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WEST VIRGINIA LEGISLATURE
STATE HOUSE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999

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COMMITTEE SUBSTITUTE
FOR
House Bill No. 2924

(By Delegates Capito, Rowe, Hutchins,
Mahan, Smirl and Webb)

Passed March 12, 1999

In Effect Ninety Days from Passage

HB 2924

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FOR

H. B. 2924

(BY DELEGATES CAPITO, ROWE, HUTCHINS,
MAHAN, SMIRL AND WEBB)

[Passed March 12, 1999; in effect ninety days from passage.]

AN ACT to amend chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-e, relating to regulating transfers of intrastate phone service; limiting transfer of phone services by telephone public utilities; establishing disclosure requirements for telephone public utilities for transfer of phone services; providing for third party conformation of transfers; establishing criteria for third party verification companies and conformation procedures for service transfers; prohibiting disclosure of subscriber information for marketing purposes; creating civil remedy for prohibited release; excepting certain transactions from this section; providing liability to prior phone service provider and subscribers for unauthorized charges; providing that this section does not limit any other remedies; providing conformity with federal requirements; and providing that public service commission has certain rulemaking and enforcement authority.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-e, to read as follows:

ARTICLE 2E. REQUIREMENTS FOR PHONE SERVICE SALES.

§24-2E-1. Transfer of phone service providers.

1 (a) No telephone public utility may submit a change on
2 behalf of a subscriber in the subscriber's selection of a provider
3 of telephone service, except in accordance with the require-
4 ments of this section and the rules adopted by the public service
5 commission.

6 (1) The telephone public utility, its representatives or
7 agents shall thoroughly inform the subscriber of the nature and
8 extent of the service being offered.

9 (2) The telephone public utility, its representatives or
10 agents shall specifically establish whether the subscriber
11 intends to make any change in his or her telephone service
12 provider, and explain any charges associated with that change.
13 The public service commission may by rule establish additional
14 requirements for disclosure of services or fees and any addi-
15 tional appropriate requirements relating to disclosure or
16 cancellation of services, as the commission deems appropriate.

17 (3) Except as provided in subsection (b), the subscriber's
18 decision to change his or her telephone service provider may be
19 confirmed by an independent third-party verification company.
20 For purposes of this provision, the confirmation by a third-party
21 verification company shall be made as follows:

22 (A) The third-party verification company shall meet each
23 of the following criteria:

24 (i) Not be directly or indirectly managed, controlled, or
25 directed, or owned, wholly or in part, by the telephone public
26 utility or its marketing agent;

27 (ii) Operate from facilities physically separate from those
28 of the telephone public utility that seeks to provide the sub-
29 scriber's new service; and

30 (iii) Not derive commissions or compensation based upon
31 the number of sales confirmed.

32 (B) The telephone public utility seeking to verify the sale
33 shall do so by connecting the subscriber by telephone to the
34 third-party verification company or by arranging for the
35 third-party verification company to call the subscriber to
36 confirm the sale.

37 (b) As an alternative to third party verification, the tele-
38 phone public utility may authenticate the transaction by one of
39 the following methods:

40 (i) Verifying the subscriber's change in his or her telephone
41 service provider by obtaining the subscriber's signature on a
42 document fully explaining the nature and extent of the action.
43 The document shall be a separate document whose sole purpose
44 is to explain the nature and extent of the action; or

45 (ii) Obtaining the subscriber's authorization through an
46 electronic means that takes the information, including the
47 calling number, and confirms the change to which the sub-
48 scriber has given his or her consent; or

49 (iii) Obtaining the subscriber's oral confirmation regarding
50 the change, and shall record that confirmation by obtaining
51 appropriate verification data.

52 The verification record shall be available to the subscriber
53 upon request. Information obtained from the subscriber through
54 confirmation shall not be used for marketing purposes. Any
55 unauthorized release of this information is grounds for a civil
56 suit by the aggrieved subscriber against the person or persons
57 responsible for the violation.

58 (4) Where the telephone public utility obtains a written
59 order for service, the document shall thoroughly inform the
60 subscriber of the nature and extent of the action in accordance
61 with this section and the rules adopted by the public service
62 commission.

63 (5) The telephone public utility shall retain a record of the
64 verification of the sale for at least two years. These records

65 shall be made available to the subscriber, the Attorney General,
66 or the commission upon request.

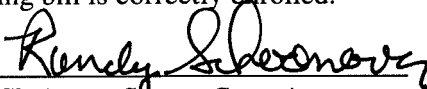
67 (c) Any telephone public utility that violates the provisions
68 of this section shall be liable to the telephone public utility
69 previously selected by the subscriber. The violating telephone
70 public utility shall refund to the properly authorized telephone
71 public utility all charges collected by the violating telephone
72 public utility. The properly authorized telephone public utility
73 shall then refund any overcharges due the subscriber. The
74 public service commission shall adopt regulations to govern
75 credits to subscribers pursuant to subsection (f) of this section.

76 (d) The remedies provided by this section are in addition to
77 any other remedies available by law. Violations of this section
78 shall be subject to orders and other actions consistent with the
79 public service commission's authority as provided in this
80 chapter. This section is intended to supplement and be in
81 addition to federal laws and regulations regulating phone
82 transactions.

83 (e) Nothing in this section shall be construed to impose any
84 obligation or liability on a local exchange telephone public
85 utility that executes, in good faith, an order for a change in a
86 subscriber's telephone service provider submitted to it by the
87 subscriber or by another telephone public utility.

88 (f) The public service commission shall promulgate rules
89 consistent with and necessary to effectuate the purposes of this
90 section.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



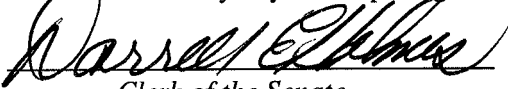
Chairman Senate Committee



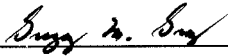
Chairman House Committee

Originating in the House.

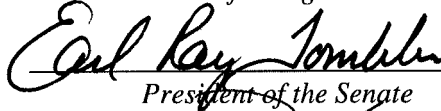
Takes effect ninety days from passage.




Clerk of the Senate



Clerk of the House of Delegates

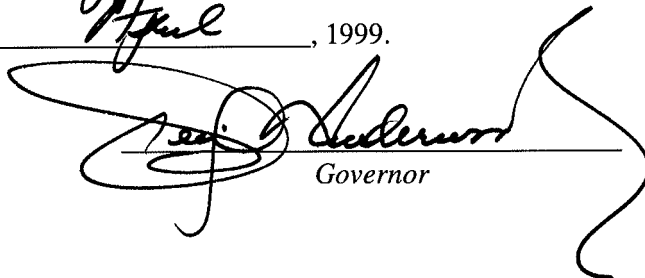


President of the Senate



Speaker of the House of Delegates

The within approved this the 8th
day of April, 1999.



Governor

PRESENTED TO THE

GOVERNOR

Date 4/6/99

Time 2:40 pm