

48:5A-54 to 48:5A-63

LEGISLATIVE HISTORY CHECKLIST

NJSA: 48:5A-54 to 48:5A-63

(Cable Subscriber  
Privacy  
Protection Act)

LAWS OF: 1988

CHAPTER: 121

Bill No: A927

Sponsor(s): Kern

Date Introduced: Pre-filed

Committee: Assembly: Transportation & Communication

Senate: Transportation & Communication

Amended during passage: Yes Amendments during passage  
denoted by asterisks.

Date of Passage: Assembly: February 18, 1988

Senate: August 4, 1988

Date of Approval: September 13, 1988

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

[FIRST REPRINT]  
ASSEMBLY, No. 927

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman KERN

1 AN ACT regulating the use of personally identifiable  
information by cable television companies, and supplementing  
3 P.L. 1972, c. 186 (C. 48:5A-1et seq.) and Title 59 of the New  
Jersey Statutes.

5

BE IT ENACTED *by the Senate and General Assembly of the*  
7 *State of New Jersey:*

1. This act shall be known and may be cited as the "Cable  
9 Subscriber Privacy Protection Act."

2. As used in this act:

11 a. "Upstream communications channel" means a signaling  
path provided by a cable television company for the transmission  
13 of signals over a cable television system from subscriber  
terminals;

15 b. "Interactive cable television program or service" means a  
cable television program or service involving the collection,  
17 reception, aggregation, storage or use of information contained  
in signals transmitted from subscriber terminals over upstream  
19 communications channels;

21 c. "Intercept" means to acquire, at any time from initiation  
to completion of a signal transmission over a cable television  
system, the content of the information contained in that signal;

23 d. "Personally identifiable information" means any  
information that identifies any individual as a subscriber to, or  
25 user of, a cable television system, or that otherwise provides  
information about that individual or his use of any service  
27 provided by a cable television system; and

29 e. "Qualified auxiliary service" means any business activity  
necessary or incidental to the provision of cable television  
services performed by a cable television company or other  
31 party, and shall include, but not be limited to, billing services,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:  
1 ASSEMBLY ATC committee amendments adopted February 1, 1988.

1 program suppliers, management consulting services, brokers, and  
banking or other financial services.

3 3. a. A cable television company may, without the subscriber  
consent required pursuant to subsection d. of this section or  
5 section 4 of this act, collect, receive, store, aggregate and use  
only such personally identifiable information relating to any  
7 subscriber, subscriber household, or user of a subscriber terminal  
as is necessary to provide cable television services and qualified  
9 auxiliary services, and to detect unauthorized reception of cable  
television services.

11 b. Any actual and, if known, potential use to be made of the  
information collected, received, stored or aggregated pursuant  
13 to subsection a. of this section shall be described in a written  
notification of information practices provided by the cable  
15 television company to the subscriber. In the case of a subscriber  
contract entered into on or prior to the effective date of this  
17 act, the notification shall be provided not later than 180 days  
following that date and at least once per year thereafter during  
19 the contract period. In the case of a contract entered into after  
the effective date of this act, the notification shall be provided  
21 at the time the contract is entered into and at least once per  
year thereafter during the contract period. The notification  
23 shall clearly and conspicuously set forth:

(1) The nature of the personally identifiable information  
25 collected or to be collected, and the nature of the use of that  
information;

27 (2) The nature, frequency and purpose of any disclosure of the  
information which may be reasonably anticipated, including a  
29 description of the types of persons to whom disclosure may be  
made;

31 (3) The period during which the information will be retained  
by the cable television company;

33 (4) The times and places at which the subscriber shall have  
access to the information pursuant to this act; and

35 (5) The limitations set forth in this act with respect to the  
collection and disclosure of personally identifiable information.

37 The cable television company shall not use personally  
identifiable information in a manner other than that described in  
39 the notification without further written notice to the subscriber  
and, where appropriate, the consent of the subscriber.

1 c. If information is collected by a cable television company  
from any subscriber pursuant to subsection a. of this section,  
3 after the date on which a notification is required and without  
that notification, the cable television company shall be subject  
5 to a fine of not more than \$500.00 for each subscriber from  
whom the information is so collected, which fine shall be  
7 collected in a summary manner pursuant to "the penalty  
enforcement law" (N.J.S. 2A:58-1 et seq.), except that no  
9 company shall be subject to a fine if the company proves that its  
failure to provide notification is the result of a clerical or  
11 typographical error.

d. Except as provided in subsection a. of this section, no  
13 cable television company shall use a cable television system to  
collect personally identifiable information concerning a  
15 subscriber, subscriber household or user of a subscriber terminal  
without the prior written or electronic consent of the subscriber  
17 concerned. Any information collected without that consent  
shall be destroyed immediately upon determination by the cable  
19 television company that it has been so collected, or upon  
notification to the company of such determination by the  
21 subscriber, as the case may be, unless the subscriber consents, in  
writing, to its retention. Except as otherwise provided by law,  
23 personally identifiable information collected pursuant to this  
subsection shall only be used for the purposes defined in the  
25 subscriber consent.

If information is collected or retained by a cable television  
27 company in violation of this subsection, that company shall be  
subject to a fine of not more than \$500.00 for each subscriber  
29 from whom the information is so collected, which fine shall be  
collected in a summary manner pursuant to "the penalty  
31 enforcement law" (N.J.S. 2A:58-1 et seq.).

e. A subscriber may withdraw his consent at any time. This  
33 withdrawal shall take effect 30 days following a cable television  
company's receipt of notification by the subscriber. Within 45  
35 days of receipt of that request, the company shall advise, in  
writing, any third party recipient of personally identifiable  
37 information collected pursuant to subsection d. of this section  
that the subscriber's consent has been withdrawn.

39 f. Personally identifiable information acquired pursuant to  
subsection a. of this section shall be destroyed by the cable

1 television company upon completion of the permissible uses of  
that information. Personally identifiable information acquired  
3 pursuant to subsection d. of this section shall be destroyed upon  
completion of such uses, or upon the withdrawal of subscriber  
5 consent or termination of the contract with a subscriber,  
whichever comes first, unless the subscriber, at the time of  
7 granting consent to collect or retain the information indicates,  
electronically or in writing, as appropriate, that the information  
9 may be retained until completion of the permissible uses  
thereof. A cable television company shall notify a subscriber, in  
11 writing, when any personally identifiable information concerning  
the subscriber, his household or a user of his subscriber terminal  
13 is destroyed pursuant to this subsection.

4. a. No cable television company shall rent, sell or  
15 otherwise release personally identifiable information, in part or  
whole, without the prior written or electronic consent of the  
17 subscriber, to any person except to a person providing qualified  
auxiliary services to the company, or pursuant to law.

19 b. A cable television company may disclose the names and  
addresses of subscribers to any of its services if:

21 (1) The company has provided each subscriber with the  
opportunity to prohibit the disclosure of his name and address;  
23 and

(2) The disclosure does not reveal the nature or extent of the  
25 use of any cable television service or other service by any  
subscriber, subscriber household or user of a subscriber terminal.

27 c. No person shall be refused any cable television service for  
prohibiting the inclusion of his name and address on a mailing  
29 list provided to a third party.

d. Use of personally identifiable information by those  
31 receiving the information from a cable television company  
pursuant to the provisions of this act is limited to the purposes  
33 for which the disclosure is made. At the time that personally  
identifiable information is no longer required for such purposes,  
35 it shall be destroyed. Information acquired pursuant to the  
consent of a subscriber shall be destroyed immediately upon  
37 receipt of notice from the cable television company that the  
subscriber consent has been withdrawn or that the contract  
39 between the subscriber and the cable television company has  
been terminated, except that the information may be retained

1 until the fulfillment of the purposes for which it was received, if  
such retention is permitted by the subscriber consent granted  
3 pursuant to subsection f. of section 3 of this act.

5 e. Concurrent with, or prior to, the provision of personally  
identifiable information to others pursuant to the provisions of  
this act, a cable television company shall give notice to the  
7 person or entity receiving the information of the provisions of  
this act. If personally identifiable information is provided on a  
9 continuing basis, notice shall be provided at the time of or prior  
to the provision of the first of such information and once per  
11 year thereafter.

13 f. A third party which has received personally identifiable  
information pursuant to sections 3 or 4 of this act shall not  
retain that information if no longer needed for the purposes for  
15 which it was acquired, nor shall the party rent, sell or otherwise  
release that information to any other person, except as provided  
17 by law.

19 5. a. A cable television company shall disclose to a  
subscriber all information which the company possesses  
pertaining to that subscriber upon request of the subscriber.

21 b. A subscriber may examine and copy any information in the  
possession of a cable television company pertaining to the  
23 subscriber, his household or a user of his terminal upon  
reasonable notice during regular business hours. The  
25 information supplied to the subscriber shall be in a legible  
format which is easily understood by the subscriber. The  
27 subscriber shall bear all copying or mailing costs occasioned by  
the examination.

29 c. A cable television company shall correct the information  
upon a reasonable showing by a subscriber that personally  
31 identifiable information contained therein is inaccurate. Within  
45 days of receiving this notification from the subscriber, the  
33 cable television company shall transmit a corrected copy of the  
information to any party which was given the erroneous  
35 information. Copies of all such correspondence shall be sent to  
the subscriber.

37 6. a. Except as otherwise provided in this act, no signal of  
any upstream communications channel may be transmitted from  
39 a subscriber terminal for the purpose of monitoring individual  
household viewing patterns or practices except with the written

1 authorization of the subscriber, contained in a document  
separate from any contract entered into by the subscriber and a  
3 cable television company for non-interactive cable television  
services.

5 b. Except as otherwise provided by law, no person shall  
intercept a signal of an upstream communications channel  
7 transmitted from a subscriber terminal except the subscriber  
and the intended receiver of the signal.

9 c. Written authorization shall not be required for a cable  
television company to conduct system-wide or individually  
11 addressed monitoring for the purposes of verifying system  
integrity, controlling return path transmission, or for any  
13 purpose for which personally identifiable information may be  
lawfully acquired pursuant to this act, except that, if not for  
15 such purpose, the monitoring shall not result in the creation of  
personally identifiable information other than the name and  
17 address of the subscriber.

7. This act shall not prohibit a cable television company from  
19 providing individual subscriber data to a proper court or agency  
for the purposes of collecting a debt owed the company.

21 8. This act shall not prohibit the examination of aggregate  
data by, or the disclosure of such data to, any third party,  
23 provided that the data contain no personally identifiable  
information concerning any subscriber, his household, or a user  
25 of his terminal.

9. Any person who discloses personally identifiable  
27 information in violation of this act or otherwise engages in  
negligent, willful or reckless conduct in violation of this act  
29 shall be subject to a fine of not less than \$500.00 for each  
disclosure, or for each negligent, willful or reckless act or  
31 omission, as appropriate. The fine shall be collected in a  
summary manner, pursuant to "the penalty enforcement law"  
33 (N.J.S. 2A:58-1 et seq.).

10. a. Subject, where appropriate, to the "New Jersey Tort  
35 Claims Act," (N.J.S. 59:1-1 et seq.), any person, State or local  
agency or other governmental or public entity which discloses  
37 personally identifiable information in violation of this act, or  
otherwise engages in negligent, willful or reckless conduct in  
violation of this act, shall be liable to the aggrieved subscriber  
39 for:

1 (1) Actual damages, but not less than liquidated damages  
 3 computed at a rate of \$100.00 per day for each day of violation  
 or a total of \$1,000.00 for all violations, whichever is greater;

(2) Such punitive damages as the court may allow; and

5 (3) Attorney's fees and other litigation costs reasonably and  
 actually incurred.

7 b. In determining the amount of punitive damages, if any, the  
 court shall consider, among other relevant factors, the amount  
 9 of any actual damages awarded, the nature and seriousness of  
 any intangible harm suffered by the subscriber, the frequency  
 11 and persistence of failures of compliance by the defendant, the  
 resources of the defendant, the number of persons adversely  
 13 affected, and the extent to which the failure of the defendant to  
 comply was intentional.

15 <sup>1</sup>[11. Notwithstanding any provision of the "New Jersey Tort  
 Claims Act," (N.J.S. 59:1-1 et seq.) to the contrary, a public  
 17 entity shall be liable for civil damages under P.L. , c.  
 (C. ) (now pending before the Legislature as this bill), to the  
 19 same extent as any private person, in any claim filed against  
 that entity because it owns, controls or manages a cable  
 21 television system, or exercises editorial control over the  
 programming provided through a cable television system owned,  
 23 controlled or managed by a public entity.]<sup>1</sup>

<sup>1</sup>[12.] 11.<sup>1</sup> This act shall take effect immediately.

25  
 27 COMMERCE AND INDUSTRY  
 Communications and Broadcasting

29  
 "Cable Subscriber Privacy Protection Act," regulates collection,  
 31 use and disclosure of personally identifiable information  
 gathered by cable television companies from subscriber  
 33 terminals.



1        10. a. Subject, where appropriate, to the "New Jersey Tort  
 3 Claims Act," (N.J.S. 59:1-1 et seq.), any person, State or local  
 5 agency or other governmental or public entity which discloses  
 7 personally identifiable information in violation of this act, or  
 otherwise engages in negligent, willful or reckless conduct in  
 violation of this act, shall be liable to the aggrieved subscriber  
 for:

9        (1) Actual damages, but not less than liquidated damages  
 computed at a rate of \$100.00 per day for each day of violation  
 or a total of \$1,000.00 for all violations, whichever is greater;

11        (2) Such punitive damages as the court may allow; and

13        (3) Attorney's fees and other litigation costs reasonably and  
 actually incurred.

15        b. In determining the amount of punitive damages, if any, the  
 court shall consider, among other relevant factors, the amount  
 17 of any actual damages awarded, the nature and seriousness of  
 any intangible harm suffered by the subscriber, the frequency  
 and persistence of failures of compliance by the defendant, the  
 19 resources of the defendant, the number of persons adversely  
 affected, and the extent to which the failure of the defendant to  
 21 comply was intentional.

23        11. Notwithstanding any provision of the "New Jersey Tort  
 Claims Act," (N.J.S. 59:1-1 et seq.) to the contrary, a public  
 entity shall be liable for civil damages under P.L.     , c.  
 25 (C.     ) (now pending before the Legislature as this bill), to the  
 same extent as any private person, in any claim filed against  
 27 that entity because it owns, controls or manages a cable  
 television system, or exercises editorial control over the  
 29 programming provided through a cable television system owned,  
 controlled or managed by a public entity.

31        12. This act shall take effect immediately.

33

#### STATEMENT

35

37        This bill regulates the collection, use and disclosure of  
 personally identifiable information by cable television  
 companies. It is intended to reasonably safeguard the privacy of  
 39 subscribers to cable television without unduly hampering the  
 companies' ability to carry on their businesses.

1 Specifically, the bill prohibits the collection and disclosure of  
personally identifiable information without a cable subscriber's  
3 consent, with various exceptions. A subscriber must be notified  
of the actual and potential uses of information collected without  
5 his consent.

In addition to regulating the collection, use and disclosure of  
7 personally identifiable information, the bill prohibits the  
interception of signals sent from a cable subscriber's terminal  
9 through a cable system except as otherwise provided by law.

The intercept provisions are intended to apply to signals sent  
11 to any party from a subscriber terminal. The provisions  
regulating the collection of personally identifiable information  
13 are intended to apply to information collected by a cable  
television company. The provisions regulating the use and  
15 disclosure of personally identifiable information are intended to  
apply to information collected by a cable television company  
17 and held by that company or any authorized third party which  
acquires the information from the company.

19

21

COMMERCE AND INDUSTRY  
Communications and Broadcasting

23

"Cable Subscriber Privacy Protection Act," regulates collection,  
25 use and disclosure of personally identifiable information  
gathered by cable television companies from subscriber  
27 terminals.

ASSEMBLY TRANSPORTATION AND  
COMMUNICATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 927

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 28, 1988

The Assembly Transportation and Communications Committee favorably reports Assembly Bill No. 927 with committee amendments.

This bill, as amended, regulates the collection, use and disclosure of personally identifiable information by cable television companies. It is intended to reasonably safeguard the privacy of subscribers to cable television services without unduly hampering the companies' ability to carry on their businesses.

Specifically, the bill prohibits the collection and disclosure of personally identifiable information without a cable subscriber's consent, with various exceptions. A subscriber must be notified of the actual and potential uses of information collected without his consent.

In addition to regulating the collection, use and disclosure of personally identifiable information, the bill prohibits the interception of signals sent from a cable subscriber's terminal through a cable system except as otherwise provided by law.

The intercept provisions are intended to apply to signals sent to any party from a subscriber terminal. The provisions regulating the collection of personally identifiable information are intended to apply to information collected by a cable television company. The provisions regulating the use and disclosure of personally identifiable information are intended to apply to information collected by a cable television company and held by that company or any authorized third party which acquires the information from the company.

The committee amended this legislation by omitting the section of the bill that had excluded public entities that may operate a cable television system from the protection of the Tort Claims Act.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.

SENATE TRANSPORTATION AND COMMUNICATIONS  
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 927

STATE OF NEW JERSEY

DATED: MARCH 21, 1988

The Senate Transportation and Communications Committee favorably reports Assembly Bill No. 927.

This bill regulates the collection, use and disclosure of personally identifiable information by cable television companies. It is intended to reasonably safeguard the privacy of subscribers to cable television services without unduly hampering the companies' ability to carry on their businesses.

Specifically, the bill prohibits the collection and disclosure of personally identifiable information without a cable subscriber's consent, with various exceptions. A subscriber must be notified of the actual and potential uses of information collected without his consent.

In addition to regulating the collection, use and disclosure of personally identifiable information, the bill prohibits the interception of signals sent from a cable subscriber's terminal through a cable system except as otherwise provided by law.

The intercept provisions are intended to apply to signals sent to any party from a subscriber terminal. The provisions regulating the collection of personally identifiable information are intended to apply to information collected by a cable television company. The provisions regulating the use and disclosure of personally identifiable information are intended to apply to information collected by a cable television company and held by that company or any authorized third party which acquires the information from the company.