

48:17-32

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2007 **CHAPTER:** 195
NJSA: 48:17-32 (Prohibits regulation of Voice over Internet Protocol)

BILL NO: A4339 (Substituted for S2777)

SPONSOR(S): Chivukula and others

DATE INTRODUCED: June 11, 2007

COMMITTEE: **ASSEMBLY:** Telecommunications and Utilities

SENATE:

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 21, 2007

SENATE: June 21, 2007

DATE OF APPROVAL: October 26, 2007

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (First reprint enacted)

A4339

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S2777

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

IS 5/20/08

P.L. 2007, CHAPTER 195, *approved October 26, 2007*
Assembly, No. 4339 (*First Reprint*)

1 AN ACT prohibiting regulation of certain aspects of Voice over
2 Internet Protocol and Internet Protocol-enabled services and
3 supplementing Title 48 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. This act shall be known and may be cited as the “Voice over
9 Internet Freedom Act.”

10
11 2. The Legislature finds and declares that:

12 a. The growth and enhancement of services using Internet
13 Protocol technology provide consumers more choice in voice, data,
14 and video service than at any other time;

15 b. The proliferation of new technologies and applications and
16 the growth in the number of providers developing and offering
17 innovative services using Internet Protocol is due in large part to a
18 light regulatory touch, including freedom from traditional telephone
19 regulation that these new technologies and services and the
20 companies that offer them have enjoyed in New Jersey; and

21 c. These economic benefits, including consumer choice, new
22 jobs, and significant capital investment, will be jeopardized and
23 competition minimized by the imposition of traditional State entry
24 and rate regulation on Voice over Internet Protocol service and
25 Internet protocol-enabled service.

26
27 3. As used in this act:

28 “Circuit switched local exchange access service” means circuit
29 switched local “telephone exchange service” as that term is defined
30 in 47U.S.C. s.153.¹

31 “Cramming” means the practice of placing unauthorized,
32 misleading or deceptive charges on a consumer's telephone bill for
33 any communications service, which service the consumer did not
34 order or authorize in advance.

35 “Internet Protocol-enabled service” or “IP-enabled service”
36 means “, except as provided in the definition hereunder of “Voice
37 over Internet Protocol service,”¹ any service, capability,
38 functionality, or application provided using Internet Protocol, or
39 any successor protocol, that enables an end user to send or receive a
40 communication in Internet Protocol format, or any successor

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:

¹Assembly ATU committee amendments adopted June 14, 2007.

1 format, regardless of whether the communication is voice, data or
2 video.

3 “Slamming” means the changing of a communications service
4 provider, including a customer's telephone service provider,
5 whether for long distance, regional toll or local calls, without the
6 customer's knowledge or permission.

7 “Telecommunications relay service” means a telephone
8 transmission service that provides the ability for an individual who
9 has a hearing impairment or speech impairment to engage in
10 communication with a hearing individual in a manner that is
11 functionally equivalent to the ability of an individual who does not
12 have a hearing impairment or speech impairment to communicate
13 using voice communication services.

14 “Voice over Internet Protocol service” or “VoIP service” means
15 any service that ¹:

16 a.¹ enables real-time, two-way voice communications ¹[that
17 originate or terminate]¹ from the user’s location in Internet
18 Protocol or any successor protocol ¹[and];

19 b.¹ uses a broadband connection from the user's location ¹[.
20 “Voice over Internet Protocol service” includes any voice
21 communications service that]; and

22 c.¹ permits users generally to receive ¹[telephone]¹ calls that
23 originate on the public switched telephone network and to terminate
24 ¹[telephone]¹ calls to the public switched telephone network.

25

26 4. Except as otherwise provided in this act, notwithstanding
27 any other provision of law, rule, regulation or order to the contrary,
28 neither the State, nor any department, agency, board or commission
29 thereof, nor any political subdivision of the State shall enact, adopt
30 or enforce any ¹law,¹ ordinance, resolution, rule, regulation, order,
31 standard or other provision, either directly or indirectly, having the
32 force and effect of law that regulates, or has the effect of regulating,
33 the rates, terms and conditions of VoIP service or IP-enabled
34 service ¹offered to customers¹.

35

36 5. Nothing in this act shall be construed to:

37 a. affect the application or enforcement of criminal or other
38 statutes or regulations that apply generally to the conduct of
39 business in the State, consumer protection, or unfair or deceptive
40 trade practices, including, but not limited to, any statutes or
41 regulations that prohibit cramming or slamming ¹, affect the
42 provisions of the "Underground Facility Protection Act," P.L.1994,
43 c.118 (C. 48:2-73 et seq.), or any law or regulation concerning any
44 easement on any real property or the extension of any
45 telecommunications service to any customer¹;

46 b. ¹[either mandate or prohibit the assessment of
47 nondiscriminatory fees for 9-1-1 service or] affect the authority of

1 the State or its agencies to enforce such requirements as are
2 otherwise expressly provided for by federal law, including, but not
3 limited to, the collection of¹ enhanced 9-1-1 '[service] fees',
4 telecommunications relay service 'fees', or federal Universal
5 Service Fund '[payments] fees' on VoIP or IP-enabled '[service,
6 or to mandate or prohibit the payment of any switched network
7 access rates or other intercarrier compensation rates] services' that
8 may be determined to apply 'or to affect any rights or duties the
9 State or its agencies may have under the provisions of 47U.S.C.
10 s.251 or 47U.S.C. s.252'; '[or]'

11 c. affect the authority of the State or its political subdivisions,
12 including municipalities, 'as appropriate.' to '[require a cable
13 television company to obtain franchises within such political
14 subdivisions pursuant to section 541(b)(1) of the "Cable
15 Communications Policy Act of 1984," Pub.L.98-549 (47 U.S.C.
16 s.541(b)(1)) or section 22 of P.L.1972, c.186 (C.48:5A-22)] set
17 forth the requirements of providing cable service or operating a
18 cable television system as pursuant to the provisions of "Cable
19 Communications Policy Act of 1984," Pub.L.98-549 (47U.S.C.
20 s.521 et seq.) or the "Cable Television Act," P.L.1972, c.186
21 (C.48:5A-1 et seq.);

22 d. affect the authority of the State or its political subdivisions,
23 as applicable, to manage the use of public rights-of-way, including,
24 but not limited to, any requirement for the joint use of poles or
25 other structures in such rights-of-way; or

26 e. affect the authority of the Board of Public Utilities in
27 regulating the rates, terms and conditions of circuit switched local
28 exchange access service, consistent with federal law¹.

29

30 6. This act shall take effect immediately.

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34

35 Prohibits regulation of certain aspects of Voice over Internet
36 Protocol and Internet Protocol-enabled services.

ASSEMBLY, No. 4339

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 11, 2007

Sponsored by:

Assemblyman UPENDRA J. CHIVUKULA

District 17 (Middlesex and Somerset)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

SYNOPSIS

Prohibits regulation of certain aspects of Voice over Internet Protocol and Internet Protocol-enabled services.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT prohibiting regulation of certain aspects of Voice over
2 Internet Protocol and Internet Protocol-enabled services and
3 supplementing Title 48 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. This act shall be known and may be cited as the “Voice over
9 Internet Freedom Act.”

10
11 2. The Legislature finds and declares that:

12 a. The growth and enhancement of services using Internet
13 Protocol technology provide consumers more choice in voice, data,
14 and video service than at any other time;

15 b. The proliferation of new technologies and applications and
16 the growth in the number of providers developing and offering
17 innovative services using Internet Protocol is due in large part to a
18 light regulatory touch, including freedom from traditional telephone
19 regulation that these new technologies and services and the
20 companies that offer them have enjoyed in New Jersey; and

21 c. These economic benefits, including consumer choice, new
22 jobs, and significant capital investment, will be jeopardized and
23 competition minimized by the imposition of traditional State entry
24 and rate regulation on Voice over Internet Protocol service and
25 Internet protocol-enabled service.

26
27 3. As used in this act:

28 “Cramming” means the practice of placing unauthorized,
29 misleading or deceptive charges on a consumer's telephone bill for
30 any communications service, which service the consumer did not
31 order or authorize in advance.

32 “Internet Protocol-enabled service” or “IP-enabled service”
33 means any service, capability, functionality, or application provided
34 using Internet Protocol, or any successor protocol, that enables an
35 end user to send or receive a communication in Internet Protocol
36 format, or any successor format, regardless of whether the
37 communication is voice, data or video.

38 “Slamming” means the changing of a communications service
39 provider, including a customer's telephone service provider,
40 whether for long distance, regional toll or local calls, without the
41 customer's knowledge or permission.

42 “Telecommunications relay service” means a telephone
43 transmission service that provides the ability for an individual who
44 has a hearing impairment or speech impairment to engage in
45 communication with a hearing individual in a manner that is
46 functionally equivalent to the ability of an individual who does not
47 have a hearing impairment or speech impairment to communicate
48 using voice communication services.

1 "Voice over Internet Protocol service" or "VoIP service" means
2 any service that enables real-time, two-way voice communications
3 that originate or terminate from the user's location in Internet
4 Protocol or any successor protocol and uses a broadband connection
5 from the user's location. "Voice over Internet Protocol service"
6 includes any voice communications service that permits users
7 generally to receive telephone calls that originate on the public
8 switched telephone network and to terminate telephone calls to the
9 public switched telephone network.

10

11 4. Except as otherwise provided in this act, notwithstanding
12 any other provision of law, rule, regulation or order to the contrary,
13 neither the State, nor any department, agency, board or commission
14 thereof, nor any political subdivision of the State shall enact, adopt
15 or enforce any ordinance, resolution, rule, regulation, order,
16 standard or other provision, either directly or indirectly, having the
17 force and effect of law that regulates, or has the effect of regulating,
18 the rates, terms and conditions of VoIP service or IP-enabled
19 service.

20

21 5. Nothing in this act shall be construed to:

22 a. affect the application or enforcement of criminal or other
23 statutes or regulations that apply generally to the conduct of
24 business in the State, consumer protection, or unfair or deceptive
25 trade practices, including, but not limited to, any statutes or
26 regulations that prohibit cramming or slamming;

27 b. either mandate or prohibit the assessment of
28 nondiscriminatory fees for 9-1-1 service or enhanced 9-1-1 service,
29 telecommunications relay service, or federal Universal Service
30 Fund payments on VoIP or IP-enabled service, or to mandate or
31 prohibit the payment of any switched network access rates or other
32 intercarrier compensation rates that may be determined to apply; or

33 c. affect the authority of the State or its political subdivisions,
34 including municipalities, to require a cable television company to
35 obtain franchises to provide cable service within such political
36 subdivisions pursuant to section 541(b)(1) of the "Cable
37 Communications Policy Act of 1984," Pub.L. 98-549 (47 U.S.C.
38 s.541(b)(1)) or P.L.1972, c.186 (C.48:5A-1 et seq.).

39

40 6. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 This bill prohibits the State, or any department, agency, board or
46 commission thereof, or any political subdivision of the State from
47 enacting, adopting or enforcing any ordinance, resolution, rule,
48 regulation, order, standard or other provision, either directly or

1 indirectly, having the force and effect of law that regulates, or has
2 the effect of regulating, the rates, terms and conditions of Voice
3 over Internet Protocol (“VoIP”) service or Internet Protocol-enabled
4 “IP-enabled”) service. The provisions of the bill do not apply to or
5 effect: 1) the application or enforcement of criminal or other
6 statutes or regulations that apply generally to conducting business
7 in the State, consumer protection, or unfair or deceptive trade
8 practices, including, but not limited to, any statutes or regulations
9 that prohibit “cramming” or “slamming;” 2) any mandate or
10 prohibition of nondiscriminatory fees for 9-1-1 service or enhanced
11 9-1-1 service, telecommunications relay service, or federal
12 Universal Service Fund payments on VoIP or IP-enabled service, or
13 to any mandate or prohibition of the payment of any switched
14 network access rates or other intercarrier compensation rates that
15 may be determined to apply; and 3) the authority of the State or its
16 political subdivisions, including municipalities, to require a cable
17 television company to obtain franchises to provide cable service
18 within the State or such political subdivisions, as appropriate,
19 pursuant to section 541(b)(1) of the “Cable Communications Policy
20 Act of 1984,” Pub.L. 98-549 (47 U.S.C. s.541(b)(1)) or P.L.1972,
21 c.186 (C.48:5A-1 et seq.).

ASSEMBLY TELECOMMUNICATIONS AND UTILITIES
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 4339

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Assembly Telecommunications and Utilities Committee reports favorably Assembly Bill No. 4339 with committee amendments.

As amended, this bill prohibits the State, or any department, agency, board or commission thereof, or any political subdivision of the State from enacting, adopting or enforcing any law, ordinance, resolution, rule, regulation, order, standard or other provision, either directly or indirectly, having the force and effect of law that regulates, or has the effect of regulating, the rates, terms and conditions of Voice over Internet Protocol (“VoIP”) service or Internet Protocol-enabled (“IP-enabled”) service.

As amended, the provisions of the bill do not apply to or affect: 1) the application or enforcement of criminal or other statutes or regulations that apply generally to the conduct of business in the State, consumer protection, or unfair or deceptive trade practices, including, but not limited to, any statutes or regulations that prohibit “cramming” or “slamming;” 2) the authority of the State or its agencies to enforce requirements of federal law including the collection of enhanced 9-1-1 fees, telecommunications relay service fees, or federal Universal Service Fund fees on VoIP or IP-enabled services; and 3) the authority of the State or its political subdivisions, including municipalities, to set forth the requirements applicable to providing cable service or operating a cable television system pursuant to section 541(b)(1) of the “Cable Communications Policy Act of 1984,” Pub.L. 98-549 (47 U.S.C. s.521 se seq.) or P.L.1972, c.186 (C.48:5A-1 et seq.).

The committee adopted amendments to include a definition of “circuit switched local exchange access service” and to clarify the definition of “IP-enabled service” and “Voice over Internet Protocol.” In addition, the committee amendments clarify that the bill is not intended to affect the authority of the State or its political subdivisions to enforce or apply existing federal or certain State laws, regulations or requirements, including the authority of the Board of Public Utilities in

regulating the rates, terms and conditions of circuit switched local exchange service. The committee also adopted certain technical amendments.

The amendments adopted by the committee make the bill identical to Senate Bill No. 2777 SCA as reported by the Senate Economic Growth Committee on this date.

SENATE, No. 2777

STATE OF NEW JERSEY
212th LEGISLATURE

INTRODUCED JUNE 7, 2007

Sponsored by:
Senator RAYMOND J. LESNIAK
District 20 (Union)

SYNOPSIS

Prohibits regulation of certain aspects of Voice over Internet Protocol and Internet Protocol-enabled services.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT prohibiting regulation of certain aspects of Voice over
2 Internet Protocol and Internet Protocol-enabled services and
3 supplementing Title 48 of the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

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8 1. This act shall be known and may be cited as the “Voice over
9 Internet Freedom Act.”

10
11 2. The Legislature finds and declares that:

12 a. The growth and enhancement of services using Internet
13 Protocol technology provide consumers more choice in voice, data,
14 and video service than at any other time;

15 b. The proliferation of new technologies and applications and
16 the growth in the number of providers developing and offering
17 innovative services using Internet Protocol is due in large part to a
18 light regulatory touch, including freedom from traditional telephone
19 regulation that these new technologies and services and the
20 companies that offer them have enjoyed in New Jersey; and

21 c. These economic benefits, including consumer choice, new
22 jobs, and significant capital investment, will be jeopardized and
23 competition minimized by the imposition of traditional State entry
24 and rate regulation on Voice over Internet Protocol service and
25 Internet protocol-enabled service.

26
27 3. As used in this act:

28 “Cramming” means the practice of placing unauthorized,
29 misleading or deceptive charges on a consumer's telephone bill for
30 any communications service, which service the consumer did not
31 order or authorize in advance.

32 “Internet Protocol-enabled service” or “IP-enabled service”
33 means any service, capability, functionality, or application provided
34 using Internet Protocol, or any successor protocol, that enables an
35 end user to send or receive a communication in Internet Protocol
36 format, or any successor format, regardless of whether the
37 communication is voice, data or video.

38 “Slamming” means the changing of a communications service
39 provider, including a customer's telephone service provider,
40 whether for long distance, regional toll or local calls, without the
41 customer's knowledge or permission.

42 “Telecommunications relay service” means a telephone
43 transmission service that provides the ability for an individual who
44 has a hearing impairment or speech impairment to engage in
45 communication with a hearing individual in a manner that is
46 functionally equivalent to the ability of an individual who does not
47 have a hearing impairment or speech impairment to communicate
48 using voice communication services.

1 "Voice over Internet Protocol service" or "VoIP service" means
2 any service that enables real-time, two-way voice communications
3 that originate or terminate from the user's location in Internet
4 Protocol or any successor protocol and uses a broadband connection
5 from the user's location. "Voice over Internet Protocol service"
6 includes any voice communications service that permits users
7 generally to receive telephone calls that originate on the public
8 switched telephone network and to terminate telephone calls to the
9 public switched telephone network.

10

11 4. Except as otherwise provided in this act, notwithstanding
12 any other provision of law, rule, regulation or order to the contrary,
13 neither the State, nor any department, agency, board or commission
14 thereof, nor any political subdivision of the State shall enact, adopt
15 or enforce any ordinance, resolution, rule, regulation, order,
16 standard or other provision, either directly or indirectly, having the
17 force and effect of law that regulates, or has the effect of regulating,
18 the rates, terms and conditions of VoIP service or IP-enabled
19 service.

20

21 5. Nothing in this act shall be construed to:

22 a. affect the application or enforcement of criminal or other
23 statutes or regulations that apply generally to the conduct of
24 business in the State, consumer protection, or unfair or deceptive
25 trade practices, including, but not limited to, any statutes or
26 regulations that prohibit cramming or slamming;

27 b. either mandate or prohibit the assessment of
28 nondiscriminatory fees for 9-1-1 service or enhanced 9-1-1 service,
29 telecommunications relay service, or federal Universal Service
30 Fund payments on VoIP or IP-enabled service, or to mandate or
31 prohibit the payment of any switched network access rates or other
32 intercarrier compensation rates that may be determined to apply; or

33 c. affect the authority of the State or its political subdivisions,
34 including municipalities, to require a cable television company to
35 obtain franchises to provide cable service within such political
36 subdivisions pursuant to section 541(b)(1) of the "Cable
37 Communications Policy Act of 1984," Pub.L. 98-549 (47 U.S.C.
38 s.541(b)(1)) or section 22 of P.L.1972, c.186 (C.48:5A-22).

39

40 6. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 This bill prohibits the State, or any department, agency, board or
46 commission thereof, or any political subdivision of the State from
47 enacting, adopting or enforcing any ordinance, resolution, rule,
48 regulation, order, standard or other provision, either directly or

1 indirectly, having the force and effect of law that regulates, or has
2 the effect of regulating, the rates, terms and conditions of Voice
3 over Internet Protocol (“VoIP”) service or Internet Protocol-enabled
4 “IP-enabled”) service. The provisions of the bill do not apply to or
5 effect: 1) the application or enforcement of criminal or other
6 statutes or regulations that apply generally to conducting business
7 in the State, consumer protection, or unfair or deceptive trade
8 practices, including, but not limited to, any statutes or regulations
9 that prohibit “cramming” or “slamming;” 2) any mandate or
10 prohibition of nondiscriminatory fees for 9-1-1 service or enhanced
11 9-1-1 service, telecommunications relay service, or federal
12 Universal Service Fund payments on VoIP or IP-enabled service, or
13 to any mandate or prohibition of the payment of any switched
14 network access rates or other intercarrier compensation rates that
15 may be determined to apply; and 3) the authority of the State or its
16 political subdivisions, including municipalities, to require a cable
17 television company to obtain franchises to provide cable service
18 within such political subdivisions pursuant to section 541(b)(1) of
19 the “Cable Communications Policy Act of 1984,” Pub.L. 98-549
20 (47 U.S.C. s.541(b)(1)) or section 22 of P.L.1972, c.186 (C.48:5A-
21 22).

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 2777

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Senate Economic Growth Committee reports favorably Senate Bill, No. 2777 with committee amendments.

As amended by the committee, this bill prohibits the State, or any department, agency, board or commission thereof, or any political subdivision of the State from enacting, adopting or enforcing any law, ordinance, resolution, rule, regulation, order, standard or other provision, either directly or indirectly, having the force and effect of law that regulates, or has the effect of regulating, the rates, terms and conditions of Voice over Internet Protocol (“VoIP”) service or Internet Protocol-enabled (“IP-enabled”) service.

As amended, the provisions of the bill do not apply to or affect: 1) the application or enforcement of criminal or other statutes or regulations that apply generally to the conduct of business in the State, consumer protection, or unfair or deceptive trade practices, including, but not limited to, any statutes or regulations that prohibit “cramming” or “slamming;” 2) the authority of the State or its agencies to enforce requirements of federal law including the collection of enhanced 9-1-1 fees, telecommunications relay service fees, or federal Universal Service Fund fees on VoIP or IP-enabled services; and 3) the authority of the State or its political subdivisions, including municipalities, to set forth the requirements applicable to providing cable service or operating a cable television system pursuant to section 541(b)(1) of the “Cable Communications Policy Act of 1984,” Pub.L. 98-549 (47 U.S.C. s.521 et seq.) or P.L.1972, c.186 (C.48:5A-1 et seq.).

The committee adopted amendments to include a definition of “circuit switched local exchange access service” and to clarify the definition of “VoIP service” and “IP-enabled service.” In addition, the committee amendments clarify that the bill is not intended to affect the authority of the State or its political subdivisions to enforce or apply existing federal or certain State laws, regulations or requirements, including the authority of the Board of Public Utilities in regulating the rates, terms and conditions of circuit switched local exchange service. The committee also adopted certain technical amendments.

As amended and reported by the committee, Senate Bill, No. 2777
is identical to Assembly Bill, No. 4339 ACA.