



Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

PROHIBIT SWITCHING TELEPHONE SERVICE PROVIDERS WITHOUT CUSTOMER CONSENT

**House Bill 5280 (Substitute H-2)
First Analysis (12-3-97)**

**Sponsor: Rep. Agnes Dobronski
Committee: Public Utilities**

THE APPARENT PROBLEM:

Since the deregulation of the telecommunications industry, the competition for phone customers is intense, and sometimes illegal. For example, there have been reports of long distance carrier switching, unauthorized by the customer. Unauthorized switching of telephone services without permission, known as "slamming" in the telecommunications industry, seems to be occurring at a higher rate in Michigan than in most other states, according to a recent survey by the National Consumers League. That survey ranked Michigan eighth in unlawful carrier switching. Between January and June 1997, Ameritech reported 12,500 complaints, and in September 1997 alone, 5,126 complaints (as reported in the Detroit Free Press, 10-21-97).

The National Consumers League (a Washington-based group hired by Ameritech), recently conducted a survey of residents in Detroit, Grand Rapids, Chicago, and Milwaukee, because those cities are reportedly among the hardest hit in the nation. According to the survey, slammers target people with higher incomes, and large phone bills. They sometimes trick customers into authorizing a switch in service by getting them to sign their name on contest entries. Other times they send a promotional mailing with a card enclosed that must be returned in order to stop a switch in service.

The unauthorized switching of telephone services without permission from the customer is a federal offense, but Michigan law does not outlaw the practice, and thus there is no authority for the Public Service Commission to enforce penalties against companies that engage in it. Without state regulatory authority, renegade companies are free to continue their unlawful practices, and consumers are often unaware of their right (under federal law) to request further information about alternative companies, and the responsibility those companies have to disclose detailed information about their services.

Currently, the Public Service Commission (PSC) records customers' complaints, and tries to get credits

for people who have been slammed, since the commission cannot

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fine slammers. Sometimes the PSC forwards the complaints to the Federal Communications Commission, which does have the jurisdiction to fine. Some argue that "slamming" would decline if the PSC had the authority to penalize companies guilty of unauthorized switching practices, and that such regulatory authority would help to educate consumers about their rights under the law.

THE CONTENT OF THE BILL:

House Bill 5280 would recreate a new act, to be known as the Michigan Slamming Prohibition Act. The bill would provide that a customer of a telecommunications provider could not be switched to another provider without the authorization of the customer. Authorization to switch carriers could be given in writing, or through an independent third party. A customer who had been switched, or a provider who had been removed, or the Public Service Commission itself, could file a complaint concerning any unauthorized switching practice with the commission.

Under the bill, penalties for failure to comply with the act would include up to a \$50,000 fine for each violation; a refund to the customer of any collected excessive rates; a revocation of license for a pattern of violations; and/or, a cease and desist order.

House Bill 5280 also would require that all rules promulgated under this act comply with the regulations established by the Federal Communications Commission concerning appropriate verification procedures for switching.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, while the bill would charge the PSC with certain new responsibilities, these are expected to be carried out with existing resources, and no additional resources are likely to be appropriated to the commission for purposes of this bill.

The bill would therefore have no fiscal impact on state or local government. (12-2-97)

ARGUMENTS:

For:

Competition among long-distance telephone service companies is out of control when customers discover their carrier has been switched without their authorization. According to articles in the Detroit Free Press earlier this year, one company that aggressively promotes switching, Long Distance Services, Inc. (LDSI), is located in Michigan (Troy), and it re-sells long-distance service across the country. In May 1997, the Alabama Public Service Commission asked the state's attorney general to prosecute LDSI for allegedly defrauding customers and conducting misleading and deceptive marketing campaigns. Alabama had logged 889 complaints against LDSI since the company began reselling long-distance service in January 1995. New York suspended LDSI's license to operate, and Georgia, which received more than 500 complaints in 12 months, recently held hearings on the company's tactics. The Michigan Public Service Commission also has received many complaints. Though this practice is illegal under federal law, the PSC has no authority to penalize violators as Michigan statute does not criminalize the practice. This legislation to prevent unauthorized switching, or "slamming," is necessary in order to give Michigan regulators the authority to penalize violators.

Against:

The penalty provision of the bill as it was reported from the Public Utilities Committee provides for a penalty that does not conform with the range of penalties for first and repeat violators that is contained in the Michigan Telecommunications Act. The penalties section of House Bill 5280 should conform with that act.

POSITIONS:

Ameritech supports the bill, if it ensures authorized carrier switching, consistent with Federal Communications Commission verification requirements. (12-3-97)

The Telecommunications Association of Michigan supports the bill, if it ensures authorized carrier switching, consistent with the Federal Communications Commission verification requirements. (12-3-97)

MCI supports the bill with an amendment to align the penalties with the telecommunications act. (12-2-97)

Sprint opposes the bill. (12-3-97)

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.