



2009 SENATE BILL 13

January 26, 2009 – Introduced by Senators LASSA and VINEHOUT, cosponsored by Representatives ROYS, BERCEAU, CULLEN, GRIGSBY, HEBL, NASS, A. OTT, RIPP, SCHNEIDER, SINICKI, SMITH, SOLETSKI, SPANBAUER, TOLES, VAN AKKEREN, A. WILLIAMS and HINTZ. Referred to Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection.

1 **AN ACT** *to create* 100.58 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 90 days after the service 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.

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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.** 100.58 of the statutes is created to read:

2 **100.58 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 90 days after the commercial mobile
13 radio service provider learns, or reasonably should be aware, of the overcharge.

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

17 **(3)** For purposes of sub. (2) (a), if a customer reports an overcharge to a
18 commercial mobile radio service provider, it is presumed that the commercial mobile
19 radio service provider should reasonably be aware of similar overcharges to the
20 customer or to other customers of the commercial mobile radio service provider.

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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)