

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.

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.

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.

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).

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(END)