



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1877/1
MDK:nwn:ph

**SENATE AMENDMENT 2,
TO SENATE AMENDMENT 2,
TO 2009 SENATE BILL 469**

March 22, 2010 - Offered by Senator ERPENBACH.

1 At the locations indicated, amend the amendment as follows:

2 **1.** Page 1, line 1: after that line insert:

3 "1g. Page 2, line 8: after "utilities" insert "and wireless telecommunications
4 providers".".

5 **2.** Page 1, line 2: delete "1" and substitute "1r".

6 **3.** Page 1, line 7: after that line insert:

7 "4m. Page 8, line 11: after that line insert:

8 "SECTION 5L. 196.01 (5) (b) 4. of the statutes is repealed."".

9 **4.** Page 6, line 4: after that line insert:

10 "9n. Page 18, line 15: after that line insert:

11 "SECTION 32d. 196.202 (1) of the statutes is created to read:

1 196.202 (1) DEFINITION. In this section, “consumer” means any person that uses
2 the services, products, or facilities provided by a commercial mobile radio service
3 provider.

4 **SECTION 32f.** 196.202 (2) of the statutes, as affected by 2009 Wisconsin Act 28,
5 is amended to read:

6 196.202 (2) SCOPE OF REGULATION. A commercial mobile radio service provider
7 is not subject to ch. 201 or this chapter, except as provided in ~~sub. (5)~~ this section, and
8 except that a commercial mobile radio service provider is subject to ss. 196.025 (6),
9 196.03, 196.218 (3), 196.26, 196.28, 196.37, and 196.859, and shall respond, subject
10 to the protection of the commercial mobile radio service provider’s competitive
11 information, to all reasonable requests for information about its operations in this
12 state from the commission necessary to administer ss. 196.025 (6), 196.218 (3), and
13 196.859 and to enforce ss. 196.03, 196.26, 196.28, and 196.37.

14 **SECTION 32h.** 196.202 (3) of the statutes is created to read:

15 196.202 (3) CONSUMER PROTECTION. (a) Notwithstanding any exemptions
16 identified in this chapter, a commercial mobile radio service provider shall provide
17 protection to its consumers under this section unless exempted in whole or in part
18 by rule or order of the commission under this section. The commission shall
19 promulgate rules that identify the conditions under which provisions of this section
20 may be suspended.

21 (b) On petition, the commission may grant an exemption from a requirement
22 under this section upon a showing that the exemption is reasonable and not in
23 conflict with the factors under s. 196.03 (6).

24 (c) On petition, the commission may grant an exemption from a requirement
25 under this section retroactively if the application of the requirement would be unjust

1 and unreasonable considering the factors under s. 196.03 (6) or other relevant
2 factors.

3 (d) If the commission grants an exemption under this subsection, it may require
4 the provider to comply with any condition necessary to protect the public interest.

5 **SECTION 32j.** 196.202 (4) of the statutes is created to read:

6 196.202 (4) PROHIBITED PRACTICES: SERVICES. A commercial mobile radio service
7 provider may not do any of the following:

8 (a) Refuse to interconnect within a reasonable time with another person to the
9 same extent that the federal communications commission requires the commercial
10 mobile radio service provider to interconnect. The public service commission may
11 require additional interconnection based on a determination, following notice and
12 opportunity for hearing, that additional interconnection is in the public interest and
13 is consistent with the factors under s. 196.03 (6).

14 (c) Impair the speed, quality or efficiency of services, products, or facilities
15 offered to a consumer under a contract or price list.

16 (d) Unreasonably refuse, restrict, or delay access by any person to a
17 telecommunications emergency service.

18 (e) Fail to provide a service, product, or facility to a consumer in accord with
19 the commercial mobile radio service provider's applicable price lists or contracts and
20 with the commission's rules and orders.

21 (h) To the extent prohibited by the federal communications commission, or by
22 the public service commission under rules promulgated consistent with the factors
23 under s. 196.03 (6), give preference or discriminate in the provision of services,
24 products, or facilities to an affiliate, or to the commercial mobile radio service
25 provider's own or an affiliate's retail department that sells to consumers.

1 (L) Fail to provide, or to terminate, any telecommunications service as
2 necessary to comply with the minimum standards of service established by the
3 commission with respect to technical service quality, deposits, disconnection, billing,
4 and collection of amounts owed for services provided or to be provided.

5 (m) Provide telecommunications service to any person acting as a
6 telecommunications utility, telecommunications provider, alternative
7 telecommunications utility, or telecommunications carrier, if the commission has
8 ordered the commercial mobile radio service provider to discontinue service to that
9 person.

10 (n) Provide telecommunications service in violation of s. 100.207.

11 (o) Refuse to transfer or facilitate the transfer of the commercial mobile radio
12 service provider's local exchange service customers to another telecommunications
13 provider on the same terms and conditions as the telecommunications utility or
14 telecommunications provider receives from any other telecommunications provider,
15 unless such terms and conditions violate federal law.

16 (q) 1. Except as provided in subds. 2. and 3., impose a late payment charge on
17 a retail consumer at a rate that exceeds \$1.50 upon \$100 for each month computed
18 upon the declining principal balance of any amount that is not paid when due.

19 2. The commission may allow a commercial mobile radio service provider to
20 impose a late payment charge at a rate that is greater than that allowed under subd.
21 1. if the commission determines that the greater amount is consistent with the
22 factors specified in s. 196.03 (6).

23 3. The commission does not have jurisdiction over late payment charges by a
24 commercial mobile radio service provider except as may be necessary to enforce the
25 requirements of this subsection and except as permitted under federal law.

1 **SECTION 32L.** 196.202 (5) (title) of the statutes is repealed.

2 **SECTION 32n.** 196.202 (5) of the statutes is renumbered 196.202 (4) (p) and
3 amended to read:

4 196.202 (4) (p) ~~A commercial mobile radio service provider may not charge~~
5 Charge a customer for an incomplete call.

6 **SECTION 32p.** 196.202 (6) of the statutes is created to read:

7 196.202 (6) ENFORCEMENT. (a) On the commission's own motion or upon
8 complaint filed by the consumer, the commission shall have jurisdiction to take
9 administrative action or to commence civil actions against commercial mobile radio
10 service providers to enforce this section.

11 (b) The commission may, at its discretion, institute in any court of competent
12 jurisdiction a proceeding against a commercial mobile radio service provider for
13 injunctive relief to compel compliance with this section, to compel the accounting and
14 refund of any moneys collected in violation of this section or for any other relief
15 permitted under this chapter.

16 **SECTION 32r.** 196.202 (7) of the statutes is created to read:

17 196.202 (7) UNFAIR TRADE PRACTICE ENFORCEMENT. Upon receipt of a notice
18 issued under s. 100.208, the commission may order a commercial mobile radio service
19 provider to cease offering the telecommunications service that creates the unfair
20 trade practice or method of competition.

21 **SECTION 32t.** 196.202 (8) of the statutes is created to read:

22 196.202 (8) CIVIL ACTIONS. (a) Upon a finding of a violation of this section by
23 the commission, any person injured because of a violation of this section by a
24 commercial mobile radio service provider may commence a civil action to recover
25 damages or to obtain injunctive relief.

