DOJ or whomever is involved in the conviction gives us actual notice.

196.208(7m) would require that we report any information that it obtains regarding possible violation. It is not clear what that information would be. Further under federal statutes including for example 47 USC 222 we are required to keep carrier information confidential in the absence of a subpoena (or consent of the carrier). There is also another provision to the same effect related to billing information which is the reason we now require a subpoena from police departments etc regarding such billing information. 18 USC

2703(c)(1)

196.208(11)(a) would raise treble the damages. That provision ought to be restricted to read "If a PAY PER CALL SERVICE provider or a toll-free service vendor...."

196.208(11)(d) would create criminal liability including imprisonment etc. That provision should be restricted to read "Any PAY PER Call service provider or any toll-free service vendor who violates ..."

(Scheduled hearing) →

State Senator GWENDOLYNNE MOORE



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Staff: Shirley Ellis, Leanne Bergstrom, Kelly Bablitch, Darren Magee

MESSAGE:

Scott, DATCF
 Here are some changes to SB-7 that Americans
 could like to see. I would like your input on
 them. Specifically, what sort of information could
 be reported and is there a way to avoid problems with
 the Federal law.

If possible I would like to speak with you today.
 Please call me or e-mail me when you get a chance. Thanks!!



State of Wisconsin
CORRESPONDENCE/MEMORANDUM
Department of Agriculture, Trade and Consumer Protection
Division of Trade and Consumer Protection



Date: February 22, 1999
To: Senator Gwendolynne Moore
Darren Magee
From: William L. Oemichen, Administrator, Division of Trade & Consumer Protection *WLO*
Merry Fran Tryon, Director, Bureau of Consumer Protection *MFT*
Subject: SB 7 -- Pay-per-call, Fraudulent Switching of 800 #'s to 900 #'s

Thank you for providing us with the opportunity to give our comments on your legislation.

We support SB7's concept of its strengthening the disclosure requirements and increasing the penalties for pay-per-call violations. We also understand your desire to improve the reporting requirements that may help the Legislature to determine if there is a need for additional legislation.

However, the Department of Agriculture, Trade and Consumer Protection (DATCP) seeks modification of the legislation to ensure we continue handling complaints in our normal manner. DATCP currently has a data base in place to capture the statistics that would be helpful in analyzing the frequency and nature of the pay-per-call violations. The Consumer Protection Bureau routinely analyzes inquiries, complaints, patterns and trends to determine what consumer protection activities should be prioritized to assist Wisconsin consumers.

We do not believe it is your intent to create a "new bureaucracy" to "re-handle" the processing of complaints. As the state's primary consumer protection agency, we routinely collect data, deal with complaints (i.e., mediate and investigate), Where appropriate, we refer cases to the Department of Justice (DOJ) for possible prosecution. Even after enforcement referral, we continue to work closely with DOJ to provide further investigation as needed.

Thus, with respect to SB 7's data collection and reporting requirement, DATCP is already in the position to perform the listed functions, since we already have the necessary resources in place. This will keep the administrative functions such as data collection, analysis, and investigation in place at DATCP. There will be no need for DOJ to develop, store, and retrieve the required data. DOJ will not need to re-examine the complaints, since we do that at DATCP and the Public Service Commission (PSC) already reviews the complaint it receives. DATCP and PSC can continue to process and handle the complaints. This will eliminate the need for DOJ to re-examine any and all complaints.

(FM) DATCP

(joint report)

Page 2
February 22, 1999

DATCP will continue to examine the issues and statistics. We can give DOJ a summary report of the pay-per-call statistics in our data base. DATCP can combine this information with DOJ's multi-state and other activities and PSC's statistics. This combined information can also be used to report to the Legislature as required.

The fiscal impact of SB 7 can be minimized and more efficiencies realized by using DATCP's current systems for processing telecommunications complaints including pay-per-call issues, e.g. data collection, analysis, investigation and referral to DOJ for prosecution consideration when appropriate. This will also more efficiently assist the legislature in getting a handle on pay-per-call issues.

Once again, thank you for the opportunity to present our views on this legislation.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBa0102/1

KSH:.....
KMG

SENATE AMENDMENT,
TO 1999 SENATE BILL 7

TODAY

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

2 ✓ 1. Page 3, line 8: delete "justice" and substitute "agriculture, trade and
3 consumer protection".

4 ✓ 2. Page 3, line 17: delete "justice" and substitute "agriculture, trade and
5 consumer protection".

6 ✓ 3. Page 4, line 7: delete "A" and substitute "Except to the extent ^{that} the report
7 would violate federal law, a".

8 ✓ 4. Page 4, line 11: delete "BIENNIAL REPORT" and substitute "REPORTING
9 REQUIREMENTS. (a) *Biennial report.*".

10 ✓ 5. Page 4, line 12: delete "department of justice shall submit a" and substitute
11 "departments of agriculture, trade and consumer protection and justice shall submit
12 a joint".

1 **6.** Page 4, line 13: delete that line and substitute ^g “under s. 13.172 (2). The
2 report shall include information, prepared by the department of agriculture, trade
3 and consumer protection, on complaints received concerning possible violations of
4 this section over the previous 2-year period. The report shall also include a
5 description, prepared by the department of justice, concerning the department’s
6 efforts ~~at violations of this section and information prepared by the department of~~
7 ~~justice on their efforts in”.~~

8 ✓ **7.** Page 4, line 15: after “the” insert “department of agriculture, trade and
9 consumer protection or the”.

10 ✓ **8.** Page 4, line 17: after that line insert:

11 “(b) *Notices of convictions.* If the public service commission receives a notice
12 from a clerk of court under s. 973.137, the public service commission shall provide
13 a copy of the notice to all telecommunications utilities in this state.”.

14 **9.** Page 4, line 24: delete the material beginning with that line and ending with
15 page 5, line 2, and substitute:

16 “196.208 (11) (bm) The department of agriculture, trade and consumer
17 protection shall report violations of this section to the department of justice.”.

18 ✓ **10.** Page 5, line 4: delete “~~who~~ Whoever” and substitute “A provider or a
19 toll-free service vendor who”.

20 **11.** Page 5, line 9: after that line insert:

21 “**SECTION 11.** 973.137 of the statutes is created to read:

22 **973.137 Courts to report convictions to the public service commission.**

23 **(1)** In this section:

1 (a) “Pay-per-call service provider” has the meaning given to “provider” in s.
2 196.208 (1) (b). ✓

3 (b) “Toll-free service vendor” has the meaning given in s. 196.208 (1) (c). ✓

4 (2) If a court determines that a person ^{has been} convicted of a violation of s. 196.208 (2)
5 to (9), the clerk of the court in which such conviction occurred shall promptly forward
6 to the public service commission the record of conviction.

7 (3) If a conviction under sub. (2) is reversed, set aside or vacated, the clerk of
8 the court shall promptly forward to the public service commission a certificate
9 stating that the conviction has been reversed, set aside or vacated.”.

10 History: 1991 a. 42; 1995 a. 27; 1997 a. 27, 35.

(END)