

HOUSE BILL 541

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Patricio Ruiloba

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING THE CRAMMING AND SLAMMING ACT; CLARIFYING DEFINITIONS HCPAC→; ~~PROVIDING AN EXCEPTION TO PROHIBITED ACTS~~←HCPAC.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 63-9G-2 NMSA 1978 (being Laws 1999, Chapter 138, Section 2) is amended to read:

"63-9G-2. DEFINITIONS.--As used in the Cramming and Slamming Act:

A. "billing aggregator" means a person that bills

.213613.1

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

customers for goods or services provided by others and that uses a local exchange company as a billing agent;

B. "commission" means the public regulation commission;

C. "cramming" means:

(1) charging a customer for telecommunications services that were not authorized by the customer;

(2) charging a customer for goods or services that are not telecommunications services and were not authorized by the customer; or

(3) using a sweepstakes, contest or drawing entry form as authorization to change or add telecommunications services to a customer's telephone bill;

D. "customer" means the person whose name appears on the telephone bill or the person responsible for payment of the telephone bill HCPAC→, ~~or any person authorized to use the telecommunications service associated with the telephone bill~~←HCPAC;

E. "local exchange company" means a provider that provides local exchange services;

F. "local exchange services" means the transmission of two-way interactive communications within a local exchange area described in maps, tariffs or rate schedules filed with the commission where local exchange rates apply;

G. "provider" means a telephone company,

.213613.1

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

transmission company, telecommunications common carrier, telecommunications company, cellular or other wireless telecommunications service company, cable television service, telecommunications reseller, billing aggregator or other person that bills directly or has a billing contract with a local exchange company;

H. "slamming" means:

(1) changing a customer's provider without the customer's authorization; or

(2) using a sweepstakes, contest or drawing entry form as authorization to change a customer's provider; and

I. "telecommunications service" means the transmission of signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio, lightwaves or other electromagnetic means or goods and services related to the transmission of information that are provided by the provider; provided that a good or service that does not meet the definition of "telecommunications service" does not become a telecommunications service merely because it is bundled with a telecommunications service for marketing or billing purposes."

HCPAC → ~~SECTION 2. Section 63-96-5 NMSA 1978 (being Laws 1999, Chapter 138, Section 5) is amended to read:~~

~~"63-96-5. COMPLAINTS FILED WITH COMMISSION--RULES--"~~

.213613.1

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

~~ADMINISTRATIVE PENALTIES.--~~

~~A. The following acts are prohibited:~~

~~(1) cramming or slamming; and~~

~~(2) disconnecting or threatening to disconnect~~

~~a customer's local exchange service because the customer
refuses to pay charges resulting from cramming or slamming and
the local exchange company has been notified of the cramming or
slamming.~~

~~B. A customer or provider may file a complaint with
the commission alleging cramming or slamming. A customer may
file a complaint alleging disconnection or threats of
disconnection to local exchange service. The commission may
combine complaints.~~

~~C. If the commission finds after investigation and
hearing that a provider engaged in cramming or slamming or
disconnected or threatened to disconnect a customer's local
exchange service, it may:~~

~~(1) assess an administrative penalty not to
exceed ten thousand dollars (\$10,000) for each occurrence of
cramming or slamming or for each disconnection or threat to
disconnect; or~~

~~(2) after other sanctions have failed, suspend
or revoke the provider's certificate of authority or
certificate of public convenience and necessity for a~~

.213613.1

underscored material = new
[bracketed material] = delete
Amendments: new = →bold, blue, highlight←
delete = →bold, red, highlight, strikethrough←

~~deliberate pattern of cramming or slamming or disconnection or threat of disconnection.~~

~~D. A person aggrieved by an order of the commission pursuant to this section may appeal to the district court as provided in Section 39-3-1.1 NMSA 1978.~~

~~E. The remedies and penalties provided for in the Cramming and Slamming Act are in addition to any other penalties that may be imposed pursuant to any other state law or any other remedies available to consumers.~~

~~F. The provisions of Subsection A of this section shall not apply to a provider placing or causing a charge to be placed on a customer's telephone bill for third-party goods or services where the third party or its agent represents that it obtained the customer's consent or authorization."~~←HCPAC