

FEB 3 1999

COMMERCE AND REGULATION

HOUSE FILE  
BY HEATON

*201*

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to prohibiting certain acts involving changes to  
2 a residential consumer's telecommunications services or  
3 telecommunications provider and providing penalties.

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

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

*HF 201*

1 Section 1. NEW SECTION. 476.105 UNAUTHORIZED CHANGE OF  
2 TELECOMMUNICATIONS SERVICE -- CIVIL PENALTY.

3 1. For purposes of this section, unless the context  
4 otherwise requires:

5 a. "Additional residential telecommunications service"  
6 means a telecommunications service that results in a recurring  
7 monthly charge to a consumer. "Additional residential  
8 telecommunications service" does not include the following:

9 (1) A telecommunications service which is activated by the  
10 consumer and which is paid for on a per-use basis.

11 (2) Changes to a consumer's bill resulting from a change  
12 in taxes, a change in a consumer's location, or a preferred  
13 carrier change charge.

14 b. "Telecommunications provider" means a person providing  
15 telecommunications services to residential customers and  
16 includes an agent of such person who is utilized to contact  
17 residential consumers for the purpose of effectuating changes  
18 in such consumers' residential telecommunications service or  
19 telecommunications provider.

20 2. A telecommunications provider shall not effectuate a  
21 change to a consumer's telecommunications services by  
22 providing an additional residential telecommunications service  
23 or a change to a consumer's telecommunications provider unless  
24 the notification requirements under subsection 4 have been  
25 satisfied.

26 3. A telecommunications provider providing an additional  
27 residential telecommunications service or requesting a change  
28 in a consumer's telecommunications provider shall obtain the  
29 consumer's authorization for the change whenever such provider  
30 acts as the consumer's agent with respect to the change.

31 4. A telecommunications provider requesting such change  
32 shall provide written notice of a change in service or a  
33 change in provider to the consumer. The notice shall be as  
34 follows:

35 a. A letter detailing the change shall be sent to the

1 consumer by first-class mail, postage prepaid, no later than  
2 seventy-two hours after implementation of such change.

3 b. A letter mailed pursuant to this subsection shall be a  
4 separate document and shall be sent solely for the purpose of  
5 describing the changes made to the consumer's  
6 telecommunications service or telecommunications provider.  
7 Such description shall include all costs associated with such  
8 changes, including one-time and recurring costs.

9 c. The letter shall be printed in 10 point or larger  
10 typeface and contain clear and plain language that confirms  
11 the details of the change. The letter shall include a toll-  
12 free telephone number to call should the consumer decide to  
13 cancel the change or make additional service changes.

14 5. A consumer may file a complaint with the board  
15 regarding an unauthorized change in the consumer's  
16 telecommunications services or telecommunications provider.  
17 The board may initiate an investigation or hearing on its own  
18 motion. If, after notice and hearing, the board determines  
19 that a telecommunications provider has committed a violation  
20 of this section or a rule adopted pursuant to this section,  
21 the board may do one or more of the following:

22 a. In the event of an unauthorized change of  
23 telecommunications provider, require the violating  
24 telecommunications provider to refund to the consumer any  
25 amount collected in excess of the amount that would have been  
26 charged by the consumer's chosen telecommunications provider.

27 b. In the event of an unauthorized change of  
28 telecommunications provider, require the violating  
29 telecommunications provider to pay to the consumer's chosen  
30 telecommunications provider the amount the chosen  
31 telecommunications provider would have collected from the  
32 consumer for the telecommunications service provided.

33 c. Require the violating telecommunications provider to  
34 pay a penalty of up to one thousand dollars, as determined by  
35 the board, for each willful violation.

1 d. In the event of an unauthorized addition to a  
2 consumer's residential telecommunications service, require the  
3 violating telecommunications provider to refund all charges  
4 associated with such additional residential telecommunications  
5 service.

6 e. Issue an order to cease and desist from engaging in  
7 such conduct.

8 f. For a pattern of continued violations of this section,  
9 revoke the certificate of public convenience and necessity of  
10 a local exchange service provider.

11 g. Other action authorized by law and as determined by the  
12 board to be appropriate.

13 6. The board shall adopt rules pursuant to chapter 17A  
14 prohibiting a change in service or a change in  
15 telecommunications provider that is not authorized by a  
16 consumer.

17

#### EXPLANATION

18 This bill prohibits a telecommunications provider from  
19 effectuating a change to a consumer's telecommunications  
20 services by providing an additional residential  
21 telecommunications service or effectuating a change to a  
22 consumer's telecommunications provider unless certain  
23 notification requirements have been satisfied. The written  
24 notice must involve a letter detailing the change sent to the  
25 consumer by first-class mail, postage prepaid, no later than  
26 seventy-two hours after implementation of such change. The  
27 letter must be a separate document and sent solely for the  
28 purpose of describing the changes made to the consumer's  
29 service or provider. Such description shall include all costs  
30 associated with such changes, including one-time and recurring  
31 costs. The letter shall be printed in 10 point or larger  
32 typeface and contain clear and plain language that confirms  
33 the details of the change. The letter shall include a toll-  
34 free telephone number to call should the consumer decide to  
35 cancel the change or make additional service changes.

1 The bill authorizes the utilities board to use several  
2 enforcement mechanisms including requiring the violating  
3 telecommunications provider to refund certain charges, the  
4 imposition of a civil penalty of up to \$1,000 per violation,  
5 and the revocation of the certificate of public convenience  
6 and necessity of a local exchange service provider.

7 The bill defines "telecommunications provider" as a person  
8 providing telecommunications services to residential customers  
9 and includes an agent of such person who is utilized to  
10 contact residential consumers for the purpose of effectuating  
11 changes in such consumers' residential telecommunications  
12 service or telecommunications provider.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35