

By Senator Baker

20-03678-08

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1 A bill to be entitled

2 An act relating to prepaid telephone calling cards and
3 services; providing definitions; requiring each prepaid
4 calling service provider and prepaid calling card
5 distributor to disclose certain information on the
6 prepaid telephone calling cards or the calling card
7 packaging and in any advertising for the service or
8 cards, including any Internet website used to promote or
9 distribute the service or calling cards; requiring that
10 all minutes or rates, or both, promoted, or advertised
11 on the body of any prepaid calling card relating to
12 that card, or otherwise relating to any prepaid calling
13 service, must be available and achievable by the
14 customer; prohibiting a provider from charging any
15 fees, taxes, surcharges, or other amounts for use of
16 the card except those specifically authorized by law;
17 requiring, in circumstances when a language other than
18 English is predominantly used on a prepaid calling
19 card, its packaging, or in point-of-sale advertising or
20 promotion for the prepaid calling card or prepaid
21 calling service, that the mandated disclosures appear
22 in that language on that card, packaging,
23 advertisement, or promotion; requiring that a company's
24 24-hour customer service telephone number enable the
25 customer to obtain, at no charge, all applicable
26 information regarding the rates, any permitted fees,
27 charges, and minutes available on the card; requiring
28 each provider and distributor to conspicuously display
29 the applicable access numbers for the use of the card

20-03678-08

20082256__

30 on the body of the card itself or on its packaging;
31 prohibiting a company from imposing a fee or surcharge
32 that is not disclosed as required by this section or
33 that exceeds the amount disclosed by the company;
34 prohibiting a prepaid calling card retailer from
35 selling or offering for sale any prepaid calling card
36 that the retailer knows provides fewer minutes than the
37 number of minutes promoted or advertised for that card,
38 including the number of minutes listed on the card;
39 providing that a violation of the act is a deceptive
40 and unfair trade practice and constitutes a violation
41 of the Florida Deceptive and Unfair Trade Practices Act
42 under part II of ch. 501, F.S., and is subject to the
43 penalties and remedies provided for such violation;
44 requiring the Public Service Commission to prepare a
45 report for the Governor and Legislature; requiring the
46 commission to adopt rules; providing applicability;
47 providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Prepaid calling cards; disclosing information;
52 penalties.--

53 (1) As used in this section, the term:

54 (a) "Advertisement" means the attempt, directly or
55 indirectly, by publication, dissemination, solicitation,
56 endorsement, or circulation or in any other way, to induce,
57 directly or indirectly, any person to purchase any prepaid
58 calling card or service, appearing in any newspaper, magazine,

20-03678-08

20082256__

59 periodical, circular, in-store or out-of-store sign, or other
60 written matter placed before the consuming public, in any radio
61 broadcast, television broadcast, or electronic medium, or
62 delivered to or through any computer.

63 (b) "Commission" means the Public Service Commission.

64 (c) "Company" means any entity, corporation, company,
65 association, firm, partnership, or other business entity or
66 individual engaged in the business of a prepaid calling service
67 provider or prepaid calling card distributor in this state.

68 (d) "Government fee" means all fees, taxes, and charges
69 assessed under state or federal law, rule, or other mandate or
70 requirement, including universal service fees and charges.

71 (e) "Payphone surcharge" means the surcharge that a
72 provider may charge a customer when that customer places a call
73 with a card from a payphone using a toll-free access number. The
74 payphone surcharge is deducted from the card's balance.

75 (f) "Permitted fee" means the fees and surcharges that a
76 provider may charge to, or deduct from, a card's balance for the
77 use of that card, in addition to the rate per minute to the
78 particular destination called, which includes and is limited to,
79 any payphone surcharge, recharge convenience fee, directory
80 assistance fee, and government fee.

81 (g) "Prepaid calling card" or "card" means any right of use
82 purchased for a sum certain which provides an access number and
83 authorization code that enables a consumer to use a prepaid
84 calling service. Such rights of use may be embodied on a card or
85 other physical object or may be purchased by an electronic or
86 telephonic means through which the purchaser obtains access
87 numbers and authorization codes that are not physically located

20-03678-08

20082256__

88 on a card or other object. A prepaid calling card does not
89 include cards or other rights of use that provide access to:

90 1. Telecommunications service if the card or other rights
91 of use and telecommunications service are provided:

92 a. For free or at no additional charge as a promotional
93 item accompanying a product or service purchased by a customer;
94 or

95 b. Pursuant to an awards, loyalty, rebate, or promotional
96 program without any separate monetary consideration being given
97 by the customer solely in exchange therefor; or

98 2. A wireless telecommunications service account if the
99 purchaser has a preexisting relationship with the wireless
100 service provider or establishes a carrier-customer relationship
101 via the purchase of the object.

102 (h) "Prepaid calling card distributor" or "distributor"
103 means:

104 1. A company that purchases or receives prepaid calling
105 cards from a prepaid calling service provider or distributor and
106 sells or distributes those cards to one or more distributors of
107 prepaid calling cards or to one or more prepaid calling card
108 retailers; or

109 2. A company that otherwise actively engages in the
110 promotion, advertising, or dissemination of prepaid calling cards
111 and that is not a provider. A prepaid calling card distributor
112 does not include any prepaid calling card retailer engaged
113 exclusively in point-of-sale transactions with customers.

114 (i) "Prepaid calling card retailer" means a company that
115 sells or offers to sell prepaid calling cards directly to a
116 customer.

20-03678-08

20082256__

117 (j) "Prepaid calling service" or "service" means a prepaid
118 telecommunications service that allows a customer to originate
119 calls through a local, long-distance or toll-free access number
120 and authorization code, whether manually or electronically
121 dialed. A prepaid calling service does not include any service
122 that provides access to a wireless telecommunications service
123 account in which the purchaser has a preexisting relationship
124 with the wireless service provider or establishes a carrier-
125 customer relationship via the purchase of the object.

126 (k) "Prepaid calling service provider" or "provider" means
127 any company providing prepaid calling service to the public using
128 its own network, a resold telecommunications network, or voice-
129 over-Internet technology.

130 (l) "Toll-free number" means an "800" telephone number, or
131 other telephone number widely understood to be toll-free, which,
132 when called as the destination number or as an access number,
133 does not result in the calling party being assessed, by virtue of
134 completing the call, any fee, charge, or higher rate for the call
135 unless the fee, charge, or higher rate is disclosed pursuant to
136 paragraph (2) (a).

137 (2) (a) Each prepaid calling service provider and prepaid
138 calling card distributor must disclose the following information
139 on the cards or their packaging and in any advertising for the
140 service or cards, including any Internet website used to promote
141 or distribute the service or prepaid calling cards:

- 142 1. The name of the prepaid calling service provider;
- 143 2. The provider's 24-hour customer service telephone
144 number;

20-03678-08

20082256__

145 3. The amount and frequency of any permitted fee that may
146 apply to the use of the prepaid calling card or service for calls
147 originating within the United States;

148 4. Notice that additional or different per-minute rates,
149 charges, or fees may apply to use of the card or the service for
150 calls to or from international telephone numbers, international
151 cellular numbers, and international wireless telephone numbers;

152 5. Notice that per-minute rates may be higher for calls
153 made via toll-free numbers;

154 6. The value of the prepaid calling card or service, in
155 dollars or minutes;

156 7. Any applicable policies relating to refund, recharge,
157 and expiration; and

158 8. Such additional information as the commission may
159 require by rule, including, but not limited to, information
160 concerning the notice and disclosure of any rates, charges, or
161 fees for the use of the card or the service for calls.

162 (b) Prepaid calling service providers and prepaid calling
163 card distributors must make available through the customer
164 service number, a website, or other electronic medium, or
165 packaging, if any, or in a clear and conspicuous poster or other
166 writing in plain language at the point of sale, such information
167 as the commission may adopt by rule.

168 (c) All minutes or rates, or both, promoted or advertised
169 on the body of any prepaid calling card or on any point-of-sale
170 material relating to that card or otherwise relating to any
171 prepaid calling service, must be available and achievable by the
172 customer, and there must not be any limitations on the period of
173 time for which the promoted or advertised minutes or rates, or

20-03678-08

20082256__

174 both, will be available to the customer unless those limitations
175 are clearly and conspicuously disclosed in the same location on
176 the card, advertising, or point-of-sale material where the
177 minutes or rates, or both, are promoted or advertised. All
178 minutes promoted, advertised, or disclosed on any voice prompt
179 given to a customer at the time the customer places a call with
180 the card, whether or not required by rules to be given to the
181 customer, must be immediately available and achievable by the
182 customer on that call. The customer may not be charged for any
183 busy signal or unanswered call.

184 (d) A provider may not charge, apply, or deduct from a
185 card's balance any fees, taxes, surcharges, or other amounts for
186 use of the card, except for the rate per minute for the
187 particular destination called; any permitted fees; and any rate
188 per minute, fee, or charge authorized pursuant to subparagraphs
189 (a)4. and (a)5.

190 (e) If a language other than English is predominantly used
191 on a prepaid calling card, on its packaging, or in point-of-sale
192 advertising or promotion for the prepaid calling card or prepaid
193 calling service, the disclosures required by this subsection must
194 be disclosed in that language on that card, packaging,
195 advertisement, or promotion.

196 (f) In the case of a prepaid calling service provider, the
197 company's 24-hour customer service telephone number must enable
198 the customer to obtain, at no charge, all applicable information
199 regarding the rates, any permitted fees, charges, and minutes
200 available and remaining on the prepaid calling card for use in a
201 single, uninterrupted call to a single, requested destination
202 through the card and prepaid calling service. Customer service

20-03678-08

20082256__

203 may be provided by a combination of a live operator, interactive
204 voice response, and electronic voice recording of customer
205 inquiries and complaints, but live operator service must be
206 available 24 hours a day, 7 days a week. If an electronic voice
207 recorder is used, the provider shall attempt to contact the
208 customer no later than the next day following the date of the
209 recording.

210 (g) Each provider and distributor must conspicuously
211 display the applicable access numbers for the use of the card on
212 the body of the card itself or on its packaging.

213 (h) A company may not impose any fee or surcharge that is
214 not disclosed as required by this section or that exceeds the
215 amount disclosed by the company.

216 (3) A prepaid calling card retailer may not sell or offer
217 for sale any prepaid calling card that the retailer knows
218 provides fewer minutes than the number of minutes promoted or
219 advertised for that card, including the number of minutes listed
220 on the card, any advertising or point-of-sale material related to
221 the card, or any voice prompt indicating the number of minutes
222 available for a call with the card.

223 (4) A violation of this section is a deceptive and unfair
224 trade practice and constitutes a violation of the Florida
225 Deceptive and Unfair Trade Practices Act under part II of chapter
226 501 and is subject to the penalties and remedies provided for
227 such violation.

228 (5) By January 1, 2010, the commission shall issue a report
229 to the Governor and the Legislature concerning the effect of the
230 requirements of this section and any recommendations for
231 additional legislation regulating the industry.

20-03678-08

20082256__

232 (6) The commission shall adopt any rule necessary to
233 administer this section.

234 (7) This section does not apply to prepaid calling cards
235 and point-of-sale materials related to those prepaid calling
236 cards printed before July 1, 2008. The section applies to any
237 prepaid calling card printed on or after July 1, 2008, and to any
238 advertisement, promotion, point-of-sale material, or voice prompt
239 that is created, aired, printed, distributed, or otherwise
240 disseminated on or after that date.

241 Section 2. This section shall take effect July 1, 2008.