

By: King of Parker

H.B. No. 3705

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the consumer protection authority of the Public Utility  
3 Commission of Texas in relation to telecommunications and retail  
4 electric services.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter A, Chapter 17, Utilities Code, is  
7 amended by adding Section 17.010 to read as follows:

8 Sec. 17.010. PROTECTION AGAINST MISREPRESENTATION OF  
9 CHARGE. (a) The purpose of this section is to protect consumers  
10 against misleading information or misrepresentation regarding a  
11 separate charge or line item included on a bill for  
12 telecommunications or retail electric services.

13 (b) A billing utility may not include on a bill for  
14 telecommunications or retail electric service provided by the  
15 utility a separate charge or line item that is represented,  
16 directly or by implication, as a state-mandated charge, as full or  
17 partial reimbursement for the payment of a state tax, fee, or  
18 assessment, or as a pass-through of all or part of a state tax, fee,  
19 or assessment unless:

20 (1) the charge, tax, fee, or assessment is imposed by  
21 state law on the billed service or state law provides that the  
22 payment of the charge, tax, fee, or assessment is the  
23 responsibility of the purchaser of the billed service; or

24 (2) the separate charge or line item is otherwise

1 authorized by state law, rule, or administrative ruling.

2 (c) A telecommunications provider or retail electric  
3 utility may not submit to a billing utility for inclusion on a bill  
4 a separate charge or line item that violates Subsection (b).

5 (d) If a separate charge or line item that is not prohibited  
6 by Subsection (b) is included on a bill, the charge or item may not  
7 be imposed in a manner that is unjust, unreasonable, or  
8 unreasonably discriminatory or preferential to a particular  
9 service or customer class.

10 (e) The commission may adopt rules as necessary or  
11 appropriate to carry out this section. The commission shall  
12 request the comments of the comptroller to assist the commission in  
13 developing the rules.

14 (f) The commission has all necessary jurisdiction to adopt  
15 rules under this section and to administer and enforce this  
16 section.

17 (g) If the commission finds that a billing utility has  
18 violated this section or a rule or order adopted under this section,  
19 the commission:

20 (1) may implement judicial review, penalties, and  
21 other enforcement actions under Chapter 15; and

22 (2) shall require the utility to promptly refund to  
23 customers any amounts collected in violation of this section.

24 (h) In addition to the remedies provided by Subsection (g),  
25 the commission shall require a billing utility that violates this  
26 section or a rule or order adopted under this section to include in  
27 each future bill that includes a separate charge or line item that

1 is not prohibited by Subsection (b) a statement disclosing whether  
2 a state law, rule, or administrative ruling specifically requires  
3 or authorizes the inclusion of the separate charge or line item. If  
4 a state law, rule, or administrative ruling does not specifically  
5 require or authorize the separate charge or line item, the bill must  
6 include a statement to that effect. If a state law specifically  
7 requires or authorizes the separate charge or line item, the bill  
8 must include a citation to that state law. If a state rule or  
9 administrative ruling specifically requires or authorizes the  
10 separate charge or line item, the bill must include the name of the  
11 state agency that adopted the rule or made the ruling. The  
12 commission by rule shall prescribe the format, location, and  
13 specific language of the disclosure required by this subsection.

14 SECTION 2. Section 51.002(10), Utilities Code, is amended  
15 to read as follows:

16 (10) "Telecommunications provider":

17 (A) means:

18 (i) a certificated telecommunications  
19 utility;

20 (ii) a shared tenant service provider;

21 (iii) a nondominant carrier of  
22 telecommunications services;

23 (iv) a provider of commercial mobile  
24 service as defined by Section 332(d), Communications Act of 1934  
25 (47 U.S.C. Section 151 et seq.), Federal Communications Commission  
26 rules, and the Omnibus Budget Reconciliation Act of 1993 (Public  
27 Law 103-66), except that the term does not include these entities

1 for the purposes of Chapter [~~17,~~] 55[~~, or 64~~];

2 (v) a telecommunications entity that  
3 provides central office based PBX-type sharing or resale  
4 arrangements;

5 (vi) an interexchange telecommunications  
6 carrier;

7 (vii) a specialized common carrier;

8 (viii) a reseller of communications;

9 (ix) a provider of operator services;

10 (x) a provider of customer-owned pay  
11 telephone service; or

12 (xi) a person or entity determined by the  
13 commission to provide telecommunications services to customers in  
14 this state; and

15 (B) does not mean:

16 (i) a provider of enhanced or information  
17 services, or another user of telecommunications services, who does  
18 not also provide telecommunications services; or

19 (ii) a state agency or state institution of  
20 higher education, or a service provided by a state agency or state  
21 institution of higher education.

22 SECTION 3. Chapter 52, Utilities Code, is amended by adding  
23 Subchapter D-1 to read as follows:

24 SUBCHAPTER D-1. PROVIDERS OF COMMERCIAL MOBILE SERVICE

25 Sec. 52.171. APPLICABILITY. This subchapter applies only  
26 to a provider of commercial mobile service as defined by Section  
27 332(d), Communications Act of 1934 (47 U.S.C. Section 151 et seq.),

1 Federal Communications Commission rules, and the Omnibus Budget  
2 Reconciliation Act of 1993 (Public Law 103-66).

3 Sec. 52.172. LIMITED REGULATORY AUTHORITY. The commission  
4 has the following authority over a provider of commercial mobile  
5 service:

6 (1) to apply and enforce the customer protection  
7 provisions of Chapters 17 and 64;

8 (2) to regulate the terms and conditions of commercial  
9 mobile service;

10 (3) to implement judicial review, penalties, and other  
11 enforcement actions under Chapter 15; and

12 (4) to require the provider to refund to customers  
13 amounts collected in violation of:

14 (A) Chapter 17 or 64; or

15 (B) a commission rule or order issued under  
16 Chapter 17 or 64 or under Subdivision (2).

17 SECTION 4. This Act applies only to a bill issued to a  
18 customer on or after the effective date of this Act. A bill issued  
19 before the effective date of this Act is governed by the law in  
20 effect on the date the bill was issued, and that law is continued in  
21 effect for that purpose.

22 SECTION 5. This Act takes effect on the first day of the  
23 first month beginning on or after the earliest date on which this  
24 Act may take effect if it receives a vote of two-thirds of all the  
25 members elected to each house, as provided by Section 39, Article  
26 III, Texas Constitution. If this Act does not receive the vote  
27 necessary for effect on that date, this Act takes effect September

H.B. No. 3705

1 1, 2007.