

JAN 18 2013

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# A BILL FOR AN ACT

RELATING TO PUBLIC UTILITIES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that telecommunications  
2 carriers provide many options and a wide variety of services to  
3 consumers, including land line phone, cellular phone, and  
4 internet access. The legislature further finds that bills from  
5 telecommunication carriers are unnecessarily complicated to the  
6 average consumer due to a practice known as cramming.

7           According to the Federal Communications Commission,  
8 cramming is the practice of placing unauthorized, misleading, or  
9 deceptive charges on a consumer's telephone bill. Crammers rely  
10 on confusing telephone bills in an attempt to trick consumers  
11 into paying for services they did not authorize or receive, or  
12 that cost more than the consumer was led to believe. In  
13 addition to providing local telephone service, local telephone  
14 companies often bill their customers for long distance and other  
15 services that other companies provide.

16           Cramming comes in many forms and is often hard to detect  
17 unless the telephone bill is closely reviewed. If not



1 authorized, the following billing practices could constitute  
2 cramming:

3 (1) Charges for services that are explained on the  
4 telephone bill in general terms such as service fee,  
5 service charge, other fees, voicemail, mail server,  
6 calling plan, and membership;

7 (2) Charges that are added to the telephone bill every  
8 month without a clear explanation of the services  
9 provided such as a monthly fee or minimum monthly  
10 usage fee; and

11 (3) Charges for an authorized service that are misleading  
12 about the actual cost of service.

13 According to the Federal Communications Commission's  
14 website, "Truth-in-Billing rules require telephone companies to  
15 provide clear, non-misleading, plain language in describing  
16 services for which you are being billed. Because one telephone  
17 company, usually your local telephone company, may include  
18 charges you incurred for another company's service on your bill,  
19 the company sending you the bill must identify the service  
20 provider associated with each charge. If a bill contains  
21 charges in addition to basic local service, it must distinguish  
22 between charges for which non-payment will result in

1 disconnection of basic, local service and charges for which non-  
2 payment will not result in disconnection. Telephone companies  
3 must also display, on each bill, one or more toll-free numbers  
4 that you can call to ask about or dispute any charge on the  
5 bill. This information empowers you to protect yourself from  
6 cramming and other types of telecommunications fraud. It also  
7 helps you make informed choices when you shop around to find the  
8 best telephone service to meet your needs."

9 The purpose of this Act is to require the bills of  
10 telecommunications carriers to contain only charges for products  
11 and services that are authorized by the consumer.

12 SECTION 2. Chapter 269, Hawaii Revised Statutes, is  
13 amended by adding a new section to be appropriately designated  
14 and to read as follows:

15 "§269- Billing practices; telecommunications carrier;  
16 prohibited practices. (a) A telephone bill shall only contain  
17 charges for products or services that have been authorized by  
18 the subscriber.

19 (b) When a person or corporation obtains a written order  
20 for a product or service, the written order shall be a separate  
21 document from any solicitation material. The sole purpose of  
22 the document is to explain the nature and extent of the



1 transaction. Written orders and written solicitation materials  
2 shall be unambiguous, legible, and in a minimum ten-point type.  
3 Written or oral solicitation materials used to obtain an order  
4 for a product or service shall be in the same language as the  
5 written order. Written orders shall not be used as entry forms  
6 for sweepstakes, contests, or any other program that offers  
7 prizes or gifts.

8 (c) The public utilities commission may permit a  
9 subscriber's local telephone service to be disconnected only for  
10 nonpayment of charges relating to the subscriber's basic local  
11 exchange telephone service, long distance telephone service  
12 within a local access and transport area (intraLATA), long  
13 distance telephone service between local access and transport  
14 areas (interLATA), and international telephone service.

15 (d) A billing telephone company shall clearly identify and  
16 use a separate billing section for each person, corporation, or  
17 billing agent that generates a charge on a subscriber's  
18 telephone bill. A billing telephone company shall not bill for  
19 a person, corporation, or billing agent unless that person,  
20 corporation, or billing agent complies with subsection (e).

21 (e) Any person, corporation, or billing agent that charges  
22 subscribers for products or services on a telephone bill shall:



- 1        (1) Include, or cause to be included, in the telephone  
2        bill the amount being charged for each product or  
3        service, including any taxes or surcharges, and a  
4        clear and concise description of the service, product,  
5        or other offering for which a charge has been imposed;
- 6        (2) Include, or cause to be included, for each entity that  
7        charges for a product or service, information with  
8        regard to how to resolve any dispute about that  
9        charge, including the name of the party responsible  
10       for generating the charge and a toll-free telephone  
11       number or other no cost means of contacting the entity  
12       responsible for resolving disputes regarding the  
13       charge and a description of the manner in which a  
14       dispute regarding the charge may be addressed. Each  
15       telephone bill shall include the appropriate telephone  
16       number of the public utilities commission that a  
17       subscriber may use to register a complaint;
- 18       (3) Establish, maintain, and staff a toll-free telephone  
19       number to respond to questions or disputes about its  
20       charges and to provide the appropriate addresses to  
21       which written questions or complaints may be sent;  
22       provided that the person, corporation, or billing



1           agent that generates a charge may also contract with a  
2           third party, including but not limited to the billing  
3           telephone corporation, to provide that service on  
4           behalf of the person, corporation, or billing agent;  
5           and

6           (4) Provide a means for expeditiously resolving subscriber  
7           disputes over charges for a product or service, the  
8           purchase of which was not authorized by the  
9           subscriber. In the case of a dispute, there shall be  
10           a rebuttable presumption that an unverified charge for  
11           a product or service was not authorized by the  
12           subscriber and that the subscriber is not responsible  
13           for that charge. With regard to direct dialed  
14           telecommunications services, evidence that a call was  
15           dialed is prima facie evidence of authorization. If  
16           recurring charges arise from the use of those  
17           subscriber-initiated services, the recurring charges  
18           are subject to this section.

19           (f) If an entity responsible for generating a charge on a  
20           telephone bill receives a complaint from a subscriber that the  
21           subscriber did not authorize the purchase of the product or  
22           service associated with that charge, no later than thirty days



1 from the date on which the complaint is received, the entity  
2 shall verify the subscriber's authorization of that charge or  
3 undertake to resolve the billing dispute to the subscriber's  
4 satisfaction.

5 (g) On or before July 1, 2014, the public utilities  
6 commission shall adopt any additional rules it determines to be  
7 necessary to implement the billing safeguards for the inclusion  
8 of noncommunications-related products and services in telephone  
9 bills.

10 (h) For purposes of this section, "billing agent" means  
11 the clearinghouse or billing aggregator."

12 SECTION 3. This Act does not affect rights and duties that  
13 matured, penalties that were incurred, and proceedings that were  
14 begun before its effective date.

15 SECTION 4. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.

17  
M.N.W. April 14  
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# S.B. NO. 466

**Report Title:**

Telecommunications Carriers; Cramming

**Description:**

Requires the bills of telecommunications carriers to contain only charges for products and services which are authorized by the consumer. Specifies prohibited "cramming" practices in phone bills. Requires public utilities commission to adopt additional rules to safeguard billings.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

