

SENATE BILL NO. 266

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Introduced: 4/26/91

Referred: L&C, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to regulation of the process for change in a telephone customer's
2 selection of an interexchange carrier; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1. SHORT TITLE.** This Act may be known as the Interexchange Consumer Protection Act
5 of 1991.

6 * **Sec. 2. FINDINGS.** The legislature finds that

7 (1) competition in the provision of interexchange long distance telecommunications
8 services within the state promotes the interests of consumers;

9 (2) the legislature has enacted laws governing competition in the state;

10 (3) the advent of competition in long distance interexchange services in other areas of
11 the United States has been accompanied by apparently fraudulent and deceptive sales and marketing
12 practices, resulting in manifold incidents of change in the identity of the interexchange carrier serving
13 a customer without the informed knowledge and consent of the customer;

14 (4) evidence exists that these fraudulent and deceptive practices have been occurring and

1 are likely to occur in the future with the initiation of intrastate interexchange competition within the
2 state;

3 (5) these fraudulent and deceptive practices frustrate and defeat the purposes of
4 competition and deny to telecommunications customers the benefits inherent in competitive long distance
5 interexchange service; and

6 (6) the legislature must act to secure protection of telephone consumer interests and to
7 promote fair and effective long distance interexchange competition in the state.

8 * Sec. 3. AS 42.05 is amended by adding a new section to read:

9 Sec. 42.05.870. CHANGES IN CUSTOMER CARRIER SELECTIONS. (a) A long
10 distance carrier may not submit a change order to a local exchange carrier, and a local exchange
11 carrier may not accept or give effect to a change order except in accordance with this section.

12 (b) A long distance carrier may not solicit, directly or indirectly, a change order until the
13 carrier has first complied with AS 42.05.810 and has received approval from the commission
14 under AS 42.05.810(b).

15 (c) A long distance carrier that solicits a change order shall

16 (1) identify the individual and the long distance carrier making the solicitation or
17 on whose behalf the solicitation is being made;

18 (2) state that the purpose of the solicitation is to obtain a change of the customer's
19 long distance carrier;

20 (3) state that the customer's long distance carrier may not be changed until the
21 change is separately confirmed;

22 (4) describe the source and amount of any charge that may be imposed for
23 processing the long distance carrier change;

24 (5) identify and describe the confirmation process that the carrier will use under
25 (d) and (f) of this section to obtain confirmation that the customer has authorized the long
26 distance carrier change; and

27 (6) state that the customer may cancel the long distance carrier change order by
28 so stating at the time of confirmation of the change authorization.

29 (d) A long distance carrier may not submit a change order to a local exchange carrier,
30 and a local exchange carrier may not accept or give effect to a long distance carrier change order,
31 until the long distance carrier has obtained confirmation of the change order. A confirmation is

1 not valid unless

2 (1) the confirmation of the long distance carrier change is made in writing and
3 signed by the customer affected by and authorizing the change; or

4 (2) an independent third party obtains and records, under (e) of this section, oral
5 confirmation of the change order from the customer affected by and authorizing the change.

6 (e) If a long distance carrier elects to confirm a change order under (d)(2) of this section,

7 (1) the third party retained by the long distance carrier must be independent of
8 the long distance carrier and must be physically separate from the sales and marketing
9 representatives of the long distance carrier; and

10 (2) the relationship and services between the independent third party and the long
11 distance carrier must be reduced to written form, acknowledging the provisions of this section;
12 the agreement between the long distance carrier and the independent third party may not provide
13 for compensation based upon the percentage or number of change orders confirmed in favor of
14 the long distance carrier.

15 (f) If an independent third party acts under (d) of this section to confirm long distance
16 carrier change orders, the confirmation obtained by the third party is not valid unless

17 (1) contact with the customer whose change order is being confirmed occurs at
18 least 72 hours after the initial authorization of the change order by the customer;

19 (2) the third party identifies, to the customer,

20 (A) the agent or employee making the contact;

21 (B) the long distance carrier on whose behalf the contact is being made;

22 and

23 (C) that the purpose of the contact is to confirm the earlier change order
24 by the customer; and

25 (3) the third party verifies

26 (A) the customer's billing name, billing address, and the telephone number
27 or numbers to be covered by the long distance carrier change order;

28 (B) the costs associated with the change order, if any; and

29 (C) the authorization of the customer to change service to the long
30 distance carrier on whose behalf the contact is being made.

31 (g) A written and dated contemporaneous record of the matters required under (c), (d),

1 (e), and (f) of this section shall be made and the maker identified in the record. The long
2 distance carrier shall retain all records and data pertaining to change order activity subject to a
3 provision of this section for 18 months after submission of the change order to the local exchange
4 carrier. A copy of the confirmation required by (d) of this section shall be submitted to the local
5 exchange carrier at the time of submission of the underlying change order.

6 (h) The long distance carrier and the local exchange carrier shall make available for
7 inspection by the commission any record required to be made and maintained under this section.
8 The commission shall prescribe auditing procedures to ensure compliance with the disclosure and
9 confirmation processes of this section and adopt regulations to prevent the use of fraudulent or
10 misleading practices with respect to activities concerning solicitation and confirmation of long
11 distance carrier change orders.

12
13 change of long distance carrier. However, a customer-initiated change order must be confirmed
14 under (d) of this section.

15 (j) In this section,

16 (1) "change order" means an instruction to the local exchange carrier made by a
17 customer of that local exchange carrier to substitute one long distance carrier for another as the
18 provider of long distance services to the customer;

19 (2) "independent third party" or "third party" means a person

20 (A) retained by a long distance carrier to perform confirmation activities
21 as described in this section;

22 (B) that is not affiliated with or an affiliated interest of the long distance
23 carrier, and in which the long distance carrier has no direct or indirect ownership interest
24 or control;

25 (C) that does not perform sales, marketing, telemarketing, direct mail, or
26 other solicitation function for the long distance carrier; and

27 (D) that has provided the commission with written notice of its retention
28 on behalf of an identified long distance carrier or carriers and written acknowledgment
29 of its understanding of and compliance with the provisions of this section.

30 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).