

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 14, 2002

To: The Commission
(Meeting of May 16, 2002)

From: Bill Julian
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2244 (Wayne)** – This bill would add to the list of specified fees and charges that are required to be disclosed by a company that sells prepaid calling cards and services, and would impose additional restrictions on the manner in which these fees and charges are imposed. The bill would also impose additional requirements in operating and maintaining the company's customer service number.

As Amended April 29, 2002

Recommendation: Support with amendments.

Analysis: This bill makes minor changes to existing law to require additional information be placed on prepaid calling cards or packaging that would allow consumers to choose prepaid calling cards or services that meet their needs and provide them with billing information that is essential if a dispute arises. The bill also requires that live operators are available to respond to consumer inquiries in a timely and efficient manner. While these changes enhance existing consumer protections, the Consumer Services Division believes that more extensive changes to the law are needed to not only provide consumers with vital information, but to enable the California Public Utilities Commission (Commission) to effectively enforce consumer protection laws in this area.

Comments:

Consumer Services Division recommends the following amendments to the bill:

1. Add additional consumer protections that include all prepaid telephone services.
2. Reference B&P Code §17538.9 in the Public Utilities Code (PU Code).
3. Add discontinuation of services and bonding requirements.

4. Set billing increment and rounding-up provisions.
5. Revise PU Code §885 and §886 to add prepaid debit services not involving cards.
6. Require the Commission toll-free complaint number and the Commission Registration number be placed on cards or packaging.
7. Require customer service operators speak in the language the cards or services are marketed in, i.e. – Spanish, Korean, Vietnamese, etc.
8. Place enforcement criteria in PU Code.

Staff Contact:

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Date: May 14, 2002

The CPUC-OGA requests a formal position by the Commission for the above Senate Bill. Please find bill attached.

BJ:ngs

Attachment

BILL LANGUAGE:

BILL NUMBER: AB 2244 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 29, 2002

INTRODUCED BY Assembly ~~Member Wayne~~ Members
Wayne and Correa
(Coauthors: Assembly Members Cedillo, Chavez, Diaz, and
Salinas)
(Coauthors: Senators Ortiz and Romero)

FEBRUARY 20, 2002

An act to amend Section 17538.9 of the Business and Professions
Code, relating to prepaid calling cards and services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2244, as amended, Wayne. Prepaid calling cards and services.
Existing law regulates the sale of prepaid calling cards and
services. Existing law requires a company that sells prepaid calling
cards and services to make certain disclosures regarding fees and
surcharges, and regulates the manner in which these fees are imposed.

This bill would add to the list of specified fees and charges that
are require to be disclosed and would impose additional restrictions
on the manner in which these fees and charges are imposed.

Existing law requires a company that sells prepaid calling cards
and services to maintain a toll-free customer service number.

This bill would impose additional requirements in operating and
maintaining the company's customer service number.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17538.9 of the Business and Professions Code is
amended to read:

17538.9. (a) For the purposes of this section:

(1) "Company" refers to any entity providing prepaid calling

services to the public using its own or a resold telecommunications network.

(2) "Prepaid calling services" or "services" refers to any prepaid telecommunications service that allows consumers to originate calls through an access number and authorization code, whether manually or electronically dialed.

(3) "Prepaid calling card" or "card" means any object containing an access number and authorization code that enables a consumer to use prepaid calling services. It does not include any object of that type used for promotional purposes.

(4) "Cellular telephone services" means facilities-based, commercial mobile telephone services.

(b) The following standards and requirements for consumer disclosure and services shall apply to the advertising and sale of prepaid calling cards and prepaid calling services:

(1) Any advertisement of the price, rate, or unit value in connection with the sale of prepaid calling cards or services shall include a disclosure of any geographic limitation to the advertised price, rate, or unit value, as well as a disclosure of any additional surcharges, call setup charges, or fees or surcharges applicable to the advertised price, rate, or unit value.

(2) The following information shall be legibly printed on the card:

(A) The name of the company.

(B) A toll-free customer service number.

(C) A toll-free network access number, if required to access service.

(D) The authorization code, if required to access service.

(E) The expiration date or policy, if applicable, except where paragraph (6) applies.

(3) The company shall print legibly on the card or packaging, and the vendor shall make available in a prominent area at the point of sale of the prepaid calling card or prepaid calling services, the following information in both English and Spanish:

(A) Any surcharges, taxes, or fees, including monthly or other periodic fees, maintenance fees, per-call access or connection fees, surcharges for calls made on pay telephones, surcharges for international calls, or surcharges for the first minute or other period of use that may be applicable to the use of the prepaid calling card or prepaid calling services within the United States.

(B) Any additional or different prices, rates, or unit values applicable to international usage of the prepaid calling card or prepaid calling services.

(C) The minimum charge per call, such as a three-minute minimum charge, if any.

~~(D) The charge for calls that do not connect, if any.~~

~~(E)~~
(D) The definition of the term "unit," if applicable.

~~(F)~~
(E) The billing decrement.

~~(G)~~
(F) The name of the company.

~~(H)~~
(G) The recharge policy, if any.

~~(I)~~
(H) The refund policy, if any.

~~(J)~~
(I) The expiration policy, if any.

~~(K)~~
(J) The 24-hour customer service toll-free telephone number required in paragraph (4).

(4) A company shall establish and maintain a toll-free customer service telephone number that shall meet the following requirements:

(A) A live operator shall answer incoming calls to the telephone number 24 hours a day, seven days a week.

(B) The telephone number shall have sufficient capacity and staffing to accommodate a reasonably anticipated number of calls without incurring a busy signal or undue wait.

(C) The telephone number shall allow consumers to lodge complaints and obtain information on all of the following:

(i) All rates, surcharges, and fees.

(ii) The company's recharge, refund, and expiration policies.

(iii) The balance of use available in the consumer's account, if applicable.

A company offering prepaid cellular telephone services shall be deemed to be in compliance with the requirements of this paragraph if, when a request for information is made outside of normal business hours, that company provides the information requested on the next business day.

(5) A company that issues prepaid calling cards or prepaid calling services shall provide a refund to any purchaser of a prepaid calling card or prepaid calling services if the network services associated with that card or services fail to operate in a commercially reasonable manner. The refund shall be in an amount not less than the value remaining on the card or in the form of a replacement card, and shall be provided to the consumer within 60 days from the date of receipt of notification from the consumer that the card has failed to operate in a commercially reasonable manner.

(6) Cards without a specific expiration date or policy printed on the card, and with a balance of service remaining, shall be

considered active for a minimum of one year from the date of purchase, or if recharged, from the date of the last recharge.

(7) In the case of prepaid calling cards or services utilized at a payphone, the company may provide voice prompt notification of any applicable payphone surcharges, in lieu of providing notice of surcharges as required by paragraph (1) and by subparagraph (A) of paragraph (3), provided that the company provides users of prepaid calling cards or services with reasonable time to terminate the call after notification of applicable payphone surcharges without incurring any charge for the call.

(8) A company shall maintain access numbers with sufficient capacity to accommodate a reasonably anticipated number of calls without incurring a busy signal or undue delay.

(9) A company may not impose any fee or surcharge that is not disclosed as required by this section or that exceeds the amount disclosed by the company.

(10) A company may not impose ~~a fee or surcharge~~ *any charges* if the consumer is not connected to the number called.