

REFERENCE TITLE: cellphone users' bill of rights

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1010

Introduced by
Senator Waring

AN ACT

AMENDING TITLE 44, CHAPTER 11, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 23; RELATING TO WIRELESS TELEPHONE SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 44, chapter 11, Arizona Revised Statutes, is amended
3 by adding article 23, to read:

4 ARTICLE 23. WIRELESS TELEPHONE SERVICES

5 44-1799.71. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "SUBSCRIBER" MEANS A PERSON OR ENTITY WHO ENTERS INTO A CONTRACT
8 WITH A WIRELESS TELEPHONE SERVICES PROVIDER FOR WIRELESS TELEPHONE SERVICES.

9 2. "WIRELESS TELEPHONE NUMBER INFORMATION" MEANS THE TELEPHONE NUMBER,
10 ELECTRONIC ADDRESS AND ANY OTHER IDENTIFYING INFORMATION ASSIGNED BY A
11 WIRELESS TELEPHONE SERVICES PROVIDER TO A SUBSCRIBER BY WHICH A CALLING PARTY
12 MAY REACH A SUBSCRIBER TO WIRELESS TELEPHONE SERVICES.

13 3. "WIRELESS TELEPHONE SERVICES" MEANS COMMERCIAL MOBILE RADIO
14 SERVICES AS DEFINED IN THE FEDERAL TELECOMMUNICATIONS ACT (47 UNITED STATES
15 CODE SECTION 332c) AND INCLUDES TEXT MESSAGING AND ALL OTHER COMMUNICATIONS
16 AVAILABLE ON CELLULAR TELEPHONES.

17 4. "WIRELESS TELEPHONE SERVICES PROVIDER" OR "SERVICES PROVIDER" MEANS
18 ANY ENTITY THAT PROVIDES WIRELESS TELEPHONE SERVICES IN THIS STATE.

19 44-1799.72. Wireless telephone services; contracts;
20 information; maps

21 A. A CONTRACT FOR WIRELESS TELEPHONE SERVICES SHALL INCLUDE:

22 1. INFORMATION ON CHARGES, INCLUDING THE CALLING-FROM AREA, THE
23 MONTHLY BASE CHARGE, PER-MINUTE CHARGES FOR MINUTES NOT INCLUDED IN THE PLAN
24 AND THE METHOD OF CALCULATING MINUTES CHARGED.

25 2. INFORMATION ON THE MINUTES INCLUDED IN THE PLAN, INCLUDING
26 WEEKDAYS, DAYTIME, NIGHTS AND WEEKENDS, OR OTHER DIFFERING CHARGES AND
27 LONG-DISTANCE, ROAMING, INCOMING AND DIRECTORY ASSISTANCE CHARGES.

28 3. INFORMATION ON PLAN OR CONTRACT TERMS, INCLUDING THE LENGTH OF THE
29 CONTRACT, EARLY OR OTHER TERMINATION FEES, TRIAL PERIODS AND START-UP FEES.

30 4. INFORMATION ON TAXES TO BE COLLECTED BY THE SERVICES PROVIDER AND
31 PAID TO A STATE, LOCAL OR OTHER GOVERNMENTAL AGENCY.

32 5. INFORMATION ON SURCHARGES IMPOSED BY THE SERVICES PROVIDER FOR THE
33 COSTS OF COMPLIANCE WITH REGULATIONS OR FOR OTHER PURPOSES.

34 B. WIRELESS TELEPHONE SERVICES PROVIDERS SHALL ALSO PROVIDE THE
35 INFORMATION REQUIRED BY SUBSECTION A TO A POTENTIAL SUBSCRIBER BEFORE
36 ENTERING INTO ANY CONTRACT WITH A SUBSCRIBER FOR WIRELESS TELEPHONE SERVICES.

37 C. EACH SERVICES PROVIDER SHALL MAKE AVAILABLE TO A POTENTIAL
38 SUBSCRIBER ON REQUEST AND TO A SUBSCRIBER AT THE TIME OF CONTRACTING MAPS
39 SHOWING THE WIRELESS TELEPHONE SERVICE AREA OF THE SERVICES AND THE WIRELESS
40 TELEPHONE SERVICE AREA OF THE SERVICES PROVIDER IN THIS STATE. THE MAPS
41 SHALL CONTAIN THE MAXIMUM PRACTICABLE LEVEL OF GRANULARITY AND SHALL BE
42 UPDATED QUARTERLY. EACH MAP OF A SERVICE AREA SHALL BE AVAILABLE ON THE
43 INTERNET WEBSITE OF THE SERVICES PROVIDER.

44-1799.73. Wireless contract length: changes: cancellation

A. A CONTRACT FOR WIRELESS TELEPHONE SERVICES SHALL BE FOR A TERM OF NOT MORE THAN TWELVE MONTHS, EXCEPT THAT ON EXPIRATION OF THE CONTRACT THE WIRELESS TELEPHONE SERVICES PROVIDER MAY OFFER TO THE SUBSCRIBER THE RIGHT TO RENEW THE CONTRACT FOR A SIMILAR, SHORTER OR LONGER PERIOD OF NOT MORE THAN TWELVE MONTHS. AN EXTENSION OF A CONTRACT FOR WIRELESS TELEPHONE SERVICES IS NOT VALID UNLESS THE EXTENSION IS IN WRITING AND SIGNED BY THE SUBSCRIBER.

B. A WIRELESS TELEPHONE SERVICES PROVIDER SHALL PROVIDE SUBSCRIBERS WITH WRITTEN NOTICE OF ANY CHANGE IN RATES, TERMS OR CONDITIONS OF SERVICE AT LEAST THIRTY DAYS BEFORE THE CHANGE IS TO TAKE EFFECT. IF ANY CHANGE WILL RESULT IN HIGHER RATES OR MORE RESTRICTIONS ON SERVICE OR OTHERWISE WILL RESULT IN A MATERIAL, ADVERSE CHANGE FOR THE SUBSCRIBER, THE SUBSCRIBER, WITHIN THE THIRTY DAY PERIOD, MAY TERMINATE THE SERVICE WITHOUT PENALTY AND RECEIVE A PRO RATA REFUND OF THE CHARGES, IF ANY, PAID FOR THE HANDSET USED FOR THE SERVICES. THE NOTICE OF CHANGE SHALL INFORM THE SUBSCRIBER OF THE RIGHT TO TERMINATE THE CONTRACT, THE RIGHT TO A HANDSET REFUND AND THE STEPS TO TAKE TO IMPLEMENT THE TERMINATION.

C. A CONTRACT FOR WIRELESS SERVICES MAY BE CANCELED ON THE REQUEST OF THE SUBSCRIBER FOR ANY REASON DURING THE FIRST THIRTY DAYS. A WIRELESS TELEPHONE SERVICES PROVIDER SHALL NOT CHARGE A PENALTY OR OTHER COSTS TO THE SUBSCRIBER FOR ANY CANCELLATION DURING THESE THIRTY DAYS, EXCEPT THAT THE SUBSCRIBER IS RESPONSIBLE FOR THE COST OF THE SERVICES USED DURING THE TIME PERIOD THE CONTRACT WAS IN EFFECT.

D. A SUBSCRIBER MAY RESCIND A CONTRACT FOR WIRELESS TELEPHONE SERVICES IF THE SERVICES PROVIDER VIOLATES ANY PROVISION OF THE CONTRACT. THE SUBSCRIBER SHALL SEND A SIGNED WRITTEN NOTICE BY CERTIFIED MAIL TO THE SERVICES PROVIDER EITHER AT THE ADDRESS SPECIFIED IN THE CONTRACT OR AT THE SERVICES PROVIDER'S FACILITY. WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTICE OF RESCISSION, THE SERVICES PROVIDER SHALL REFUND TO THE SUBSCRIBER ANY MONIES DUE TO THE SUBSCRIBER.

44-1799.74. Wireless services billing: contents: liability: termination

A. A WIRELESS TELEPHONE SERVICES PROVIDER SHALL PROVIDE BILLS FOR WIRELESS TELEPHONE SERVICES THAT ARE CLEARLY ORGANIZED AND CLEARLY DESCRIBE IN PLAIN LANGUAGE THE PRODUCTS AND SERVICES FOR WHICH CHARGES ARE IMPOSED.

B. TAXES AND FEES THAT ARE REQUIRED BY FEDERAL, STATE OR LOCAL STATUTE OR REGULATION TO BE COLLECTED FROM THE SUBSCRIBER SHALL BE SET FORTH AND ITEMIZED IN A SEPARATE SECTION OF THE BILL. ANY CHARGE NOT REQUIRED TO BE RECOVERED FROM THE SUBSCRIBER MAY NOT BE INCLUDED IN THIS SECTION OF THE BILL.

C. ROAMING OR OFF-NETWORK CHARGES SHALL BE ITEMIZED ON THE SUBSCRIBER'S BILL WITHIN SIXTY DAYS AFTER THE CALL IS PLACED AND SHALL IDENTIFY THE DATE AND ORIGINATING LOCATION OF THE CALL.

D. ON REQUEST OF A SUBSCRIBER, A SERVICES PROVIDER SHALL PROVIDE AN ITEMIZED BILL TO THE SUBSCRIBER AT NO COST.

1 E. CHARGES ASSOCIATED WITH THE USE OF WIRELESS TELEPHONE EQUIPMENT OR
2 SERVICES SHALL NOT BE THE LIABILITY OF THE SUBSCRIBER IF THE USE WAS
3 UNAUTHORIZED BY THE SUBSCRIBER DUE TO LOSS OR THEFT AND IF THE SUBSCRIBER
4 PROMPTLY REPORTED THE LOSS OR THEFT TO THE SERVICES PROVIDER.

5 F. A SERVICES PROVIDER SHALL NOT TERMINATE A SUBSCRIBER'S SERVICE FOR
6 NONPAYMENT OF DISPUTED BILLING CHARGES WHILE THE COMPLAINT IS PENDING AND FOR
7 FIFTEEN DAYS AFTER ADJUDICATION OF THE DISPUTE IF THE SUBSCRIBER PAYS THE
8 UNDISPUTED PORTIONS OF ANY BILL FOR SERVICE.

9 44-1799.75. Subscriber information; express consent to release;
10 conditions; exceptions; immunity

11 A. A WIRELESS TELEPHONE SERVICES PROVIDER, OR ANY DIRECT OR INDIRECT
12 AFFILIATE OR AGENT OF A PROVIDER, THAT PROVIDES THE NAME AND WIRELESS
13 TELEPHONE NUMBER INFORMATION OF A SUBSCRIBER FOR INCLUSION IN ANY DIRECTORY,
14 OR THAT SELLS, LEASES, LICENSES OR SHARES THE CONTENTS OF ANY DIRECTORY
15 DATABASE OR ANY PORTION OR SEGMENT OF A DIRECTORY DATABASE, SHALL NOT INCLUDE
16 THE WIRELESS TELEPHONE NUMBER INFORMATION OF ANY SUBSCRIBER WITHOUT FIRST
17 OBTAINING THE EXPRESS CONSENT OF THAT SUBSCRIBER. THE PROVIDER'S FORM FOR
18 OBTAINING THE SUBSCRIBER'S EXPRESS CONSENT SHALL MEET ALL OF THE FOLLOWING
19 REQUIREMENTS:

20 1. BE A SEPARATE DOCUMENT THAT IS NOT ATTACHED TO ANY OTHER DOCUMENT.
21 2. BE SIGNED AND DATED BY THE SUBSCRIBER.
22 3. BE UNAMBIGUOUS AND LEGIBLE AND CONSPICUOUSLY DISCLOSE THAT, BY
23 SIGNING, THE SUBSCRIBER IS CONSENTING TO HAVE THE SUBSCRIBER'S WIRELESS
24 TELEPHONE NUMBER INFORMATION SOLD OR LICENSED AS PART OF A LIST OF
25 SUBSCRIBERS OR INCLUDED IN A PUBLICLY AVAILABLE DIRECTORY.

26 4. IF UNDER THE SUBSCRIBER'S CALLING PLAN THE SUBSCRIBER MAY BE BILLED
27 FOR RECEIVING UNSOLICITED CALLS OR TEXT MESSAGING FROM A TELEMARKETER, BE
28 UNAMBIGUOUS AND LEGIBLE AND CONSPICUOUSLY DISCLOSE THAT, BY CONSENTING TO
29 HAVE THE SUBSCRIBER'S WIRELESS TELEPHONE NUMBER INFORMATION SOLD OR LICENSED
30 AS PART OF A LIST OF SUBSCRIBERS OR INCLUDED IN A PUBLICLY AVAILABLE
31 DIRECTORY, THE SUBSCRIBER MAY INCUR ADDITIONAL CHARGES FOR RECEIVING
32 UNSOLICITED CALLS OR TEXT MESSAGES.

33 B. A SUBSCRIBER WHO PROVIDES EXPRESS PRIOR CONSENT PURSUANT TO
34 SUBSECTION A MAY REVOKE THAT CONSENT AT ANY TIME. A SERVICES PROVIDER SHALL
35 COMPLY WITH THE SUBSCRIBER'S REQUEST TO OPT OUT WITHIN A REASONABLE PERIOD OF
36 TIME OF NOT MORE THAN SIXTY DAYS.

37 C. A SUBSCRIBER SHALL NOT BE CHARGED FOR MAKING THE CHOICE TO NOT BE
38 LISTED IN A DIRECTORY.

39 D. A SERVICES PROVIDER SHALL NOT DISCLOSE TO ANY CONSUMER REPORTING
40 AGENCY SUBSCRIBER INFORMATION RELATED TO LATE FEES, DELINQUENCIES OR OTHER
41 PENALTIES FOR TERMINATION OF A CONTRACT PURSUANT TO THIS SECTION.

42 E. THIS SECTION DOES NOT APPLY TO THE PROVISION OF WIRELESS TELEPHONE
43 NUMBER INFORMATION TO THE FOLLOWING PARTIES FOR THE PURPOSES INDICATED:

44 1. TO ANY LAW ENFORCEMENT AGENCY, FIRE PROTECTION AGENCY, PUBLIC
45 HEALTH AGENCY, PUBLIC ENVIRONMENTAL HEALTH AGENCY, CITY OR COUNTY EMERGENCY

1 SERVICES PLANNING AGENCY OR PRIVATE FOR-PROFIT AGENCY OPERATING UNDER
2 CONTRACT WITH, AND AT THE DIRECTION OF, ONE OR MORE OF THESE AGENCIES FOR THE
3 EXCLUSIVE PURPOSE OF RESPONDING TO A 911 CALL OR COMMUNICATING AN IMMINENT
4 THREAT TO LIFE OR PROPERTY.

5 2. TO A LAWFUL PROCESS ISSUED UNDER LOCAL, STATE OR FEDERAL LAW.

6 3. TO A TELEPHONE CORPORATION PROVIDING SERVICE BETWEEN SERVICE AREAS
7 FOR THE PROVISION TO THE SUBSCRIBER OF TELEPHONE SERVICE BETWEEN SERVICE
8 AREAS, OR TO THIRD PARTIES FOR THE LIMITED PURPOSE OF PROVIDING BILLING
9 SERVICES.

10 4. TO A TELEPHONE CORPORATION TO EFFECTUATE A SUBSCRIBER'S REQUEST TO
11 TRANSFER THE SUBSCRIBER'S ASSIGNED TELEPHONE NUMBER FROM THE SUBSCRIBER'S
12 EXISTING PROVIDER OF TELECOMMUNICATIONS SERVICES TO A NEW PROVIDER OF
13 TELECOMMUNICATIONS SERVICES.

14 F. A TELEPHONE CORPORATION, OR ANY OFFICIAL OR EMPLOYEE OF A TELEPHONE
15 CORPORATION, SHALL NOT BE SUBJECT TO CRIMINAL OR CIVIL LIABILITY FOR THE
16 RELEASE OF SUBSCRIBER INFORMATION AS AUTHORIZED BY THIS SECTION.

17 44-1799.76. Telephones; warranties; replacement

18 A. A WIRELESS TELEPHONE SERVICES PROVIDER SHALL NOT REQUIRE A CONTRACT
19 EXTENSION TO GET A REPLACEMENT TELEPHONE UNDER A WARRANTY.

20 B. ALL REPLACEMENT TELEPHONES RECEIVED UNDER A WARRANTY SHALL BE NEW
21 TELEPHONES AND NOT REBUILT TELEPHONES.

22 C. DENIAL OF A REPLACEMENT TELEPHONE UNDER A WARRANTY SHALL NOT BE FOR
23 UNSUBSTANTIATED OR UNVERIFIED REASONS. THE SERVICES PROVIDERS SHALL SHOW
24 THAT THE DEFECT IS NOT COVERED BY THE WARRANTY.

25 44-1799.77. Attorney general; reports; wireless telephone
26 services

27 A. WIRELESS TELEPHONE SERVICES PROVIDERS SHALL SUBMIT REPORTS TWICE A
28 YEAR TO THE ATTORNEY GENERAL ON THE FOLLOWING:

29 1. DROPPED CALLS.

30 2. BLOCKED CALLS.

31 3. KNOWN COVERAGE GAPS, INCLUDING AVERAGE SIGNAL STRENGTH OR DEAD
32 ZONES.

33 4. PREDICTED STREET-LEVEL SIGNAL STRENGTH.

34 B. THE ATTORNEY GENERAL SHALL MONITOR THE QUALITY OF WIRELESS
35 TELEPHONE SERVICES PROVIDED IN THIS STATE BASED ON INFORMATION IN THE
36 REPORTS.

37 Sec. 2. Short title

38 Title 44, chapter 11, article 23, Arizona Revised Statutes, as added by
39 this act, may be cited as the "Cellphone Users' Bill of Rights".