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## A BILL FOR AN ACT

RELATING TO WIRELESS TELEPHONE SERVICE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that consumers in Hawaii  
2 are offered opportunities to purchase wireless telephone service  
3 from a variety of service providers and that the conduct of  
4 wireless telephone service providers in making and implementing  
5 these offers varies widely. In many instances, consumers are  
6 required to evaluate service offerings without receiving a full  
7 and fair disclosure of the terms of the service offering or an  
8 adequate means to evaluate the offering in practice. This lack  
9 of disclosure extends, but is not necessarily limited, to the  
10 essential financial terms of the offer, the specific  
11 characteristics and capabilities of the service being offered,  
12 the geographic area covered by the service being offered, and  
13 the capability of the service to meet the subscriber's needs in  
14 emergency circumstances. Furthermore, after the consumer has  
15 established service, the bills from the wireless telephone  
16 service provider for service may be unclear, misleading, or  
17 untimely, and the service provider may change the material terms



1 for that service unilaterally and without adequate notice to and  
2 approval by the consumer. Finally, procedures currently  
3 available to consumers to resolve complaints concerning their  
4 wireless telephone service are often untimely, inefficient, or  
5 ineffective for the resolution of these complaints, and wireless  
6 telephone service providers are provided with an inadequate  
7 incentive to minimize and effectively address these complaints.

8 The purpose of this Act is to provide the public utilities  
9 commission with the authority to adopt rules governing wireless  
10 telephone service provider conduct and for the terms and  
11 conditions of wireless telephone service.

12 SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
13 amended by adding a new section to part I to be appropriately  
14 designated and to read as follows:

15 "§269- Commercial mobile radio service; consumer  
16 protection. (a) Each commercial mobile radio service provider  
17 shall provide timely written disclosure to each commercial  
18 mobile radio service plan subscriber or potential wireless  
19 subscriber of the following information concerning any  
20 commercial mobile radio service or proposed commercial mobile  
21 radio service that is offered for sale:



- 1        (1) The calling area for the commercial mobile radio  
2        service contract, including but not limited to  
3        detailed maps displaying the wireless provider's  
4        coverage within the State and within each county of  
5        the State in which the wireless provider provides  
6        commercial mobile radio service;
- 7        (2) The monthly access fee or base charge;
- 8        (3) The number of airtime minutes included in the  
9        commercial mobile radio service contract;
- 10       (4) Any night and weekend minutes included in the  
11       commercial mobile radio service contract or other  
12       differing charges for differing time periods and the  
13       time periods during which night and weekend minutes or  
14       other charges apply;
- 15       (5) The charges for excess or additional minutes that are  
16       not included in the price of the commercial mobile  
17       radio service contract;
- 18       (6) Whether, and the extent to which, per-minute domestic  
19       or international long distance charges are included in  
20       other rates and, to the extent not included, the  
21       applicable per-minute long distance rates;
- 22       (7) Per-minute roaming or off-network charges;



- 1       (8) The amount of any additional taxes, fees, or  
2       surcharges that will be collected or retained by the  
3       wireless commercial mobile radio service provider;
- 4       (9) The duration of any fixed-term commercial mobile radio  
5       service contract;
- 6       (10) The amount of any early termination fee and the  
7       conditions under which any early termination fee would  
8       apply, including the length of any trial period during  
9       which no early termination fee would apply;
- 10       (11) A statement notifying the subscriber that the  
11       commercial mobile radio service plan includes basic  
12       wireless 911 service, including whether the wireless  
13       provider provides wireless enhanced 911 service in the  
14       county in which the wireless subscriber or potential  
15       wireless subscriber resides;
- 16       (12) Information about enhanced wireless 911 service,  
17       including whether the wireless provider provides  
18       wireless enhanced 911 service in the county in which  
19       the wireless subscriber or potential wireless  
20       subscriber resides;



1       (13) Website information to permit the wireless subscriber  
2       to access on-line information about the commercial  
3       mobile radio service; and

4       (14) Based upon information supplied by the wireless  
5       subscriber regarding anticipated usage patterns, and  
6       at the wireless subscriber's request, a good faith  
7       estimate of the monthly fixed and usage charges and  
8       additional taxes, fees, or surcharges and of the  
9       anticipated total monthly bill for the wireless  
10       subscriber under the commercial mobile radio service  
11       contract.

12       (b) Each wireless provider shall file with the public  
13       utilities commission a report of the rates, charges, and rate  
14       plans offered by the wireless provider to individual wireless  
15       subscribers; provided that no such informational filing  
16       requirement shall regulate, directly or indirectly, the entry of  
17       or the rates charged by any wireless provider.

18       (c) Billing statements provided to wireless subscribers  
19       for commercial mobile radio service shall:

20       (1) Be clearly organized and clearly describe in plain  
21       language the products and services for which charges  
22       are imposed;



- 1        (2) Contain only charges for products and services  
2        authorized by the wireless subscriber;
- 3        (3) Itemize roaming charges on the wireless subscriber's  
4        bill within sixty days of the placing of calls to  
5        which the charges apply and identify the date and  
6        originating location of the calls;
- 7        (4) Set forth in a separate section of the bill all taxes  
8        and fees that are required by federal or state  
9        statute, rule, or regulation to be collected from the  
10       wireless subscriber; and
- 11       (5) Include a statement that charges associated with the  
12       use of wireless telephone equipment or service shall  
13       not be the liability of the wireless subscriber if the  
14       use was unauthorized by the wireless subscriber due to  
15       loss or theft; provided that the wireless subscriber  
16       promptly reports the loss or theft to the wireless  
17       provider.
- 18       (d) Each commercial mobile radio service shall provide  
19       contract terms to any subscriber to include a trial period that  
20       shall end no earlier than fifteen days after the first billing  
21       statement is rendered to the wireless subscriber for monthly



1 service following activation of the wireless subscriber's  
2 commercial mobile radio service.

3 During this trial period, a wireless subscriber, after  
4 payment for services used, may terminate the commercial mobile  
5 radio service without incurring any termination fees or charges  
6 or any other penalty of any kind and may receive, upon the  
7 return of any telephone handset bought or leased in connection  
8 with the commercial mobile radio service, a pro rata refund of  
9 any amounts paid for the telephone handset.

10 (e) Wireless commercial mobile radio service providers  
11 shall notify wireless subscribers at least thirty days in  
12 advance of any change in rates, charges, terms, or conditions of  
13 service for its wireless subscribers.

14 (f) Wireless providers shall notify wireless subscribers  
15 if the wireless provider intends to terminate a wireless  
16 subscriber's commercial mobile radio service, and the notice  
17 shall include:

18 (1) The amount that must be paid to maintain the  
19 commercial mobile radio service contract;

20 (2) The procedures available to make payments to avoid the  
21 termination of the commercial mobile radio service;

22 and



- 1        (3) The public utilities commission's complaint  
2        procedures.
- 3        (g) Each wireless provider shall:
- 4        (1) Maintain procedures for prompt investigation of any  
5        complaint on a bill for commercial mobile radio  
6        service or on any other term of a contract for  
7        commercial mobile radio service, and for prompt  
8        reporting to the complainant of the result of the  
9        investigation. If a report is made orally, the  
10       wireless provider shall offer the complainant, upon a  
11       written request, the opportunity to receive the report  
12       in writing;
- 13       (2) Inform any complainant whose complaint is resolved in  
14       favor of the wireless provider, in whole or in part,  
15       of the availability of the public utilities  
16       commission's complaint handling procedures;
- 17       (3) Refrain from terminating service for nonpayment while  
18       a complaint is pending before a wireless provider or  
19       the public utilities commission and for fifteen days  
20       thereafter, or for a period as the public utilities  
21       commission for good cause shall establish; provided,  
22       however, that as a condition of continued service





1           while any dispute is pending, a wireless subscriber  
2           shall pay the undisputed portions of any bill for  
3           service, including bills for current charges or for  
4           greater or lesser amounts as the public utilities  
5           commission determines reasonably reflect the  
6           undisputed costs of service to the wireless subscriber  
7           or are necessary to fairly compensate the wireless  
8           provider for services rendered while the complaint is  
9           pending and for fifteen days thereafter; and

10          (4) Refrain from treating the disputed portion of any bill  
11           as late while any complaint is pending before the  
12           wireless provider or the public utilities commission.

13          (i) The public utilities commission may assess an  
14           administrative penalty not to exceed \$1,000 against any wireless  
15           provider that neglects or knowingly fails to comply with any  
16           requirement of this section or any order of the public utilities  
17           commission implementing or enforcing this section or any rule  
18           adopted under this section. All moneys recovered from  
19           administrative penalties shall be credited to the public  
20           utilities commission special fund established under section  
21           269-33 to offset expenses incurred in the complaint



1 investigation and adjudication process established under this  
2 section.

3 (j) The public utilities commission shall maintain records  
4 concerning the number and nature of complaints received  
5 concerning commercial mobile radio service. These records shall  
6 include, but are not limited to, data identifying the wireless  
7 provider associated with each complaint, the provisions of this  
8 section or the rules adopted under this section on which each  
9 complaint is based, the actions taken by the public utilities  
10 commission to address each complaint, the actions taken to  
11 resolve each complaint, a timeline of the procedural events of  
12 the complaint beginning from the time when the public utilities  
13 commission is first notified of the complaint and ending when  
14 the public utilities commission made its final adjudication.  
15 The public utilities commission shall compile a report and  
16 annually transmit the report to the governor and the  
17 legislature, not later than twenty days prior to the convening  
18 of each regular session of the legislature, and shall make the  
19 report available to the public in writing at the public  
20 utilities commission's cost and on the Internet at no charge.

21 (k) Within one year of the effective date of this section,  
22 the public utilities commission shall adopt consumer



1 satisfaction metrics to assist consumers in the evaluation of  
2 wireless providers in the State. These metrics shall be based  
3 on the complaint data available pursuant to this section and  
4 other data or factors related to a wireless provider's  
5 compliance with this section as the public utilities commission  
6 shall prescribe.

7 (1) As used in this section:

8 "Commercial mobile radio service" means commercial mobile  
9 radio service under sections 3(27) and 332(d) of the Federal  
10 Telecommunications Act of 1996, 47 U.S.C. 151 et seq., and the  
11 Omnibus Budget Reconciliation Act of 1993, P.L. 103-66, August  
12 10, 1993, 107 Stat 312.

13 "Wireless subscriber" is any individual that has contracted  
14 with a wireless provider for the provision of commercial mobile  
15 radio service.

16 "Wireless provider" means a person or entity that is  
17 authorized by the Federal Communications Commission to provide  
18 facilities-based commercial mobile radio service within the  
19 State."

20 SECTION 3. This Act does not affect rights and duties that  
21 matured, penalties that were incurred, and proceedings that were  
22 begun, before its effective date.



1 SECTION 4. New statutory material is underscored.

2 SECTION 5. This Act shall take effect upon its approval.

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**Report Title:**

Public Utilities Commission; Consumer Protection

**Description:**

Requires the public utilities commission to adopt rules to regulate the conduct of wireless telephone service providers in relation to consumers and establish complaint adjudication procedures.

