

Sixtieth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2409

Introduced by

Senators Krauter, Heitkamp, Holmberg

Representatives Gulleason, Nelson

1 A BILL for an Act to create and enact chapter 49-21.2 of the North Dakota Century Code,
2 relating to wireless telephone service customer protection by the public service commission.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 49-21.2 of the North Dakota Century Code is created and
5 enacted as follows:

6 **49-21.2-01. Wireless telephone customer protection.**

- 7 1. The commission shall adopt rules consistent with federal law regulating wireless
8 telephone service or providers of wireless telephone service.
- 9 2. The rules must provide for the timely written disclosure to each customer or
10 potential customer of at least the following information concerning any plan or
11 proposed plan offered for the provision of wireless telephone service to the
12 customer:
- 13 a. The calling area for the plan;
- 14 b. The monthly access fee or base charge;
- 15 c. The number of airtime minutes included in the plan;
- 16 d. Any night and weekend minutes included in the plan or other differing charges
17 for differing time periods and the time periods when night and weekend
18 minutes or other charges apply;
- 19 e. The charges for excess or additional minutes;
- 20 f. Whether and the extent to which per minute domestic or international
21 long-distance charges are included in other rates and to the extent not
22 included the applicable per minute long-distance rates;
- 23 g. Per minute roaming or off-network charges;

- 1 h. The amount of any additional taxes, fees, or surcharges that will be collected
- 2 or retained by the wireless telephone service provider;
- 3 i. If the plan requires a fixed-term contract, the duration of the contract;
- 4 j. The amount of any early termination fee and the conditions under which any
- 5 early termination fee would apply, including the length of any trial period
- 6 during which an early termination fee does not apply. In addition to any other
- 7 disclosures of information, the first bill rendered by the wireless telephone
- 8 service provider to the customer must include notice of the terms on and the
- 9 period of time during which the service may be terminated without penalty;
- 10 k. Notice to the customer that the service includes basic wireless 911 service;
- 11 l. Information about the enhanced wireless 911 service in this state and an
- 12 explanation of the enhanced wireless 911 system;
- 13 m. Web site information to permit the customer to access information required by
- 14 this subsection via the internet;
- 15 n. The toll-free hotline number by which information required by this subsection
- 16 may be accessed by the customer; and
- 17 o. Based upon customer-supplied information regarding anticipated usage
- 18 patterns and upon the customer's request, a good-faith estimate of the
- 19 monthly fixed and usage charges and additional taxes, fees, or surcharges
- 20 and of the anticipated total monthly bill for the customer under the plan.
- 21 3. The rules at least must establish procedures for disclosure at any point of sale or of
- 22 contact with potential or existing customers of maps displaying the wireless
- 23 telephone service provider's outside coverage within the state and within each
- 24 county of the state in which such provider provides service. The maps must be
- 25 prepared by each wireless telephone service provider in the state using generally
- 26 accepted methodologies and standards as established by the commission. The
- 27 maps prepared on the county level must identify all geographic areas within the
- 28 county larger than four square miles [1036 hectares] where cell phone coverage is
- 29 not supplied.
- 30 4. The rules at least must require that:

- a. The bill for wireless telephone service to be clearly organized, to clearly describe in plain language the products and services for which charges are imposed, and to conform to format standards established by the commission;
 - b. The bill for wireless telephone service to contain only charges for products and services authorized by the customer;
 - c. The bill for wireless telephone service to itemize roaming charges to within sixty days of the call's being placed and the roaming charges must identify the date and originating location of the call;
 - d. The bill for wireless telephone service to place taxes and fees that are required by federal or state statute or regulation to be collected from the customer in a separate section of the bill;
 - e. The charges associated with the use of wireless telephone equipment or service not to be the liability of the customer if the use was unauthorized by the customer due to loss or theft if the loss or theft is promptly reported to the wireless telephone service provider; and
 - f. The terms on which the wireless telephone service are provided to any customer to include a trial period that must end no earlier than fifteen days after the first bill is rendered to the customer for monthly service following service activation and during which period the customer, after payment for services used, may terminate the service without incurring any termination fees or charges or any other penalty of any kind and, upon the return of any handset bought or leased in connection with the service, may receive a pro rata refund of any amounts paid for the handset.
5. The wireless telephone service provider to establish procedures for the notification of residential customers at least thirty days in advance of any change in rates, charges, terms, or conditions of service for the customers.
 6. The wireless telephone service provider to establish procedures for the timely prior notice to residential customers of the wireless telephone service provider's intent to terminate the customer's service so that, at a minimum the customer is advised of the amount that must be paid to maintain service; the procedures available to

1 make the payments so that the termination may be avoided; and the commission's
2 complaint-handling procedures.

- 3 7. The wireless telephone service provider to establish procedures for the handling of
4 customer complaints which, must at least require that each wireless telephone
5 service provider shall maintain procedures for prompt investigation of any
6 complaint on a bill for wireless telephone service rendered or on any other term of
7 a contract for the services and for prompt reporting to the complainant of the result
8 of the investigation. If the report is made orally, the wireless telephone service
9 provider must offer the complainant, upon a written request, the opportunity to
10 receive the report in writing.

11 **49-21.2-02. Complaint procedures and adjudication of complaints - Civil penalty.**

- 12 1. The commission shall establish procedures for the administration and adjudication
13 by the commission of complaints by wireless telephone customers concerning
14 compliance of wireless telephone service providers with the requirements of rules
15 implementing this chapter. In adjudicating complaints, the commission may enter
16 and enforce any order determined necessary to secure compliance with this
17 chapter or rules implementing this chapter. The procedures must include, at a
18 minimum:

- 19 a. Provision for investigation and informal review by staff and for appeal to the
20 commission;
21 b. That the burden of proof in all proceedings is on the wireless telephone
22 service provider, except as otherwise provided by the commission for good
23 cause; and
24 c. Provisions for parties to receive a written determination of any complaint,
25 upon request, which determination must state the relevant facts established,
26 the reasons for the determination, what actions must be taken, and what
27 further procedures are available to a complainant.

- 28 2. The commission may assess an administrative penalty not to exceed one thousand
29 dollars against any wireless telephone service provider that neglects or knowingly
30 fails to comply with any requirement of this chapter or any rule implementing this
31 chapter.

1 **49-21.2-03. Complaint and compliance report.** The commission shall maintain
2 records concerning and report annually the number and nature of complaints received
3 concerning wireless telephone service. The report must be transmitted to the governor and the
4 legislative council. The records must include data identifying the wireless telephone service
5 provider associated with each complaint, the provisions of this chapter or rules on which each
6 complaint is based, the actions taken by the commission to address each complaint, the actions
7 taken to resolve each complaint, the period of time between the time when the commission is
8 first notified of the facts underlying the customer's complaint, the time when the complaint is
9 recorded as a complaint by the commission, and the time when the complaint is resolved and
10 relief, if any, afforded to the customer.