

1 A bill to be entitled
 2 An act relating to prepaid telephone calling cards;
 3 creating s. 501.96, F.S.; providing definitions;
 4 specifying disclosures to be made by prepaid calling
 5 service providers and prepaid calling card distributors;
 6 prohibiting selling or offering for sale prepaid phone
 7 cards that violate specified standards; providing remedies
 8 and penalties for violations; providing for rulemaking;
 9 requiring a report by the Division of Consumer Services of
 10 the Department of Agriculture and Consumer Services;
 11 permitting certain actions necessary for the timely
 12 implementation of this act; providing for applicability;
 13 providing effective dates.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Section 501.96, Florida Statutes, is created to
 18 read:

19 501.96 Prepaid telephone calling cards.--

20 (1) As used in this section, the term:

21 (a) "Advertisement" means the attempt, directly or
 22 indirectly, by publication, dissemination, solicitation,
 23 endorsement, or circulation or in any other way to induce,
 24 directly or indirectly, any person to purchase any prepaid
 25 calling card or service, whether appearing in any newspaper,
 26 magazine, periodical, circular, in-store or out-of-store sign or
 27 other written matter placed before the consuming public, or in
 28 any radio broadcast, television broadcast, or electronic medium,

29 or delivered to or through any computer.

30 (b) "Company" means any entity, corporation, company,
 31 association, firm, partnership, or other business entity or
 32 individual engaged in the business of a prepaid calling service
 33 provider or prepaid calling card distributor in this state.

34 (c) "Division" means the Division of Consumer Services of
 35 the Department of Agriculture and Consumer Services.

36 (d) "Government fees" means and includes any and all fees,
 37 taxes, and charges assessed pursuant to state or federal law,
 38 regulation, or other mandate or requirement, including universal
 39 service fees and charges.

40 (e) "Payphone surcharge" means the surcharge that a
 41 provider may charge a customer when that customer places a call
 42 with a card from a payphone using a toll-free access number. The
 43 payphone surcharge shall be deducted from a card's balance.

44 (f) "Permitted fee" means the fees and surcharges that a
 45 provider may charge to, or deduct from, a card's balance for the
 46 use of that other object.

47 (g) "Prepaid calling card" means a card or other rights of
 48 use that provide access to a prepaid calling service. The term
 49 "prepaid calling card" may not be construed to include cards or
 50 other rights of use that provide access to:

51 1. Telecommunications service if the card or other rights
 52 of use and telecommunications service are provided:

53 a. For free or at no additional charge as a promotional
 54 item accompanying a product or service purchased by a customer;
 55 or

56 b. Pursuant to an awards, loyalty, rebate, or promotional

57 program without any separate monetary consideration being given
58 by the customer solely in exchange therefor; or

59 2. A wireless telecommunications service account if the
60 purchaser has a preexisting relationship with the wireless
61 service provider or establishes a carrier-customer relationship
62 via the purchase of the object.

63 (h) "Prepaid calling card distributor" or "distributor"
64 means and includes the following:

65 1. Any company that purchases or receives prepaid calling
66 cards from a prepaid calling service provider or distributor and
67 sells or distributes those cards to one or more distributors of
68 prepaid calling cards or to one or more prepaid calling card
69 retailers.

70 2. Any company that otherwise actively engages in the
71 promotion, advertising, or dissemination of prepaid calling
72 cards and which is not a provider. "Prepaid calling card
73 distributor" does not include any prepaid calling card retailer
74 engaged exclusively in point of sale transactions with
75 customers.

76 (i) "Prepaid calling card retailer" means any company that
77 sells or offers to sell prepaid calling cards directly to
78 customers.

79 (j) "Prepaid calling service" or "service" shall have the
80 same meaning as the term "prepaid calling arrangement" as
81 provided in s. 202.11. However, the term "prepaid calling
82 service" may not include any service that provides access to a
83 wireless telecommunications service account wherein the
84 purchaser has a preexisting relationship with the wireless

85 service provider or establishes a carrier-customer relationship
 86 via the purchase of the object. "Prepaid calling card" may not
 87 be construed to include cards or other rights of use that
 88 provide access to:

89 1. Telecommunications service if the card or other rights
 90 of use and telecommunications service are provided:

91 a. For free or at no additional charge as a promotional
 92 item accompanying a product or service purchased by a customer;
 93 or

94 b. Pursuant to an awards, loyalty, rebate, or promotional
 95 program without any separate monetary consideration being given
 96 by the customer solely in exchange therefor; or

97 2. A wireless telecommunications service account if the
 98 purchaser has a preexisting relationship with the wireless
 99 service provider or establishes a carrier-customer relationship
 100 via the purchase of the object.

101 (k) "Prepaid calling service provider" or "provider" means
 102 any company providing prepaid calling service to the public
 103 using its own or a resold telecommunications network or voice-
 104 over-Internet protocol technology.

105 (l) "Toll-free number" means a telephone number widely
 106 understood to be toll-free, which, when called as the
 107 destination number or as an access number, does not result in
 108 the calling party being assessed, by virtue of completing the
 109 call, any fee, charge, or higher rate for the call unless such
 110 fee, charge, or higher rate is disclosed pursuant to paragraph

111 (2) (a).

112 (2) (a) Prepaid calling service providers and prepaid

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113 calling card distributors shall disclose the following
114 information on cards or their packaging, as prescribed by the
115 division, and in any advertising for the service or cards,
116 including any Internet website used to promote or distribute the
117 service or cards:

118 1. The name of the prepaid calling service provider.

119 2. The provider's 24-hour customer service telephone
120 number.

121 3. The amount and frequency of any permitted fee that may
122 be applicable to the use of the card or service for calls
123 originating within the United States.

124 4. Notice if additional or different per-minute rates,
125 charges, or fees apply to use of the card or the service for
126 calls originating outside the United States and calls to or from
127 international, international cellular, and international
128 wireless telephone numbers.

129 5. Notice if per-minute rates may be higher for calls made
130 via toll-free numbers.

131 6. The value of the card or service, in dollars or
132 minutes.

133 7. Any applicable policies relating to refund, recharge,
134 decrement, and expiration.

135 8. Such additional information as the division may
136 prescribe by regulation, including, but not limited to,
137 information concerning the notice and disclosure of any rates,
138 charges, or fees for the use of the card or the service for
139 calls.

140 (b) Prepaid calling service providers and prepaid calling

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141 card distributors shall make available through the customer
142 service number, a website or other electronic medium, packaging,
143 if any, or in a clear and conspicuous poster or other writing in
144 plain language at the point of sale such information as the
145 division may prescribe by regulation.

146 (c) All minutes or rates, or both, promoted or advertised
147 on any prepaid calling card, and any point of sale material
148 relating to that card or otherwise relating to any prepaid
149 calling service shall be available and achievable by the
150 customer, and there shall be no limitations on the period of
151 time for which the promoted or advertised minutes or rates, or
152 both, will be available to the customer unless those limitations
153 are clearly and conspicuously disclosed in the same location on
154 the card, advertising, or point of sale material where the
155 minutes or rates, or both, are promoted or advertised. All
156 minutes promoted, advertised, or disclosed on any voice prompt
157 given to a customer at the time the customer places a call with
158 the card, whether or not required by regulation to be given to
159 the customer, shall be immediately available and achievable by
160 the customer on that call. The customer may not be charged for
161 any busy signal or unanswered call.

162 (d) A provider may not charge or apply to or deduct from a
163 card's balance any fees, taxes, surcharges, or other amounts for
164 use of the card, except the following:

- 165 1. The rate per minute for the particular destination
166 called.
167 2. Any permitted fees.
168 3. Any rate per minute, fee, or charge permitted under

169 subparagraph (a)4. or subparagraph (a)5.

170 (e) If a language other than English is predominantly used
171 on a prepaid calling card, on its packaging, or in point of sale
172 advertising or promotion for the prepaid calling card or prepaid
173 calling service, then the disclosures required by this section
174 shall be disclosed in that language on that card or packaging or
175 in that advertisement or promotion.

176 (f) In the case of a prepaid calling service provider, the
177 company's 24-hour customer service telephone number shall enable
178 the customer to obtain, at no charge, any and all applicable
179 information regarding the rates and any permitted fees, charges,
180 and minutes available and remaining on the card for use in a
181 single, uninterrupted call to a single, requested destination
182 through the card and prepaid calling service. Customer service
183 may be provided by a combination of a live operator, interactive
184 voice response, and electronic voice recording of customer
185 inquiries and complaints, but live operator service shall be
186 available 24 hours a day, 7 days a week. If an electronic voice
187 recorder is used, the provider shall attempt to contact the
188 customer no later than the next day following the date of the
189 recording.

190 (g) Providers and distributors shall conspicuously display
191 the applicable access numbers for the use of the card on the
192 body of the card itself or on its packaging.

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

196 (3) Prepaid calling card retailers may not sell or offer

197 for sale any prepaid calling card that the retailer knows
 198 provides fewer minutes than the number of minutes promoted or
 199 advertised for that card, including the number of minutes listed
 200 on the card, on any advertising or point of sale material
 201 related to the card, or in any voice prompt indicating the
 202 number of minutes available for a call with the card.

203 (4) A violation of any provision of this section is a
 204 deceptive and unfair trade practice and shall be subject to all
 205 remedies and penalties available under part II of this chapter.

206 (5) The division may adopt rules pursuant to ss.
 207 120.536(1) and 120.54 necessary to implement this section.

208 Section 2. Not later than 18 months after the date of
 209 adoption of regulations implementing this act, the Division of
 210 Consumer Services of the Department of Agriculture and Consumer
 211 Services shall issue a report to the Governor, the President of
 212 the Senate, and the Speaker of the House of Representatives on
 213 the activities of the division, including their quantitative
 214 results, in enforcing this act and any recommendations for
 215 additional legislation regulating the industry.

216 Section 3. The Division of Consumer Services of the
 217 Department of Agriculture and Consumer Services may take such
 218 action before January 1, 2009, as may be necessary for the
 219 timely implementation of this act. This section shall take
 220 effect upon this act becoming a law.

221 Section 4. This act does not apply to prepaid telephone
 222 calling cards and point of sale materials related to those
 223 prepaid telephone calling cards printed prior to January 1,
 224 2009. The act applies to any prepaid telephone calling card

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225 printed after January 1, 2009, and to any advertisement,
226 promotion, point of sale material, or voice prompt that is
227 created, aired, printed, distributed, or otherwise disseminated
228 on or after January 1, 2009.

229 Section 5. Except as otherwise expressly provided in this
230 act, this act shall take effect January 1, 2009.