

**2009 DRAFTING REQUEST**

**Assembly Amendment (AA-AA3-AB696)**

Received: **04/13/2010**

Received By: **mkunkel**

Wanted: **As time permits**

Companion to LRB:

For: **Gary Hebl (608) 266-7678**

By/Representing: **Kate Battiato**

May Contact:

Drafter: **mkunkel**

Subject: **Public Util. - telco**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hebl@legis.wisconsin.gov**

Carbon copy (CC:) to: **david.lovell@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Cell phone consumer protection amendment from Leg Council

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**Instructions:**

See attached

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**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>
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FE Sent For:

**<END>**

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FE Sent For:

<END>

**Kunkel, Mark**

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**From:** Lovell, David  
**Sent:** Tuesday, April 13, 2010 5:17 PM  
**To:** Kunkel, Mark  
**Cc:** Battiato, Kate  
**Subject:** Rep Hebl drafting request

Mark,

Kate, of Rep. Hebl's office, requests 3 amendments to AA 3 to AB 696:

1. Identical to SA 1 to SA 2 to SB 469.

2. Identical to SA 2 to SA 2 to SB 469.

3. Identical to SA 1 to SA 2 to SB 469, plus a provision amending 66.0420 (7) (em) to allow municipalities to impose on video service providers and incumbent cable operators fees actually imposed under prior franchise agreements to provide monetary support for access facilities for PEG channels, without the 1/1/11 sunset. One way to approach it might be something like this:

66.0420 (7) (em) 2. ~~The duty of~~ A municipality may require an interim cable operator to provide monetary support for access facilities for PEG channels ~~contained in~~ that is not more than the amount of such support that is required under a cable franchise existing on January 9, 2008, ~~shall continue until January 1, 2011.~~

Something similar would be needed for subds. 1 & 3, also, I presume.

Thank you --

David

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David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa18774  
MDK:nwn:ph

Banned  
4-14  
PM

O-NOTE

02/78/1

RM NOT  
RUN

SENATE AMENDMENT 2,  
TO SENATE AMENDMENT 2,  
TO 2009 SENATE BILL 469

AA to AA3 to AB696

March 22, 2010 - Offered by Senator ERPENBACH.

- 1 At the locations indicated, amend the amendment as follows:
- 2 **1.** Page 1, line 1: after that line insert:
- 3 "1g. Page 2, line 8: after "utilities" insert "and wireless telecommunications
- 4 providers".
- 5 **2.** Page 1, line 2: delete "1" and substitute "1r".
- 6 **3.** Page 1, line 7: after that line insert:
- 7 "4m. Page 8, line 11: after that line insert:
- 8 "SECTION 5L. 196.01 (5) (b) 4. of the statutes is repealed.".
- 9 **4.** Page 6, line 4: after that line insert:
- 10 "9n. Page 18, line 15: after that line insert:
- 11 "SECTION 32d. 196.202 (1) of the statutes is created to read:

1           196.202 (1) DEFINITION. In this section, “consumer” means any person that uses  
2 the services, products, or facilities provided by a commercial mobile radio service  
3 provider.

4           **SECTION 32f.** 196.202 (2) of the statutes, as affected by 2009 Wisconsin Act 28,  
5 is amended to read:

6           196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service provider  
7 is not subject to ch. 201 or this chapter, except as provided in ~~sub. (5) this section~~, and  
8 except that a commercial mobile radio service provider is subject to ss. 196.025 (6),  
9 196.03, 196.218 (3), 196.26, 196.28, 196.37, and 196.859, and shall respond, subject  
10 to the protection of the commercial mobile radio service provider’s competitive  
11 information, to all reasonable requests for information about its operations in this  
12 state from the commission necessary to administer ss. 196.025 (6), 196.218 (3), and  
13 196.859 and to enforce ss. 196.03, 196.26, 196.28, and 196.37.

14           **SECTION 32h.** 196.202 (3) of the statutes is created to read:

15           196.202 (3) CONSUMER PROTECTION. (a) Notwithstanding any exemptions  
16 identified in this chapter, a commercial mobile radio service provider shall provide  
17 protection to its consumers under this section unless exempted in whole or in part  
18 by rule or order of the commission under this section. The commission shall  
19 promulgate rules that identify the conditions under which provisions of this section  
20 may be suspended.

21           (b) On petition, the commission may grant an exemption from a requirement  
22 under this section upon a showing that the exemption is reasonable and not in  
23 conflict with the factors under s. 196.03 (6).

24           (c) On petition, the commission may grant an exemption from a requirement  
25 under this section retroactively if the application of the requirement would be unjust

1 and unreasonable considering the factors under s. 196.03 (6) or other relevant  
2 factors.

3 (d) If the commission grants an exemption under this subsection, it may require  
4 the provider to comply with any condition necessary to protect the public interest.

5 **SECTION 32j.** 196.202 (4) of the statutes is created to read:

6 196.202 (4) PROHIBITED PRACTICES: SERVICES. A commercial mobile radio service  
7 provider may not do any of the following:

8 (a) Refuse to interconnect within a reasonable time with another person to the  
9 same extent that the federal communications commission requires the commercial  
10 mobile radio service provider to interconnect. The public service commission may  
11 require additional interconnection based on a determination, following notice and  
12 opportunity for hearing, that additional interconnection is in the public interest and  
13 is consistent with the factors under s. 196.03 (6).

14 (c) Impair the speed, quality or efficiency of services, products, or facilities  
15 offered to a consumer under a contract or price list.

16 (d) Unreasonably refuse, restrict, or delay access by any person to a  
17 telecommunications emergency service.

18 (e) Fail to provide a service, product, or facility to a consumer in accord with  
19 the commercial mobile radio service provider's applicable price lists or contracts and  
20 with the commission's rules and orders.

21 (h) To the extent prohibited by the federal communications commission, or by  
22 the public service commission under rules promulgated consistent with the factors  
23 under s. 196.03 (6), give preference or discriminate in the provision of services,  
24 products, or facilities to an affiliate, or to the commercial mobile radio service  
25 provider's own or an affiliate's retail department that sells to consumers.

1 (L) Fail to provide, or to terminate, any telecommunications service as  
2 necessary to comply with the minimum standards of service established by the  
3 commission with respect to technical service quality, deposits, disconnection, billing,  
4 and collection of amounts owed for services provided or to be provided.

5 (m) Provide telecommunications service to any person acting as a  
6 telecommunications utility, telecommunications provider, alternative  
7 telecommunications utility, or telecommunications carrier, if the commission has  
8 ordered the commercial mobile radio service provider to discontinue service to that  
9 person.

10 (n) Provide telecommunications service in violation of s. 100.207.

11 (o) Refuse to transfer or facilitate the transfer of the commercial mobile radio  
12 service provider's local exchange service customers to another telecommunications  
13 provider on the same terms and conditions as the telecommunications utility or  
14 telecommunications provider receives from any other telecommunications provider,  
15 unless such terms and conditions violate federal law.

16 (q) 1. Except as provided in subds. 2. and 3., impose a late payment charge on  
17 a retail consumer at a rate that exceeds \$1.50 upon \$100 for each month computed  
18 upon the declining principal balance of any amount that is not paid when due.

19 2. The commission may allow a commercial mobile radio service provider to  
20 impose a late payment charge at a rate that is greater than that allowed under subd.  
21 1. if the commission determines that the greater amount is consistent with the  
22 factors specified in s. 196.03 (6).

23 3. The commission does not have jurisdiction over late payment charges by a  
24 commercial mobile radio service provider except as may be necessary to enforce the  
25 requirements of this subsection and except as permitted under federal law.

1           **SECTION 32L.** 196.202 (5) (title) of the statutes is repealed.

2           **SECTION 32n.** 196.202 (5) of the statutes is renumbered 196.202 (4) (p) and  
3 amended to read:

4           196.202 **(4)** (p) ~~A commercial mobile radio service provider may not charge~~  
5 Charge a customer for an incomplete call.

6           **SECTION 32p.** 196.202 (6) of the statutes is created to read:

7           196.202 **(6)** ENFORCEMENT. (a) On the commission's own motion or upon  
8 complaint filed by the consumer, the commission shall have jurisdiction to take  
9 administrative action or to commence civil actions against commercial mobile radio  
10 service providers to enforce this section.

11           (b) The commission may, at its discretion, institute in any court of competent  
12 jurisdiction a proceeding against a commercial mobile radio service provider for  
13 injunctive relief to compel compliance with this section, to compel the accounting and  
14 refund of any moneys collected in violation of this section or for any other relief  
15 permitted under this chapter.

16           **SECTION 32r.** 196.202 (7) of the statutes is created to read:

17           196.202 **(7)** UNFAIR TRADE PRACTICE ENFORCEMENT. Upon receipt of a notice  
18 issued under s. 100.208, the commission may order a commercial mobile radio service  
19 provider to cease offering the telecommunications service that creates the unfair  
20 trade practice or method of competition.

21           **SECTION 32t.** 196.202 (8) of the statutes is created to read:

22           196.202 **(8)** CIVIL ACTIONS. (a) Upon a finding of a violation of this section by  
23 the commission, any person injured because of a violation of this section by a  
24 commercial mobile radio service provider may commence a civil action to recover  
25 damages or to obtain injunctive relief.



1 (b) Upon request of the commission, the attorney general may bring an action  
2 to require a commercial mobile radio service provider to compensate any person for  
3 any pecuniary loss caused by the failure of the provider to comply with this section.

4 **SECTION 32v.** 196.202 (9) of the statutes is created to read:

5 196.202 (9) ALTERNATE DISPUTE RESOLUTION. The commission shall establish by  
6 rule a procedure for alternative dispute resolution to be available for complaints filed  
7 against a commercial mobile radio service provider.”.”.

8 (END)

D-note

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa2178/1dn

MDK:l:....

nwn

Date

Rep. Hebl:

This amendment is a companion to SA2 to SA2 to SB-469<sup>✓</sup>.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.wisconsin.gov](mailto:mark.kunkel@legis.wisconsin.gov)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa2178/1dn  
MDK:nwn:ph

April 14, 2010

Rep. Hebl:

This amendment is a companion to SA2 to SA2 to SB-469.

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