



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

## PROHIBIT SWITCHING TELEPHONE SERVICE PROVIDERS WITHOUT CUSTOMER CONSENT

**House Bill 5280 as passed by the House  
Second Analysis (1-12-98)**

**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

House Bill 5280 (1-12-98)

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 create 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.

Penalties for failure to comply with the provisions of the bill would vary for first, and second or subsequent offenses: A fine of not less than \$1,000 or more than \$20,000 per day for the first offense; a fine of not less than \$2,000 or more than \$40,000 per day for the second and any subsequent offense. In addition, penalties also could include 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 the bill comply with the regulations established by the Federal Communications Commission concerning appropriate verification procedures for switching.

### ***FISCAL IMPLICATIONS:***

The House Fiscal Agency notes that any fines imposed by the commission as a result of the bill would increase state revenues; however, the bill does not earmark these revenues for any specific purpose. The bill also charges the PSC with new rule-making responsibilities that may increase costs slightly. However, these duties are expected to be carried out with existing resources. Thus, no additional resources are likely to be appropriated to the commission for purposes of the bill. (1-12-98)

### ***ARGUMENTS:***

#### ***For:***

Certain kinds of competitive practices are unacceptable. For example, competition among long distance telephone service companies is out of control when customers find their carriers have 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:***

Although the financial penalties in the bill were reduced via a House floor amendment (the penalty adopted by the Public Utilities Committee having been \$50,000 for every violation), the financial penalties remain excessive. Occasionally carriers make mistakes in their effort to win new customers from their competitors. Financial penalties need not be assessed for most of these mistakes. Instead, carriers can use third-party verification (which allows the carrier who the customer is leaving to hire an independent contractor who calls the departing customer to "verify" their imminent departure). More extensive use of third-party verification would detect (and thwart) the most egregious competitive practices, and it would not be necessary to impose financial penalties on the carrier.

**Response:**

Third-party verification is a form of peer-regulation. Peer-regulation may prevent unethical behavior among carriers, but it does not *punish* such behavior. Eliminating the recruitment practices of aggressively competitive telecommunication carriers will not be accomplished through self- or peer-regulation. Egregious marketing practices are illegal and unethical; they harass customers, and they are unwanted. One way to punish such behavior is to assess a stiff fine.

**POSITIONS:**

Ameritech supports the bill, since it ensures authorized carrier switching, consistent with Federal Communications Commission verification requirements. (1-7-98)

The Telecommunications Association of Michigan supports the bill, since it ensures authorized carrier switching, consistent with the Federal Communications Commission verification requirements. (1-7-98)

MCI supports the bill with additional modifications to the financial penalty provision. (1-8-98)

Sprint opposes the bill. (1-7-98)

AT&T supports the bill with changes to the penalties section. (1-12-98)

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.