

Reprinted

SENATE FILE 317
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 183)

Passed Senate, Date 4/4/91 (p. 1058) Passed House, Date 5/2/91 (P. 2023)
Vote: Ayes 49 Nays 0 Vote: Ayes 98 Nays 0
Approved May 14, 1991

A BILL FOR

1 An Act relating to the regulation of pay-per-call service and
2 advertisements and providing for the applicability of
3 established penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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317

3403 1 Section 1. NEW SECTION. 714A.1 PAY-PER-CALL SERVICE

3479 2 DEFINED.

3 1. "Pay-per-call service" means electronic communications
4 products and services which are provided to end users by
5 information or service providers, and which meet all of the
6 following requirements:

7 a. The end users send or receive information, services, or
8 communications whose general subject matter is determined or
9 influenced by the service provider.

10 b. The end users send or receive the information,
11 services, or communications via a telephone connection using
12 audio input which is not modulated or demodulated by the end
13 user.

14 c. The charge to the end user for the information,
15 services, or communications is determined by the information
16 or service provider and is made on a per-call or per-minute
17 basis.

18 2. a. Where the requirements under subsection 1 are met,
19 pay-per-call service includes, but is not limited to, the
20 following:

- 21 (1) Information retrieval from a remote database.
- 22 (2) Information collection for polling and data entry.
- 23 (3) Messaging capability permitting users to communicate
24 with each other.

25 (4) Conference services for simultaneous voice
26 conversations.

27 b. Pay-per-call service does not include electronic
28 communication for the purpose of conducting financial
29 transactions.

30 Sec. 2. NEW SECTION. 714A.2 DISCLOSURE OF CHARGES.

345931 A person shall not bill or collect for pay-per-call service
3479 32 unless the call contains an introductory disclosure message
33 that specifies clearly, and at the same audio volume of the
34 ensuing program, if the charge for the call is on a flat rate
35 basis, the total charge for the call, or if charged on a per-

1 minute basis, the charge per minute for the call, the charge
2 for each additional minute, and the average number of minutes
3 necessary to complete the call, and all other fees, and which
4 gives the caller the opportunity to terminate the call without
5 incurring a charge.

6 Sec. 3. NEW SECTION. 714A.3 ADVERTISEMENTS.

3279 7 Advertisements for pay-per-call service shall clearly state
8 if the charge for the service is on a flat rate basis, the
9 total charge for the call or, if charged on a per-minute
10 basis, the charge per minute for the call, the charge for each
11 additional minute, and the average number of minutes necessary
12 to complete a call. Additionally, the advertisement must
13 state the total of all payments necessary to receive products
14 or merchandise which are offered but not delivered in the
15 message itself. If the advertisement is oral, all cost
16 information must be disclosed clearly and at the same audio
17 volume of the ensuing program prior to providing the pay-per-
18 call number and each time the number is mentioned.

19 A person shall not bill or collect for a pay-per-call
20 service unless the advertisement for that service complies
21 with the requirements of this section.

3279 22 Sec. 4. NEW SECTION. 714A.4 ENFORCEMENT.

23 A violation of this chapter is an unfair or deceptive trade
24 practice and is subject to the provisions of section 714.16,
25 except that the remedies and penalties provided pursuant to
26 that section shall not be applied to a newspaper, magazine,
27 publication, directory, or other print media in which an
28 advertisement appears, or to a radio station, television
29 station, or other electronic media which disseminates the
30 advertisement where the particular advertisement is not
31 sponsored by the media, unless the media also performs the
32 billing or collecting for the pay-per-call service.

33 EXPLANATION

34 Section 1 defines the term "pay-per-call service".

35 Section 2 prohibits a person from billing or collecting for

1 pay-per-call charges unless the call contains a disclosure
2 message to callers that includes an explanation of the charges
3 for each call and which gives the caller the opportunity to
4 terminate the call without incurring a charge.

5 Section 3 regulates advertisements for pay-per-call
6 services. The advertisement must disclose the charge for the
7 call and the total of all payments necessary to receive any
8 products or merchandise which are offered but not delivered in
9 the message itself. If the advertisement is oral, all cost
10 information must be disclosed prior to providing the pay-per-
11 call number and each time the number is mentioned. A person
12 shall not bill for a pay-per-call service which does not
13 comply with the requirements of this bill.

14 Section 4 provides that the chapter is enforced under the
15 consumer fraud Act, Iowa Code § 714.16, subsection 2,
16 paragraph "a", except that the penalties provided are not to
17 be applied to print media or electronic media disseminating
18 the advertisement where the particular advertisement is not
19 sponsored by the media, unless the media also performs the
20 billing or collecting for the pay-per-call service.

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SENATE FILE 317

S-3279

1 Amend Senate File 317 as follows:

2 1. Page 1, by striking lines 1 through 29, and
3 inserting the following:

4 "Section 1. NEW SECTION. 714A.1 DEFINITIONS.

5 As used in this chapter:

6 1. "Advertisement" means advertisement as defined
7 in section 714.16, subsection 1, paragraph "a".

8 However, for purposes of this chapter, advertisement
9 does not include a listing in the business and
10 professional section of a telephone directory.

11 Advertisement also does not include a display
12 advertisement or a listing which is made to appear
13 more conspicuous than other listings in the subject
14 category section of a telephone directory, provided
15 that such display advertisement or listing includes a
16 conspicuous disclosure that the call is a pay-per-call
17 service and refers a reader in a clear and conspicuous
18 manner to a page number of the directory where the
19 reader may find an explanation of pay-per-call
20 services. Such explanation of pay-per-call services
21 shall include all of the following:

22 a. The disclosure and preamble requirements under
23 the law.

24 b. The availability and costs of blocking options,
25 if any.

26 c. Whether a consumer's phone service may be
27 terminated for failure to pay for pay-per-call
28 services.

29 d. The procedures for handling consumer inquiries
30 and complaints.

31 2. "Amount of time necessary to complete a call"
32 means for purposes of a fixed length call, the total
x 33 length of the call in minutes, and for purposes of a
34 variable length call, a reasonable, good faith
35 estimate in minutes of the likely length of the call.

36 3. "Merchandise" means merchandise as defined in
37 section 714.16, subsection 1, paragraph "b".

38 4. a. "Pay-per-call service" means electronic
39 communications products and services which are
40 provided to end users by information or service
41 providers, and which meet all of the following
42 requirements:

43 (1) The end users send or receive information,
44 services, or communications whose general subject
45 matter is determined or influenced by the service
46 provider.

47 (2) The end users send or receive the information,
48 services, or communications via a telephone connection
49 using audio input which is not modulated or
50 demodulated by the end user.

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Page 2

1 (3) The charge to the end user for the
2 information, services, or communications is determined
3 by the information or service provider and is made on
4 a per-call or per-minute basis.

5 b. (1) Where the requirements under paragraph "a"
6 are met, pay-per-call service includes, but is not
7 limited to, the following:

8 (a) Information retrieval from a remote database.

9 (b) Information collection for polling and data
10 entry.

11 (c) Messaging capability permitting users to
12 communicate with each other.

13 (d) Conference services for simultaneous voice
14 conversations.

15 (2) Pay-per-call service does not include
16 electronic communication for the purpose of conducting
17 financial transactions.

18 5. "Person" means person as defined in section
19 714.16, subsection 1, paragraph "c", and includes a
20 long distance company and local exchange company as
21 defined in section 477.10."

22 2. Page 1, by striking lines 31 and 32, and
23 inserting the following:

24 "With respect to each pay-per-call service, the
25 call shall contain an introductory disclosure
26 message".

27 3. Page 2, line 2, by striking the words "average
28 number of minutes" and inserting the following:
29 "amount of time".

30 4. Page 2, line 5, by inserting after the word
31 "charge." the following: "However, an introductory
32 message is not required if the total charge for the
33 call is one dollar or less.

34 5. Page 2, line 11, by striking the words
35 "average number of minutes" and inserting the
36 following: "amount of time".

37 6. Page 2, by striking lines 12 through 15 and
38 inserting the following: "to complete the call.
39 Additionally, if in order to obtain the full
40 advertised services or other merchandise, a caller
41 will be required to make any payments in addition to
42 the cost of the initial call, that fact shall be
43 disclosed, along with the amounts of such additional
44 payments. If the advertisement is oral, all cost".

45 7. Page 2, by striking lines 19 through 22, and
46 inserting the following:

47 "Sec. ____ . NEW SECTION. 714A.4 BILLING AND
48 COLLECTION.

49 A person shall not bill or collect for a pay-per-
50 call service if such person has knowledge of the

S-3279

Page 3

1 failure of the pay-per-call service to comply with the
2 requirements of this chapter. A person is deemed to
3 have such knowledge if the person has actual knowledge
4 of such noncompliance or if the person fails to
5 implement and maintain procedures reasonably designed
6 to prevent such noncompliance.

7 Sec. ____ . NEW SECTION. 714A.5 ENFORCEMENT."

8 8. Renumber as necessary.

By PAT DELUHERY
WILLIAM D. PALMER

S-3279 FILED APRIL 3, 1991

SENATE FILE 317

S-3308

1 Amend amendment, S-3279, to Senate File 317 as
2 follows:

3 1. Page 3, by striking lines 4 through 6 and
4 inserting the following: "of such noncompliance.
5 Billing and collection contracts shall contain a
6 provision which refers the pay-per-call service to
7 chapter 714A, which provides for an introductory
8 disclosure message and the requirements for such
9 message."

By MICHAEL GRONSTAL

S-3308 FILED APRIL 4, 1991
ADOPTED (p. 1058)

SENATE FILE 317

S-3128

1 Amend Senate File 317 as follows:

2 1. Page 2, line 30, by inserting before the word
3 "where" the following: ", and no other penalty or
4 cause of action under this chapter shall accrue
5 against the media in or by which the advertisement
6 appears or is disseminated,".

By WILLIAM D. PALMER

S-3128 FILED MARCH 18, 1991

Adopted 4/4/91 (p. 1037)

SENATE FILE 317

S-3163

1 Amend Senate File 317 as follows:

2 1. Page 1, by striking lines 2 and 3, and
3 inserting the following: "PROHIBITED.
4 1. A long distance company, local exchange
5 company, or other person shall not furnish telephonic
6 connections or transmit communications related to a
7 pay-per-call service in this state, and shall not bill
8 or collect for any pay-per-call service in this state.
9 2. For purposes of this section, "pay-per-call
10 service" means electronic communications".

11 2. Page 1, by striking line 18, and inserting the
12 following:

13 "3. a. Where the requirements under subsection 2
14 are met,".

15 3. By striking page 1, line 30 through page 2,
16 line 32.

By MICHAEL E. GRONSTAL

S-3163 FILED MARCH 25, 1991

w/18 4/4

SENATE FILE 317

S-3255

1 Amend Senate File 317 as follows:

2 1. Page 1, line 31, by inserting after the word
3 "service" the following: ", which based upon the
4 average number of minutes necessary to complete the
5 call results in a total charge of ten dollars or more
6 or for which the charge per minute is two dollars or
7 more,".

By WALLY HORN

S-3255 FILED APRIL 2, 1991

w/18 4/4

SENATE FILE 317

S-3288

1 Amend the amendment, S-3279, to Senate File 317, as
2 follows:

3 1. Page 2, line 33, by striking the words "one
4 dollar" and inserting the following: "five dollars".

By WALLY HORN

S-3288 FILED APRIL 3, 1991

Letter 4/4 (p. 1037)

SENATE FILE 317

S-3291

1 Amend the amendment, S-3279, to Senate File 317, as
2 follows:

3 1. Page 1, by striking lines 9 and 10, and
4 inserting the following: "does not include a
5 residential listing or a listing in any section of the
6 directory in which businesses or professions are
7 listed alphabetically rather than grouped by subject
8 category, or a standard listing in the subject
9 category section of a telephone directory."

10 2. Page 2, by striking lines 11 through 14, and
11 inserting the following:

12 "(c) Services offered for public entertainment in
13 which users participate in or listen to a
14 conversation."

15 3. Page 2, line 17, by inserting after the word
16 "transactions" the following: ", or any service the
17 price of which is established pursuant to a tariff
18 approved by a regulatory agency".

19 4. Page 2, by inserting after line 29, the
20 following:

21 "_____. Page 2, by striking line 4, and inserting
22 the following: "informs the caller of the option to
23 disconnect the call at the end of the introductory
24 message without"."

25 5. Renumber as necessary.

By MICHAEL E. GRONSTAL

S-3291 FILED APRIL 3, 1991

Adopted 4/4 (p. 1036)

SENATE FILE 317
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 183)

(AS AMENDED AND PASSED BY THE SENATE APRIL 4, 1991)

~~-----~~ - New Language by the Senate

Passed Senate, Date 4/25/91 (p. 1495) Passed House, Date 5/2/91 (p. 2023)
Vote: Ayes 47 Nays 0 Vote: Ayes 98 Nays 0
Approved May 14, 1991

A BILL FOR

1 An Act relating to the regulation of pay-per-call service and
2 advertisements and providing for the applicability of
3 established penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 317

36407

1 Section 1. NEW SECTION. 714A.1 DEFINITIONS.

2 As used in this chapter:

3 1. "Advertisement" means advertisement as defined in
4 section 714.16, subsection 1, paragraph "a". However, for
5 purposes of this chapter, advertisement does not include a
6 residential listing or a listing in any section of the
7 directory in which businesses or professions are listed
8 alphabetically rather than grouped by subject category, or a
9 standard listing in the subject category section of a
10 telephone directory. Advertisement also does not include a
11 display advertisement or a listing which is made to appear
12 more conspicuous than other listings in the subject category
13 section of a telephone directory, provided that such display
14 advertisement or listing includes a conspicuous disclosure
15 that the call is a pay-per-call service and refers a reader in
16 a clear and conspicuous manner to a page number of the
17 directory where the reader may find an explanation of pay-per-
18 call services. Such explanation of pay-per-call services
19 shall include all of the following:

- 20 a. The disclosure and preamble requirements under the law.
- 21 b. The availability and costs of blocking options, if any.
- 22 c. Whether a consumer's phone service may be terminated
23 for failure to pay for pay-per-call services.
- 24 d. The procedures for handling consumer inquiries and
25 complaints.

26 2. "Amount of time necessary to complete a call" means for
27 purposes of a fixed length call, the total length of the call
28 in minutes, and for purposes of a variable length call, a
29 reasonable, good faith estimate in minutes of the likely
30 length of the call.

31 3. "Merchandise" means merchandise as defined in section
32 714.16, subsection 1, paragraph "b".

33 4. a. "Pay-per-call service" means electronic
34 communications products and services which are provided to end
35 users by information or service providers, and which meet all

1 of the following requirements:

2 (1) The end users send or receive information, services,
3 or communications whose general subject matter is determined
4 or influenced by the service provider.

5 (2) The end users send or receive the information,
6 services, or communications via a telephone connection using
7 audio input which is not modulated or demodulated by the end
8 user.

9 (3) The charge to the end user for the information,
10 services, or communications is determined by the information
11 or service provider and is made on a per-call or per-minute
12 basis.

13 b. (1) Where the requirements under paragraph "a" are
14 met, pay-per-call service includes, but is not limited to, the
15 following:

16 (a) Information retrieval from a remote database.

17 (b) Information collection for polling and data entry.

18 (c) Services offered for public entertainment in which
19 users participate in or listen to a conversation.

20 (2) Pay-per-call service does not include electronic
21 communication for the purpose of conducting financial
22 transactions, or any service the price of which is established
23 pursuant to a tariff approved by a regulatory agency.

24 5. "Person" means person as defined in section 714.16,
25 subsection 1, paragraph "c", and includes a long distance
26 company and local exchange company as defined in section
27 477.10.

28 Sec. 2. NEW SECTION. 714A.2 DISCLOSURE OF CHARGES.

29 With respect to each pay-per-call service, the call shall
30 contain an introductory disclosure message that specifies
31 clearly, and at the same audio volume of the ensuing program,
32 if the charge for the call is on a flat rate basis, the total
33 charge for the call, or if charged on a per-minute basis, the
34 charge per minute for the call, the charge for each additional
35 minute, and the amount of time necessary to complete the call,

1 and all other fees, and which informs the caller of the option
2 to disconnect the call at the end of the introductory message
3 without incurring a charge. However, an introductory message
4 is not required if the total charge for the call is one dollar
5 or less.

6 Sec. 3. NEW SECTION. 714A.3 ADVERTISEMENTS.

7 Advertisements for pay-per-call service shall clearly state
8 if the charge for the service is on a flat rate basis, the
9 total charge for the call or, if charged on a per-minute
10 basis, the charge per minute for the call, the charge for each
11 additional minute, and the amount of time necessary to
12 complete the call. Additionally, if in order to obtain the
13 full advertised services or other merchandise, a caller will
14 be required to make any payments in addition to the cost of
15 the initial call, that fact shall be disclosed, along with the
16 amounts of such additional payments. If the advertisement is
17 oral, all cost information must be disclosed clearly and at
18 the same audio volume of the ensuing program prior to
19 providing the pay-per-call number and each time the number is
20 mentioned.

354921 Sec. 4. NEW SECTION. 714A.4 BILLING AND COLLECTION.

22 A person shall not bill or collect for a pay-per-call
23 service if such person has knowledge of the failure of the
24 pay-per-call service to comply with the requirements of this
25 chapter. A person is deemed to have such knowledge if the
26 person has actual knowledge of such noncompliance. Billing
27 and collection contracts shall contain a provision which
28 refers the pay-per-call service to chapter 714A, which
29 provides for an introductory disclosure message and the
30 requirements for such message.

35337 Sec. 5. NEW SECTION. 714A.5 ENFORCEMENT.

32 A violation of this chapter is an unfair or deceptive trade
33 practice and is subject to the provisions of section 714.16,
34 except that the remedies and penalties provided pursuant to
35 that section shall not be applied to a newspaper, magazine,

1 publication, directory, or other print media in which an
2 advertisement appears, or to a radio station, television
3 station, or other electronic media which disseminates the
4 advertisement, and no other penalty or cause of action under
5 this chapter shall accrue against the media in or by which the
6 advertisement appears or is disseminated, where the particular
7 advertisement is not sponsored by the media, unless the media
8 also performs the billing or collecting for the pay-per-call
9 service.

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SENATE FILE 317

H-3533

1 Amend Senate File 317 as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 3, by inserting after line 30 the
4 following:

5 "Additionally, a person shall not bill or collect a
6 charge for a pay-per-call service unless the call for
7 which the charge is being made, is completed."

By SHEARER of Louisa

H-3533 FILED APRIL 8, 1991

Adopted 4/16/91 (p 1294)

SENATE FILE 317

H-3599

1 Amend Senate File 317, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 3, by striking lines 23 through 26 and
4 inserting the following: "service if such person has
5 actual knowledge of the failure of the pay-per-call
6 service to comply with the requirements of this
7 chapter. A person is deemed to have such knowledge if
8 upon receipt of a complaint, an investigation is
9 conducted within thirty days of receipt of the
10 complaint which establishes the failure of the pay-
11 per-call service to comply with such requirements.
12 Billing".

By PETERSON of Carroll

H-3599 FILED APRIL 11, 1991

Adopted 4/16/91 (p 1294)

SENATE FILE 317

H-3640

1 Amend Senate File 317, as amended, passed, and re-
2 printed by the Senate, as follows:

3 1. Page 1, by inserting before line 1 the fol-
4 lowing:

5 "Section 1. NEW SECTION. 477C.1 OPTIONAL
6 INFORMATION ACCESS TELEPHONE SERVICE.

7 The utilities board within the utilities division
8 of the department of commerce shall establish rules
9 directing all telephone companies which provide pay-
10 per-call service, as defined in section 714A.1, to
11 provide the service only as an optional additional
12 service to the basic telephone service provided to
13 customers and to provide for the transition of
14 information access telephone service currently
15 provided to customers to an optional service, and
16 establishing a rate structure for the optional ser-
17 vices."

18 2. Renumber as necessary.

By PAVICH of Pottawattamie

SCHRADER of Marion

OSTERBERG of Linn
HIBBARD of Madison

H-3640 FILED APRIL 15, 1991

Adopted 4/16/91 (p 1294)

SENATE FILE 317

S-3578

1 Amend the House amendment, S-3464, to Senate File
2 317, as amended, passed and reprinted by the Senate as
3 follows:

4 1. Page 1, by striking lines 3 through 17.

By WILLIAM D. PALMER

S-3578 FILED APRIL 24, 1991

Adopted 4/25/91 (p. 1491)

SENATE FILE 317

S-3582

1 Amend the House amendment, S-3464, to Senate File
2 317, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by striking lines 22 through 26, and
5 inserting the following: "chapter. A person shall
6 cease billing and collecting for a pay-per-call
7 service which fails to comply with the requirements of
8 this chapter as soon as practicable, but in no event
9 more than thirty days, after acquiring knowledge of
10 the noncompliance."

By PAT DELUHERY

WILLIAM PALMER

S-3582 FILED APRIL 24, 1991

Adopted 4/25/91 (p. 1491)

HOUSE AMENDMENT TO
SENATE FILE 317

S-3464

- 1 Amend Senate File 317, as amended, passed, and re-
2 printed by the Senate, as follows:
- * 3 1. Page 1, by inserting before line 1 the fol-
4 lowing:
5 "Section 1. NEW SECTION. 477C.1 OPTIONAL
6 INFORMATION ACCESS TELEPHONE SERVICE.
7 The utilities board within the utilities division
8 of the department of commerce shall establish rules
9 directing all telephone companies which provide pay-
10 per-call service, as defined in section 714A.1, to
11 provide the service only as an optional additional
12 service to the basic telephone service provided to
13 customers and to provide for the transition of
14 information access telephone service currently
15 provided to customers to an optional service, and
16 establishing a rate structure for the optional ser-
17 vices."
- * 18 2. Page 3, by striking lines 23 through 26 and
19 inserting the following: "service if such person has
20 actual knowledge of the failure of the pay-per-call
21 service to comply with the requirements of this
22 chapter. A person is deemed to have such knowledge if
23 upon receipt of a complaint, an investigation is
24 conducted within thirty days of receipt of the
25 complaint which establishes the failure of the pay-
* 26 per-call service to comply with such requirements.
27 Billing".
- 28 3. Page 3, by inserting after line 30 the
29 following:
30 "Additionally, a person shall not bill or collect a
31 charge for a pay-per-call service unless the call for
32 which the charge is being made, is completed."
- 33 4. By renumbering, relettering, or redesignating
34 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-3464 FILED APRIL 18, 1991

Senate amended (3578, 3582) + concurred 4/25 (p. 1495)

SENATE FILE 317

S-3563

- 1 Amend the House amendment, S-3464, to Senate File
2 317, as amended, passed, and reprinted by the Senate,
3 as follows:
- 4 1. Page 1, line 26, by inserting after the word
5 "requirements." the following: "A person shall cease
6 billing and collecting for a pay-per-call service
7 which fails to comply with the requirements of this
8 chapter as soon as practicable, but in no event more
9 than thirty days, after acquiring knowledge of the
10 noncompliance."

By PAT DELUHERY
WILLIAM D. PALMER

S-3563 FILED APRIL 24, 1991

Revised 0/0 4/25/91 (p. 1491)

SENATE FILE 317

S-3613

1 Amend the House amendment, S-3464, to Senate File
2 317, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by inserting before line 18 the
5 following:

6 "Section 1. Section 477B.2, subsection 5,
7 paragraph e, Code 1991, is amended to read as follows:

8 e. A statement of estimated costs to be incurred
9 by the joint E911 service board, including separate
10 estimates of the following:

11 (1) Nonrecurring costs, including, but not limited
12 to, public safety answering points, network equipment,
13 radio equipment used to dispatch or notify a public or
14 private safety agency in connection with the 911
15 system, software, database, addressing, initial
16 training, and other capital and start-up expenditures,
17 including the purchase or lease of subscriber names,
18 addresses, and telephone information from the local
19 exchange service provider.

20 (2) Recurring costs, including, but not limited
21 to, network access fees and other telephone charges,
22 software, equipment, and database management, and
23 maintenance, including the purchase or lease of
24 subscriber names, addresses, and telephone information
25 from the local exchange service provider. Recurring
26 costs shall not include personnel costs for a public
27 safety answering point.

28 Costs are limited to nonrecurring and recurring
29 costs directly attributable to the provision of 911
30 emergency telephone communication service. Costs do
31 not include expenditures for any other purpose, and
32 specifically exclude costs attributable to other
33 emergency services or expenditures for buildings,
34 ~~radios~~, or personnel."

35 2. Page 1, by inserting after line 32 the
36 following:

37 " . Title page, line 2, by inserting after the
38 word "advertisements" the following: ", authorized
39 expenditures of enhanced 911 service surcharge
40 revenues, "."

41 3. By renumbering, relettering, or redesignating
42 and correcting internal references as necessary.

By MIKE CONNOLLY

S-3613 FILED APRIL 25, 1991
RULED OUT OF ORDER (p. 1495)

SENATE FILE 317

S-3583

1 Amend the House amendment, S-3464, to Senate File
2 317, as amended, passed, and reprinted by the Senate,
3 as follows:

4 1. Page 1, by inserting after line 4 the
5 following:

6 "Section 1. Section 477B.2, subsection 5,
7 paragraph e, Code 1991, is amended to read as follows:

8 e. A statement of estimated costs to be incurred
9 by the joint E911 service board, including separate
10 estimates of the following:

11 (1) Nonrecurring costs, including, but not limited
12 to, public safety answering points, network equipment,
13 radio equipment used to dispatch or notify a public or
14 private safety agency in connection with the 911
15 system, software, database, addressing, initial
16 training, and other capital and start-up expenditures,
17 including the purchase or lease of subscriber names,
18 addresses, and telephone information from the local
19 exchange service provider.

20 (2) Recurring costs, including, but not limited
21 to, network access fees and other telephone charges,
22 software, equipment, and database management, and
23 maintenance, including the purchase or lease of
24 subscriber names, addresses, and telephone information
25 from the local exchange service provider. Recurring
26 costs shall not include personnel costs for a public
27 safety answering point.

28 Costs are limited to nonrecurring and recurring
29 costs directly attributable to the provision of 911
30 emergency telephone communication service. Costs do
31 not include expenditures for any other purpose, and
32 specifically exclude costs attributable to other
33 emergency services or expenditures for buildings,
34 radios, or personnel."

35 2. Page 1, by inserting after line 32 the
36 following:

37 "_____. Title page, line 2, by inserting after the
38 word "advertisements" the following: ", authorized
39 expenditures of enhanced 911 service surcharge
40 revenues, "."

41 3. By renumbering, relettering, or redesignating
42 and correcting internal references as necessary.

By MIKE CONNOLLY

S-3583 FILED APRIL 24, 1991

Placed o/o 4/25/91 (1491)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 317
H-3974

1 Amend the House amendment, S-3464, to Senate File
2 317, as amended, passed and reprinted by the Senate as
3 follows:

4 1. Page 1, by striking lines 3 through 17.

5 2. Page 1, by striking lines 22 through 26, and
6 inserting the following: "chapter. A person shall
7 cease billing and collecting for a pay-per-call
8 service which fails to comply with the requirements of
9 this chapter as soon as practicable, but in no event
10 more than thirty days, after acquiring knowledge of
11 the noncompliance."

12 3. By renumbering, relettering, or redesignating
13 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-3974 FILED APRIL 30, 1991

Handwritten: 5/2/91 (p. 2022)

PALMER, CH.
DELUHERY
NYSTROM

SSB 183
COMMERCE

SENATE/HOUSE FILE 317
BY (PROPOSED ATTORNEY GENERAL
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of pay-per-call service and
2 advertisements and providing for the applicability of
3 established penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 714A.1 DEFINITIONS.

2 As used in this chapter:

3 1. "Local exchange company" means local exchange company
4 as defined in section 477.10, subsection 2.

5 2. "Pay-per-call service" means electronic communications
6 products and services that enable users to send or receive
7 information, services, or communications from or to a party
8 other than the local exchange company or an interstate common
9 carrier of telephone communications, via a telephone
10 connection using audio input for which a charge is made by the
11 information or service provider or the party receiving the
12 communication on a per call basis and which is billed through
13 the user's telephone bill. Pay-per-call service includes, but
14 is not limited to, information retrieval from a remote
15 database, information collection for polling and data entry,
16 messaging capability permitting users to communicate with each
17 other, and conferencing services for simultaneous voice
18 conversations. Pay-per-call service does not include
19 electronic communications solely for the purpose of obtaining
20 financial information.

21 Sec. 2. NEW SECTION. 714A.2 DISCLOSURE OF CHARGES.

22 A local exchange company shall not bill or collect for pay-
23 per-call service unless the call contains an introductory
24 disclosure message that specifies clearly, and at the same
25 audio volume of the ensuing program, if the charge for the
26 call is on a flat rate basis, the total charge for the call,
27 or if charged on a per-minute basis, the charge per minute for
28 the call, the charge for each additional minute, and the
29 average number of minutes necessary to complete the call, and
30 all other fees, and which gives the caller the opportunity to
31 terminate the call without incurring a charge.

32 Sec. 3. NEW SECTION. 714A.3 ADVERTISEMENTS.

33 Advertisements for pay-per-call service shall clearly state
34 if the charge for the service is on a flat rate basis, the
35 total charge for the call or, if charged on a per-minute

1 basis, the charge per minute for the call, the charge for each
2 additional minute, and the average number of minutes necessary
3 to complete a call. Additionally, the advertisement must
4 state the total of all payments necessary to receive products
5 or merchandise which are offered but not delivered in the
6 message itself. If the advertisement is oral, all cost
7 information must be disclosed clearly and at the same audio
8 volume of the ensuing program prior to providing the pay-per-
9 call number and each time the number is mentioned.

10 A local exchange company shall not bill or collect for a
11 pay-per-call service unless the advertisement for that service
12 complies with the requirements of this section.

13 Sec. 4. NEW SECTION. 714A.4 ENFORCEMENT.

14 A violation of this chapter is an unfair or deceptive trade
15 practice and is subject to the provisions of section 714.16.

16 EXPLANATION

17 Section 1 defines the terms "local exchange company" and
18 "pay-per-call service".

19 Section 2 prohibits a local exchange company from billing
20 or collecting for pay-per-call charges unless the call
21 contains a disclosure message to callers that includes an
22 explanation of the charges for each call and which gives the
23 caller the opportunity to terminate the call without incurring
24 a charge.

25 Section 3 regulates advertisements for pay-per-call
26 services. The advertisement must disclose the charge for the
27 call and the total of all payments necessary to receive any
28 products or merchandise which are offered but not delivered in
29 the message itself. If the advertisement is oral, all cost
30 information must be disclosed prior to providing the pay-per-
31 call number and each time the number is mentioned. A local
32 exchange company shall not bill for a pay-per-call service
33 which does not comply with the requirements of this bill.

34 Section 4 provides that the chapter is enforced under the
35 consumer fraud Act, Iowa Code § 714.16, subsection 2,

1 paragraph "a".

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BACKGROUND STATEMENT

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SUBMITTED BY THE AGENCY

4 Pay-per-call services are expanding into a billion dollar
5 industry. As a result, in the last one to two years, the
6 number of consumer complaints and inquiries regarding this
7 service in Iowa rose from almost nothing to hundreds. Iowans
8 are being taken advantage of because of the misleading manner
9 in which some pay-per-call services are being marketed.

10 This bill requires full disclosure of costs to the caller
11 in advertisements (verbal, written, or electronic) before the
12 consumer makes the call and at the beginning of each call.
13 Iowans have complained that they did not know how much the
14 calls would cost, and are outraged by the fees when they
15 appear on their telephone bills. Consumers have a right to
16 know the costs of calls per minute, the total minutes the call
17 will take to complete the message, and the flat fee per call
18 when applicable. The consumer should then be able to
19 terminate the call without charge upon disclosure of the fees
20 at the beginning of each call.

21 Pay-per-call services include advertisements for employment
22 opportunities, guaranteed loans, credit protection plans, and
23 recordings of pop rock groups and Santa Claus. Often the
24 recorded messages do not sufficiently provide the service or
25 product advertised. In some instances the consumer will have
26 to make additional calls for the requested information.

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SENATE FILE 317

AN ACT
RELATING TO THE REGULATION OF PAY-PER-CALL SERVICE AND
ADVERTISEMENTS AND PROVIDING FOR THE APPLICABILITY OF
ESTABLISHED PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 714A.1 DEFINITIONS.

As used in this chapter:

1. "Advertisement" means advertisement as defined in section 714.16, subsection 1, paragraph "a". However, for purposes of this chapter, advertisement does not include a residential listing or a listing in any section of the directory in which businesses or professions are listed alphabetically rather than grouped by subject category, or a standard listing in the subject category section of a telephone directory. Advertisement also does not include a display advertisement or a listing which is made to appear

more conspicuous than other listings in the subject category section of a telephone directory, provided that such display advertisement or listing includes a conspicuous disclosure that the call is a pay-per-call service and refers a reader in a clear and conspicuous manner to a page number of the directory where the reader may find an explanation of pay-per-call services. Such explanation of pay-per-call services shall include all of the following:

- a. The disclosure and preamble requirements under the law.
- b. The availability and costs of blocking options, if any.
- c. Whether a consumer's phone service may be terminated for failure to pay for pay-per-call services.
- d. The procedures for handling consumer inquiries and complaints.

2. "Amount of time necessary to complete a call" means for purposes of a fixed length call, the total length of the call in minutes, and for purposes of a variable length call, a reasonable, good faith estimate in minutes of the likely length of the call.

3. "Merchandise" means merchandise as defined in section 714.16, subsection 1, paragraph "b".

4. a. "Pay-per-call service" means electronic communications products and services which are provided to end users by information or service providers, and which meet all of the following requirements:

(1) The end users send or receive information, services, or communications whose general subject matter is determined or influenced by the service provider.

(2) The end users send or receive the information, services, or communications via a telephone connection using audio input which is not modulated or demodulated by the end user.

(3) The charge to the end user for the information, services, or communications is determined by the information or service provider and is made on a per-call or per-minute basis.

b. (1) Where the requirements under paragraph "a" are met, pay-per-call service includes, but is not limited to, the following:

- (a) Information retrieval from a remote database.
- (b) Information collection for polling and data entry.
- (c) Services offered for public entertainment in which users participate in or listen to a conversation.

(2) Pay-per-call service does not include electronic communication for the purpose of conducting financial transactions, or any service the price of which is established pursuant to a tariff approved by a regulatory agency.

5. "Person" means person as defined in section 714.16, subsection 1, paragraph "c", and includes a long distance company and local exchange company as defined in section 477.10.

Sec. 2. NEW SECTION. 714A.2 DISCLOSURE OF CHARGES.

With respect to each pay-per-call service, the call shall contain an introductory disclosure message that specifies clearly, and at the same audio volume of the ensuing program, if the charge for the call is on a flat rate basis, the total charge for the call, or if charged on a per-minute basis, the charge per minute for the call, the charge for each additional minute, and the amount of time necessary to complete the call, and all other fees, and which informs the caller of the option to disconnect the call at the end of the introductory message without incurring a charge. However, an introductory message is not required if the total charge for the call is one dollar or less.

Sec. 3. NEW SECTION. 714A.3 ADVERTISEMENTS.

Advertisements for pay-per-call service shall clearly state if the charge for the service is on a flat rate basis, the total charge for the call or, if charged on a per-minute basis, the charge per minute for the call, the charge for each additional minute, and the amount of time necessary to complete the call. Additionally, if in order to obtain the

full advertised services or other merchandise, a caller will be required to make any payments in addition to the cost of the initial call, that fact shall be disclosed, along with the amounts of such additional payments. If the advertisement is oral, all cost information must be disclosed clearly and at the same audio volume of the ensuing program prior to providing the pay-per-call number and each time the number is mentioned.

Sec. 4. NEW SECTION. 714A.4 BILLING AND COLLECTION.

A person shall not bill or collect for a pay-per-call service if such person has actual knowledge of the failure of the pay-per-call service to comply with the requirements of this chapter. A person shall cease billing and collecting for a pay-per-call service which fails to comply with the requirements of this chapter as soon as practicable, but in no event more than thirty days, after acquiring knowledge of the noncompliance. Billing and collection contracts shall contain a provision which refers the pay-per-call service to chapter 714A, which provides for an introductory disclosure message and the requirements for such message.

Additionally, a person shall not bill or collect a charge for a pay-per-call service unless the call for which the charge is being made, is completed.

Sec. 5. NEW SECTION. 714A.5 ENFORCEMENT.

A violation of this chapter is an unfair or deceptive trade practice and is subject to the provisions of section 714.16, except that the remedies and penalties provided pursuant to that section shall not be applied to a newspaper, magazine, publication, directory, or other print media in which an advertisement appears, or to a radio station, television station, or other electronic media which disseminates the advertisement, and no other penalty or cause of action under this chapter shall accrue against the media in or by which the advertisement appears or is disseminated, where the particular advertisement is not sponsored by the media, unless the media

also performs the billing or collecting for the pay-per-call service.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 317, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 14, 1991

TERRY E. BRANSTAD
Governor

SF 317