

1 *House* BILL NO. *431* *Back*
 2 INTRODUCED BY *Quilley Mills* *M. Graham* *Frank* *GRINDE* *of*
 3 *Kroner* *Rock* *W. Ryan* *Carlson* *Harold* *Zook*
 4 A BILL FOR AN ACT ENTITLED: *Cocchiarella* AN ACT PROHIBITING THE UNAUTHORIZED CHANGING OF A
 5 CUSTOMER'S TELECOMMUNICATIONS SERVICES PROVIDER; GRANTING RULEMAKING AUTHORITY TO
 6 THE PUBLIC SERVICE COMMISSION; ESTABLISHING LIABILITY FOR VIOLATIONS; AND PROVIDING A
 7 PENALTY FOR VIOLATIONS." *James* *MELISSA* *BENEDICT* *Makler*
 8 *Pringle* *the talking* *Wilson* *HART* *Hettel* *Schmidt*
 9 STATEMENT OF INTENT *Reese* *Hilber*

10 A statement of intent is required for this bill because [section 4] grants rulemaking authority to the
 11 public service commission for the purposes of preventing and punishing unauthorized changes in a
 12 customer's choice of a telecommunications services provider.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 6] is to prohibit
 17 telecommunications carriers from switching a customer's telecommunications services from one
 18 telecommunications carrier to another without the customer's written consent.

20 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 6], the following definitions
 21 apply:

- 22 (1) "Commission" means the public service commission provided for in 2-15-2602.
- 23 (2) "Customer" means a person who has purchased telecommunications services from a
 24 telecommunications carrier.
- 25 (3) "Local exchange company" means the same as provided in 53-19-302.
- 26 (4) "Primary interexchange carrier" means the telecommunications carrier from which a customer
 27 chooses to purchase long distance services.
- 28 (5) "Telecommunications carrier" or "carrier" means any provider of telecommunications services.
 29 A person providing other products and services is considered a telecommunications carrier only to the
 30 extent that the person is engaged in providing telecommunications services. The term does not mean

1 aggregators of telecommunications services as defined in 47 U.S.C. 226.

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3 **NEW SECTION. Section 3. Prohibition -- exceptions.** (1) A telecommunications carrier may not
4 honor a request by any person other than a customer to change the customer's primary interexchange
5 carrier or local exchange company except:

6 (a) when the requesting carrier has obtained from the customer a document signed by the customer
7 that contains clear and conspicuous disclosure of the customer's request for a change in
8 telecommunications carrier;

9 (b) when the customer affected by the change initiates the contact with the carrier in order to
10 request the change; or

11 (c) when the carrier has obtained the customer's verbal authorization as verified by an independent
12 third party or by electronic means in accordance with rules prescribed by the commission.

13 (2) The documentation required in subsection (1):

14 (a) must be signed by the customer responsible for paying the charges on the account held by the
15 telecommunications carrier; and

16 (b) may not be a part of any sweepstakes, contest, or similar promotional program.

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18 **NEW SECTION. Section 4. Rulemaking authority.** The commission may adopt rules to implement
19 [sections 1 through 6].

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21 **NEW SECTION. Section 5. Telecommunications carrier liability -- penalty for violation.** (1) A person
22 who is not the customer and who causes a change in the customer's telecommunications carrier in violation
23 of [section 3] is liable:

24 (a) to the customer for all intrastate long distance charges, interstate long distance charges, monthly
25 service charges, carrier switching fees, and other relevant charges incurred by the customer during the
26 period of the unauthorized change; and

27 (b) to the customer's original telecommunications carrier for all charges related to reinstating service
28 to the customer.

29 (2) A telecommunications carrier who purposely or knowingly violates the prohibition against
30 unauthorized change of a customer's telecommunications carrier under [section 3] is guilty of a

1 misdemeanor and shall be punished as provided in 46-18-212.

2 (3) The remedies provided by this section are in addition to any other remedies available by law.

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4 **NEW SECTION.** **Section 6. Codification instruction.** [Sections 1 through 6] are intended to be
5 codified as an integral part of Title 69, chapter 3, and the provisions of Title 69, chapter 3, apply to
6 [sections 1 through 6].

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8 **NEW SECTION.** **Section 7. Coordination instruction.** If Senate Bill No. 89 and [this act] are both
9 passed and approved, then [section 16] of the introduced version of Senate Bill No. 89 is void.

10

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0431, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

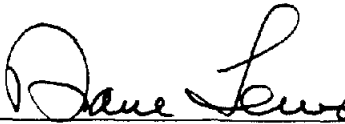
An act prohibiting the unauthorized changing of a customer's telecommunications services provider; granting rulemaking authority to the Public Service Commission; establishing liability for violations; and providing a penalty for violations.

ASSUMPTIONS:

- 1 No additional staff will be required based on this legislation.
- 2 The Department of Public Service Regulation would need to publish rules to implement the act. It is estimated that eight pages of rules would be required at a cost of \$70.00 per page.

FISCAL IMPACT:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	560	0
<u>Funding:</u>		
PSC State Special Revenue (02)	560	0

 2-10-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOE QUILICI, PRIMARY SPONSOR DATE

Fiscal Note for HB0431, as introduced

HB 431

1 HOUSE BILL NO. 431

2 INTRODUCED BY QUILICI, MILLS, MENAHAN, LYNCH, GRINDE, OHS, BECK, KRENZLER, PECK, RYAN,
3 PAVLOVICH, HARRINGTON, ZOOK, KOTTEL, MCCARTHY, GRADY, SHEA, CRIPPEN, COCCHIARELLA,
4 SIMON, MERCER, BENEDICT, MAHLUM, TROPILA, VAN VALKENBURG, WILSON, HARP, HERTEL,
5 SCHMIDT, PEASE, HIBBARD
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7 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE UNAUTHORIZED CHANGING OF A
8 CUSTOMER'S TELECOMMUNICATIONS SERVICES PROVIDER; GRANTING RULEMAKING AUTHORITY TO
9 THE PUBLIC SERVICE COMMISSION; ESTABLISHING LIABILITY FOR VIOLATIONS; AND PROVIDING A
10 PENALTY FOR VIOLATIONS."
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12 STATEMENT OF INTENT

13 A statement of intent is required for this bill because [section 4] grants rulemaking authority to the
14 public service commission for the purposes of preventing and punishing unauthorized changes in a
15 customer's choice of a telecommunications services provider.
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17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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19 NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 6] is to prohibit
20 telecommunications carriers from switching a customer's telecommunications services from one
21 telecommunications carrier to another without the customer's ~~written~~ consent.
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23 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 6], the following definitions
24 apply:

25 (1) "Commission" means the public service commission provided for in 2-15-2602.

26 (2) "Customer" means a person who has purchased telecommunications services from a
27 telecommunications carrier.

28 (3) "Local exchange company" means the same as provided in 53-19-302.

29 (4) "Primary interexchange carrier" means the telecommunications carrier from which a customer
30 chooses to purchase long distance services.

1 (5) "Telecommunications carrier" or "carrier" means any provider of telecommunications services.
 2 A person providing other products and services is considered a telecommunications carrier only to the
 3 extent that the person is engaged in providing telecommunications services. The term does not mean
 4 aggregators of telecommunications services as defined in 47 U.S.C. 226.

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6 **NEW SECTION. Section 3. Prohibition -- exceptions.** (1) A telecommunications carrier may not
 7 honor a request by any person other than a customer to change the customer's primary interexchange
 8 ~~carrier~~ CARRIERS or local exchange company except:

9 (a) when the requesting carrier has obtained from the customer a document signed by the customer
 10 that contains clear and conspicuous disclosure of the customer's request for a change in
 11 telecommunications carrier;

12 (b) when the customer affected by the change initiates the contact with the carrier in order to
 13 request the change; or

14 (c) when the carrier WHO HAS INITIATED THE CHANGE has obtained the customer's verbal
 15 authorization as verified by an independent third party or by electronic means in accordance with rules
 16 prescribed by the commission.

17 (2) The documentation required in subsection (1):

18 (a) must be signed by the customer responsible for paying the charges on the account held by the
 19 telecommunications carrier; and

20 (b) may not be a part of any sweepstakes, contest, or similar promotional program.

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22 **NEW SECTION. Section 4. Rulemaking authority.** The commission may adopt rules to implement
 23 [sections 1 through 6].

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25 **NEW SECTION. Section 5. Telecommunications carrier liability -- penalty for violation.** (1) ~~A person~~
 26 ~~who is not the customer and who causes a~~ A TELECOMMUNICATIONS CARRIER WHO INITIATES AN
 27 UNAUTHORIZED change in the customer's telecommunications carrier in violation of [section 3] is liable:

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 29 service charges, carrier switching fees, and other relevant charges incurred by the customer during the
 30 period of the unauthorized change; and

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10 [sections 1 through 6].
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13 passed and approved, then [section 16] of the introduced version of Senate Bill No. 89 is void.
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