

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Thicksten**

A Bill

ACT 203 OF 1993
HOUSE BILL 1127

For An Act To Be Entitled

8 "AN ACT TO CREATE THE _ARKANSAS PAY-PER-CALL CONSUMER
9 PROTECTION ACT_; TO REQUIRE AN INFORMATION AND DISCLOSURE
10 PREAMBLE MESSAGE ON 900 NUMBER CALLS; TO REQUIRE
11 DISCLOSURES WHEN ADVERTISING 900 NUMBERS; TO PROVIDE
12 REMEDIES FOR VIOLATIONS; AND FOR OTHER PURPOSES."

Subtitle

14 **"AN ACT TO REQUIRE INFORMATION AND DISCLOSURE**
15 **REQUIREMENTS ON 900 NUMBER PAY-PER-CALLS."**

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18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:**

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20 **SECTION 1. This Act shall be known and may be cited as the "Arkansas Pay-Per-Call**
21 **Consumer Protection Act."**

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23 **SECTION 2. Definitions.**

24 **For the purposes of this act, unless the context otherwise requires:**

25 **(1) "Pay-per-call service" means any telecommunications service which permits calling**
26 **by a number of callers to a single telephone number and for which the calling party is assessed,**
27 **by virtue of completing the call, a charge that is not dependent on the existence of a**
28 **presubscription relationship and for which the caller pays a per-call or per-time-interval**
29 **charge that is greater than, or in addition to, the charge for the transmission of the call.**

30 **(2) "Information provider" means any person, company, or corporation that controls**
31 **the content of a pay-per-call service. Any telephone corporation that provides basic local**
32 **exchange service or message telecommunication service which only transmits pay-per-call**
33 **service but which does not control the content of the information transmitted is not included**
34 **within this definition.**

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36 **SECTION 3. Preamble message.**

1 **(a) An information provider that offers pay-per-call services in this state shall provide a**
 2 **minimum of twelve (12) seconds of delayed timing for an information and disclosure message**
 3 **which shall be reasonable in speed so as to be clearly understandable. If the delayed timing**
 4 **period is exceeded, a consumer shall be billed from the time of the initial connection, and**
 5 **transport charges shall be billed to the information provider from the time of the initial**
 6 **connection. A three (3) second period of silence shall follow the information and disclosure**
 7 **message. If the consumer disconnects the call within the delayed timing period, or within**
 8 **three (3) seconds after the delayed timing period, no information charge shall be billed to the**
 9 **caller. During the delayed timing period, the information provider shall inform the consumer**
 10 **of all of the following:**

11 **(1) An accurate description of the service that will be provided to**
 12 **the caller.**

13 **(2) An accurate summation of the cost of the service including, but not limited**
 14 **to, all of the following:**

15 **(A) The initial flat rate charge, if any.**

16 **(B) The per minute charge, if any.**

17 **(C) The maximum per call charge.**

18 **(3) That, if the caller disconnects the call within the delayed timing period, the**
 19 **consumer will not be charged for the call.**

20 **(4) Before the end of the delayed timing period, that**
 21 **the billing will commence after a specified event following the disclosure message, such as a**
 22 **signal tone.**

23 **(b) Any information charges and price disclosure message associated with a pay-per-**
 24 **call service that is aimed at or likely to be of interest to children under the age of eighteen (18)**
 25 **years must contain a statement that the caller should hang up unless the he or she has parental**
 26 **permission.**

27 **(c) A caller may be provided the means to bypass the information and disclosure**
 28 **message on subsequent calls, provided that the caller has sole control of that capability, except**
 29 **that any bypass device shall be disabled for a period of thirty (30) days following the effective**
 30 **date of a price increase for the service. Instructions on how to bypass must either be at the end**
 31 **of the preamble message or at the end of the service.**

32 **(d) When an information provider's pay-per-call service results in a total potential cost**
 33 **of two dollars (\$2.00) or less, or if the call is being provided for polling services, asynchronous**
 34 **or computerized data transmission technology, or political fundraising, the provisions of this**
 35 **section shall not apply.**

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SECTION 4. Advertisement requirements.

Any information provider offering pay-per-call service shall utilize advertising that accurately describes the message content, terms, conditions, and price of the offered service in a clear and understandable manner in all print, broadcast, or telephone advertising and announcements promoting their offers including:

- (1) The per-call charges, or if the call is billed on a usage sensitive basis, the rates, by minute or other unit of time, any minimum charges, and the total cost for calls to that service if the duration of the service can be determined.**
- (2) Any geographic, time of day, or other limitations on the availability of the offer.**
- (3) A requirement that callers under eighteen (18) year of age must request parental or adult guardian permission before calling to hear the offer.**
- (4) Display the charges in broadcast advertising with the telephone numbers and a voice announcement of the charges during the course of the commercials.**
- (5) Repeated voice announcements of these charges at regular intervals for commercials in excess of two (2) minutes.**
- (6) Charges for all subsequent calls if the program refers to and requires another pay-per-call.**

SECTION 5. Remedies.

- (a) Any consumer injured by a violation of this Act may bring an action for the recovery of damages. Judgment may be entered for three (3) times the amount at which the actual damages are assessed, plus costs and reasonable attorney fees.**
- (b) Violation of any of the provisions of this Act shall constitute an unfair or deceptive act or practice as defined by the Deceptive Trade Practices Act, A.C.A. § 4-88-101 et seq. All remedies, penalties, and authority granted to the Attorney General under the Deceptive Trade Practice Act shall be available to him for the enforcement of this Act.**
- (c) No private action may be brought under the provisions of this Act more than two (2) years after the cause of action accrues. A cause of action shall be deemed to have accrued when the party bringing an action under the provisions of this Act knows or in the exercise of reasonable care should have known about the violation of the provisions of this act.**

SECTION 6. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

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SECTION 7. Severability.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable.

SECTION 8. All laws and parts of laws in conflict with this Act are hereby repealed.

APPROVED: 2/24/93