

56: 8-1

LEGISLATIVE HISTORY CHECKLIST
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("Pay per call--"
information services
(900)--registration)

NJSA: 56: 8-1

LAWS OF: 1991 CHAPTER: 416

BILL NO: A4437/A449

SPONSOR(S) Cimino and others

DATE INTRODUCED: January 29, 1991

COMMITTEE: ASSEMBLY: Consumer Affairs
SENATE: Transportation & Public
Utilities

AMENDED DURING PASSAGE: Yes Assembly committee substitute (2R)
enacted

DATE OF PASSAGE: ASSEMBLY: June 24, 1991
SENATE: December 16, 1991

DATE OF APPROVAL: January 17, 1992

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: Yes
974.90 New Jersey. Legislature. Assembly.
C762 Consumer Affairs Committee.
1991a N.J., 1991. Public hearing, held 5-20-91, Glassboro,
See newspaper clippings--attached

KBG/bas

[SECOND REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 4437 and 4449

STATE OF NEW JERSEY

ADOPTED JUNE 10, 1991

Sponsored by Assemblymen CIMINO, MECCA,
Assemblywoman MULLEN, Assemblymen McGREEVEY, COHEN,
KRONICK, KAVANAUGH, Assemblywoman CRECCO and
Assemblyman SPADORO

1 AN ACT concerning information services and supplementing
2 P.L.1960, c.39 (C.56:8-1 et seq.)

3

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

6 1. An information service constitutes a service within the
7 term "merchandise" as defined in P.L.1960, c.39 (C.56:8-1
8 et seq.), and the provisions of that law concerning the
9 advertisement and sale of merchandise shall have the same
10 application to the advertisement and sale of an information
11 service.

12 2. For the purposes of this act:

13 "Automatic dialing device" means equipment capable of being
14 programmed to randomly or sequentially dial seven-digit or
15 ten-digit telephone numbers and, upon connection, play back a
16 pre-recorded message.

17 "Information service" means live or pre-recorded voice or
18 computer-generated communication initiated by use of a
19 telephone number for a fee or charge billed by or on behalf of the
20 information service provider in addition to any charges for the
21 local or long distance transmission or other services associated
22 with the call which are subject to federal regulation or to
23 regulation by the Board of Public Utilities pursuant to Title 48 of
24 the Revised Statutes, but shall not include any regulated
25 announcement services, directory or operator services offered by
26 telephone companies ²[as tariffed utility services] , or services
27 offered on a presubscription basis².

28 "Information service provider" means a person who advertises
29 or sells an information service.

30 3. a. It shall be an unlawful practice for a person to advertise
31 or sell an information service unless the following information is
32 clearly and conspicuously disclosed in all advertisements offering
33 the information service:

34 (1) An accurate description of the service;

35 (2) The total price of the service, or, where a charge is based
36 in whole or in part on the passage of time²[,]² the ²[total length

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 Senate floor amendments adopted September 26, 1991.

² Senate floor amendments adopted December 12, 1991.

1 of any scripted or prepared message and the per-minute charge
2 for the service and] rate, by minute or other unit of time upon
3 which that charge is based;² any other charges being imposed for
4 the service ²; and the total cost of any information service of
5 predetermined length²;

6 (3) Instruction to minors to obtain parental consent before
7 engaging the information service; and

8 (4) The legal name and street address of the information
9 service provider.

10 b. In any case in which the total price of the information
11 service may exceed \$5, it shall be an unlawful practice for a
12 person to advertise or sell the information service unless:

13 (1) The disclosures required by paragraphs (1) ²[,] and² (2) ² [,

14 and (3)]² of subsection a. of this section ²and, in the case of an
15 information service aimed at or likely to be of interest to minors,
16 an additional instruction directing minors to hang up unless the
17 minor has parental permission² are clearly and prominently
18 stated at the inception of the telephone call connecting the caller
19 with the information service; and

20 (2) The caller is clearly notified of and afforded a reasonable
21 opportunity to disconnect the call following the disclosure and
22 prior to incurring any charge for the information service.

23 ²c. The preambles required for information services subject to
24 the provisions of subsection b. of this section are intended to be
25 consistent with the preambles required for interstate calls
26 subject to the provisions of 56 Fed. Reg. 56165 (1991) (to be
27 codified at 47 C.F.R. §64.709). In the event that such regulations
28 are amended or replaced by federal law or subsequent federal
29 regulation, the Director of the Division of Consumer Affairs is
30 authorized to promulgate regulations modifying the provisions of
31 this section to avoid conflict with federal requirements.²

32 4. It shall be an unlawful practice for a person to advertise or
33 sell an information service that involves:

34 a. Advertisement through use of an automatic dialing device;

35 b. Access to the information service through use of signals or
36 tones provided directly or indirectly by the information service
37 provider;

38 c. The dialing of more than one telephone number for a fee;

39 d. The participation in a contest, raffle, lottery or game of
40 chance which is illegal under New Jersey law;

41 e. Job or employment opportunities in violation of licensing,
42 registration or other requirements of New Jersey law;

43 f. Charitable solicitation where the charity and the
44 information service provider are not registered as required by
45 New Jersey law or are not otherwise in compliance with New
46 Jersey law; or

47 g. Accessing an information service in order to claim or
48 receive information or notice concerning entitlement to a prize,
49 gift, award or other thing of value ², other than in connection

1 with a lottery, type of lottery, or lottery game offered by the
2 New Jersey State Lottery Commission².

3 ¹5. The Board of Public Utilities is directed to adopt rules and
4 regulations providing a procedure whereby a subscriber, or the
5 legal representative, guardian, or personal representative of a
6 subscriber may request the telephone company to block access to
7 an information service from the telephone of the subscriber. For
8 purposes of this section, a personal representative is a person
9 designated by the subscriber to serve as the subscriber's
10 representative to the telephone company in the case of billing,
11 emergencies and related matters.¹

12 ¹[5.] ^{6.1} Pursuant to the provisions of the "Administrative
13 Procedure Act", P.L.1968, c.410 (C.52:14B-1 et seq.), the
14 Director of the Division of Consumer Affairs may adopt
15 regulations ²as authorized in section 3 of P.L. ,c. (C.)
16 (now pending before the Legislature as this bill) and as otherwise²
17 necessary to effectuate the purposes of this act, require
18 information service providers to register with the Division of
19 Consumer Affairs in the Department of Law and Public Safety
20 and establish fees for this registration at a level which allows for
21 the proper administration and enforcement of this act.

22 ¹[6.] ^{7.1} In addition to powers exercised by the Attorney
23 General pursuant to the provisions of section 8 of P.L.1960, c.39
24 (C.56:8-8) or any other law, when it shall appear to the Attorney
25 General that an information service provider is about to engage
26 in, is continuing to engage in, or has engaged in conduct which is
27 in violation of this law, or when it is in the public interest, the
28 Attorney General shall have the authority to seek and obtain in
29 summary action in the Superior Court an injunction prohibiting
30 the information service provider from advertising or selling
31 information services, and may seek and obtain an order directing
32 restraints against receipt and withdrawal of all money due or
33 payable to the information service provider on account of the
34 unlawful activity.

35 ¹[7.] ^{8.1} This act shall take effect on the first day of the third
36 month following enactment.

37

38

39

COMMUNICATIONS

40

41 Establishes regulatory scheme for "pay-per-call" and "900"
42 number programs and services.

ASSEMBLY, No. 4449

STATE OF NEW JERSEY

INTRODUCED JANUARY 31, 1991

By Assemblymen CIMINO and MCGREEVEY

1 AN ACT concerning certain telephone information services and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

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

6 1. As used in this act:

7 "Premium telephone information service" or "service" means
8 any telephone service or program:

9 a. Offering passive or interactive telecommunications with
10 actual persons, voice messaging equipment or computer data
11 bases to a consumer in this State for the purported purpose of
12 transmitting information, be it of an educational, entertainment,
13 financial, charitable, or other nature, as may be prescribed by
14 rule and regulation, to that consumer;

15 b. Accessible by the consumer through the telephonic network
16 facilities of a telecommunications carrier, local exchange
17 telephone company, or a person otherwise providing access
18 through the use of cellular, mobile, portable or other specialized
19 telephonic communications methods that is subject to regulation
20 by the Federal Communications Commission or the Board of
21 Public Utilities of this State pursuant to Title 48 of the Revised
22 Statutes;

23 c. Where the consumer is billed for the service by the local
24 exchange telephone company providing dial tone and access to
25 the service or by the person providing access to the service
26 through the use of cellular, mobile, portable or other specialized
27 telephonic methods; and

28 d. Where the amount the consumer is billed exceeds the
29 amount the service sponsor is charged for the aggregate of (1)
30 all federally regulated tariffed message transport costs; (2) all
31 applicable State and federal taxes; and (3) any other related fees,
32 charges, or costs provided under the terms of the contract
33 between the sponsor and the telecommunications carrier, local
34 telephone exchange company or other person providing telephonic
35 access to the service; and where that excess amount is remitted
36 to the sponsor.

37 "Sponsor" means any person who offers a premium telephone
38 information service to a consumer in this State.

39 2. It shall be an unlawful practice for a sponsor to advertise
40 the offering of a premium telephone information service to a
41 consumer in this State unless that advertisement shall, in a

1 manner prescribed by rule and regulation, clearly and
2 conspicuously set forth:

3 a. In the case of a service having a set fee or charge, the total
4 cost of the service to the consumer; or

5 b. In the case of a service having a per-minute fee or charge:

6 (1) The charge per-minute to the consumer;

7 (2) Whether or not the service consists of a scripted message
8 by an actual person, a pre-recorded message, voice messaging
9 equipment or a computer data base program, or is comprised of
10 non-scripted communication with an actual person, be that
11 person an employee or agent of the sponsor or another consumer
12 of the service. In the case of a service consisting of a scripted
13 message by an actual person, a pre-recorded message, voice
14 messaging equipment or a computer data base, the sponsor shall
15 notify the consumer of the total number of minutes for which he
16 may be charged for listening to the service.

17 (3) Whether or not there is any other fee or cost in addition to
18 the per-minute charge for which the consumer will be billed, and
19 if so the amount of that other fee or cost.

20 c. A statement that the consumer must be 18 years of age or
21 older; provided, however, a sponsor may offer a service for
22 consumers under the age of 18 if the advertisement clearly and
23 conspicuously, and in a manner understandable to such a
24 consumer, instructs that consumer to obtain parental permission
25 before accessing the service;

26 d. The sponsor's name and mailing address; and

27 e. Any other information the Department of Law and Public
28 Safety may by rule and regulation require.

29 3. It shall be an unlawful practice for any sponsor to offer a
30 premium telephone information service to a consumer in this
31 State that does not commence with a disclosure statement and
32 provide the consumer with an opportunity to terminate the
33 service without incurring any charge.

34 a. The disclosure statement shall include the following:

35 (1) A statement clearly and explicitly informing the consumer
36 that he will be charged for the service;

37 (2) The amount the consumer shall be charged:

38 (a) In the case of a service having a set fee or charge, the
39 statement shall disclose the total cost to the consumer;

40 (b) In the case of a service having a per-minute fee or charge,
41 the statement shall disclose the cost per-minute, whether the
42 service involves a scripted or non-scripted message, and whether
43 or not there is any other fee or cost, in addition to the
44 per-minute charge, for which the consumer will be billed. In the
45 case of a service involving a scripted message, the statement
46 shall disclose the length of that message in minutes; and

47 (3) Any other information the Department of Law and Public
48 Safety may, by rule and regulation, prescribe.

49 b. In addition to the disclosures required under the provisions

1 of subsection a. of this section, a sponsor who offers a premium
2 telephone information service in which a portion of the amount
3 for which the consumer is billed is to be allocated or remitted to
4 an organization either as a charitable donation or as a general
5 fundraising contribution shall also disclose:

6 (1) The name and purpose of the organization to which the
7 amounts donated or contributed are to be allocated or remitted;

8 (2) The amount to be allocated or remitted as a charitable
9 donation or contribution;

10 (3) What percentage that amount represents of the total cost
11 the consumer will be billed for the service; and

12 (4) Whether or not the consumer is entitled to treat the
13 amount so donated or contributed as a tax deductible contribution
14 for federal income tax purposes.

15 c. Notwithstanding the provisions of subsection a. of this
16 section, a sponsor who offers a service which is primarily
17 directed to or for consumers under the age of 18 shall commence
18 the service with a statement, presented in a manner that is
19 clearly understandable to the consumer to whom the service is
20 directed, which discloses that:

21 (1) There is a fee or charge for the service; and

22 (2) If the consumer has not obtain parental permission to
23 access the service, the service should be immediately terminated.

24 d. The disclosure statement required under the provisions of
25 this section shall conclude with the following statement:

26
27 "IF YOU DO NOT WISH TO BE CHARGED FOR THIS CALL,
28 PLEASE HANG UP NOW."
29

30 e. No consumer who terminates a service within five seconds
31 of the conclusion of the presentation of the statement required
32 under the provisions of subsection d. of this section shall incur
33 any charge for that service.

34 4. It shall be an unlawful practice for a sponsor to offer a
35 premium telephone information service to a consumer in this
36 State which involves in any manner the consumer's participation
37 in a contest, raffle, lottery, or game of chance.

38 5. It shall be an unlawful practice for a sponsor to notify, by
39 any means, as part of an advertising plan, campaign or scheme, a
40 consumer in this State that he has or may have won a prize, gift,
41 award, or other thing of value and, as a condition either for
42 receiving or for determining whether or not he is entitled to that
43 prize, gift, award, or other thing of value, to require that
44 consumer to access a premium telephone information service.

45 6. It shall be an unlawful practice for a sponsor to offer a
46 premium telephone information service to a consumer in this
47 State which, due to any act or employment of deception, false
48 pretense, false promise, misrepresentation, or the knowing,
49 concealment, suppression, or omission of any material fact with

1 intent that consumers rely upon that concealment, suppression or
2 omission in connection with the offering of the service, results in
3 the consumer accessing a second or subsequent premium
4 telephone information service.

5 7. Every sponsor who offers a premium telephone information
6 service to a consumer in this State shall, prior to that offering,
7 register with the Attorney General. The registration shall be in a
8 manner and form prescribed by rule and regulation. The Attorney
9 General shall fix a fee for the registration required under this
10 section sufficient to provide for the proper administration of this
11 act.

12 8. A sponsor who violates the provisions of this act shall, in
13 addition to any other penalty provided by law, be liable to a
14 penalty in an amount not to exceed \$25,000. If the violation is of
15 a continuing nature, each day shall constitute an additional
16 separate violation. The penalty provided for in this section shall
17 be collected in a summary proceeding pursuant to "the penalty
18 enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either
19 in the nature of a summons or a warrant and shall issue in the
20 name of the State, upon the complaint of the Attorney General.

21 In the event that any person found to have violated the
22 provisions of this act fails to pay a civil penalty assessed by the
23 court, the court may issue, upon application by the Attorney
24 General, a warrant for the arrest of that person for the purpose
25 of bringing him before the court to satisfy the civil penalty
26 imposed.

27 9. In any action or proceeding brought under the provisions of
28 this act, the Attorney General shall be entitled to recover costs
29 for the use of the State.

30 10. The Attorney General, in addition to the civil penalties
31 prescribed in this act, may bring an action in the Superior Court
32 to provide for the award of treble damages. In all actions under
33 this section, the court shall also award reasonable attorney's
34 fees, filing fees and reasonable court costs.

35 11. The Department of Law and Public Safety, pursuant to the
36 provisions of the "Administrative Procedures Act," P.L.1968,
37 c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations
38 to effectuate the purposes of this act.

39 12. This act shall take effect on the first day of the sixth
40 month following enactment, except that section 11 shall take
41 effect immediately.

42
43
44 STATEMENT

45
46 This bill supplements the Consumer Fraud Act, P.L.1960, c.39
47 (C.56:8-1 et seq.) to establish a regulatory scheme to protect the
48 State's consumers from deceptive and unlawful practices by the
49 sponsors of premium telephone information services.

1 Premium telephone information services, as defined in the bill,
2 are programs consumers may access by dialing either a "700" or
3 "900" area code and for which they are charged a fee that
4 exceeds the actual cost of the telephone call. The excess
5 amounts are remitted to the program sponsor. The bill clarifies
6 that the sponsor of the service is the person who offers the
7 program to the consumers of this State, not the
8 telecommunications carrier, local exchange telephone company,
9 or other telephonic or communications company transmitting and
10 providing access to the program. The regulatory scheme
11 established in this bill applies only to the sponsors, not the
12 entities carrying or providing access to the program. Those
13 entities are already subject to regulation by the Federal
14 Communications Commission or the State Board of Public
15 Utilities.

16 Under the provisions of the bill, the sponsors of premium
17 telephone information services are required to register with the
18 State and to disclose certain information to prospective
19 consumers. Advertisements for premium telephone information
20 services must disclose the cost of the service to the consumer
21 and whether there is a set fee for the service or the consumer
22 pays by the minute. If the service has a pay per-minute format,
23 the consumer must be informed whether the service has a
24 scripted message and if so the length of that message. The
25 consumer must also be informed whether there is any other fee or
26 charge for the service in addition to the per-minute charge.

27 The bill requires sponsors to disclose similar information to
28 each consumer when he calls the service. Sponsors who purport
29 to allocate or remit portions of the excess a consumer is charged
30 for charitable or fundraising purposes are required to disclose the
31 amount actually be allocated or remitted, the name of the
32 organization receiving that amount, and whether or not the
33 consumer may treat that amount as a tax deductible donation for
34 federal income tax purposes. Sponsors offering a service for
35 children must inform the child that there is an extra charge for
36 the call and that if parental permission has not been given, the
37 child should hang up.

38 Sponsors are also required to give the consumer an opportunity
39 to terminate the call without incurring any charge.

40 The bill also establishes certain unlawful practices. Sponsors,
41 for example, are not permitted to offer any service which
42 misleads, deceives, or through concealment, false pretense or
43 omission, has the consumer access a second or subsequent
44 premium telephone information service; offer a service which
45 involves participation in a contest, raffle, lottery, or game
46 change; or offer any program which requires a consumer to
47 access a premium telephone information service in order to

1 determine whether or not has won, or may be eligible for, a prize,
2 gift, award, bonus or other thing of value.

3 As a supplement to the Consumer Fraud Act, this bill
4 authorizes the Attorney General to exercise the extensive
5 investigative and enforcement powers available under that
6 statute.

7 In addition to the penalties currently available in cases of
8 consumer fraud, this bill authorizes the imposition of an
9 additional civil penalty of not more than \$25,000 for each
10 violation. If the violation is of a continuing nature, the bill
11 declares that each day during which the violation continues
12 constitutes a separate and distinct violation and, therefore, the
13 violator may be subject to additional civil penalties.

14 Finally, the bill permits the Attorney General to bring an
15 action in Superior Court for treble damages.

16
17

18 CONSUMER AFFAIRS

19

20 Establishes regulatory scheme for certain telephone information
21 services.

ASSEMBLY, No. 4437

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1991

By Assemblyman MECCA and Assemblywoman MULLEN

1 AN ACT concerning information services provided from, in or
2 into the State and supplementing P.L.1960, c.39 (C.56:8-1 et
3 seq.)

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

7 1. a. An information service constitutes a service within the
8 term "merchandise" as defined in P.L.1960, c.39 (C.56:8-1 et
9 seq.) and the provisions of that law concerning the advertisement
10 and sale of merchandise shall have the same application to the
11 advertisement and sale of an information service.

12 b. For the purposes of this act, "information service" means
13 live or pre-recorded voice or computer-generated communication
14 provided from, in or into the State via use of a seven-digit or
15 ten-digit telephone number or an automatic dialing device, for a
16 fee or charge billed by or on behalf of the information service
17 provider in addition to any charges for the local or long distance
18 transmission or other services associated with the call which are
19 subject to federal regulation or to regulation by the Board of
20 Public Utilities pursuant to Title 48 of the Revised Statutes.

21 2. a. It shall be an unlawful practice for a person to offer an
22 information service unless the following information is clearly
23 and conspicuously disclosed in advertisements offering the
24 information service and at the inception of the telephone call
25 connecting the caller with the information service:

26 1) the total price of the service, or the per-minute charge for
27 the service and the average length of service use and the charge
28 for that length of service use, in instances where a charge is
29 being imposed on a per-minute basis, or any other charges being
30 imposed for the service in instances where charges are imposed
31 on any other basis;

32 2) instruction to minors to obtain parental consent before
33 engaging the information service; and

34 3) the legal name and street address of the person advertising
35 or selling the information service.

36 b. Following the disclosure of the information required by
37 subsection a. of this section and prior to connection with the
38 information service, a reasonable period of time must be provided
39 during which the caller shall have the opportunity to disconnect
40 the call before charges are incurred for the information service
41 being sold. If the call is disconnected within this reasonable
42 period of time, there shall be no charge for the information

1 service. Notice of the conclusion of this period of time and the
2 commencement of charges accruing must also be provided.

3 3. It shall be an unlawful practice for a person to advertise or
4 sell an information service from, in or into the State that
5 involves:

6 a. the dialing of more than one seven-digit or ten-digit
7 telephone number for a fee in connection with the service;

8 b. the participation in a contest, raffle, lottery or game of
9 chance; or

10 c. the acquisition of a gift, bonus, prize or award.

11 4. It shall be an unlawful practice for a person to advertise or
12 sell an information service that involves a programmed automatic
13 dialing device in conjunction with linking capability to the
14 information service unless the disclosure of the information and
15 the opportunity to disconnect without charge are provided as
16 required by section 2 of this act.

17 5. The Attorney General may, pursuant to the provisions of the
18 "Administrative Procedure Act", P.L.1968, c.410 (C.52:14B-1 et
19 seq.), adopt regulations necessary to effectuate the purposes of
20 this act and may require persons engaged in the advertisement or
21 sale of information services from, in or into the State to register
22 with the Division of Consumer Affairs in the Department of Law
23 and Public Safety and establish fees for this registration at a
24 level which allows for the proper administration and enforcement
25 of this act.

26 6. In addition to powers exercised by the Attorney General
27 pursuant to the provisions of section 8 of P.L.1960, c.39
28 (C.56:8-8) or any other law, upon a determination by the
29 Attorney General that a person advertising or selling an
30 information service from, in or into the State is in violation of
31 this act, the Attorney General shall have the authority to seek
32 and obtain in a summary action in the Superior Court, an
33 injunction prohibiting the person's access to telephone
34 subscribers from, in or into the State until the requirements of
35 this act are satisfied.

36 7. This act shall take effect on the 60th day following
37 enactment.

38

39

40

STATEMENT

41

42 This bill defines information services, commonly referred to as
43 700 or 900 numbers, and clarifies these services are included
44 under the term "merchandise" as defined in the State's consumer
45 fraud statute and are subject to the existing prohibitions against
46 unconscionable practices and abuses contained therein.

47 In addition, the bill supplements the existing act to specifically
48 prohibit the advertisement or sale of information services that do
49 not clearly and accurately disclose the costs associated with

1 these services and allow for the caller to disconnect the call prior
2 to the accrual of charges.

3 The bill also prohibits the use of automatic dialing of telephone
4 consumers followed by the patching through of those consumers
5 to an information service, unless the costs associated are
6 disclosed and an opportunity to disconnect the call is provided
7 prior to charges being accrued. These provisions are aimed at
8 eliminating common schemes designed to defraud the public, such
9 as chain referrals to additional 900 numbers for purposes of
10 obtaining desired information, contests and games offering
11 alluring prizes that ultimately prove either worthless or not
12 forthcoming, and the recently devised technology involving the
13 automatic dialing of telephone consumers followed by the
14 patching through of those consumers without their knowledge to
15 an information service.

16 The bill also authorizes the Attorney General to initiate
17 rulemaking proceedings designed to require those entities
18 providing information services to register with the New Jersey
19 Division of Consumer Affairs and pay a registration fee in an
20 amount commensurate with the overall enforcement
21 responsibilities imposed on the division under this act.

22

23

24 COMMUNICATIONS

25

26 Defines information services as merchandise; requires disclosure
27 of certain information in advertisements and before sale of this
28 merchandise.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 4437 and 4449

STATE OF NEW JERSEY

DATED: JUNE 10, 1991

The Assembly Consumer Affairs Committee favorably reports an Assembly Committee Substitute for Assembly Bill Nos. 4437 and 4449.

The committee substitute supplements the Consumer Fraud Act (P.L.1960, c.39; C.56:8-1 et seq.) to establish a regulatory scheme to protect the State's consumers from deceptive, unconscionable, and unlawful practices by information service providers.

Information service providers are businesses which offer live, pre-recorded or computer-generated communications services to consumers for a fee. The services, which include educational, informational, and a wide variety of entertainment programs, are accessed by telephone. These information services are commonly referred to as "900" programs because they are usually accessed by dialing the 900 code. They are also known as "pay-per-call" services.

It is the committee's understanding that the substitute's regulatory scheme does not apply to a telecommunications carrier, local exchange telephone company, or other telephonic or communications company that, subject to federal regulation or to regulation by the Board of Public Utilities pursuant to Title 48 of the Revised Statutes, is simply transmitting or providing access to an information service program, nor to the tariffed utility services, such as regulated announcement services, directory or operator services, such entities may offer.

The substitute requires information service providers to register with the Division of Consumer Affairs in the Department of Law and Public Safety. The fee for this registration is to be set at a level sufficient to cover the costs of administering and enforcing the provisions of the substitute.

Under the provisions of the substitute, a service information provider must clearly and conspicuously disclose (1) an accurate description of the service; (2) the total price of the service; (3) instructions to minors that parental consent is necessary; and (4) the legal name and street address of the provider in all advertisements.

Providers offering an information service which will cost the consumer more than \$5 must disclose (1) a description of the service; (2) the total price of the service; and (3) instructions to minors that parental consent is necessary at the inception of the call. In addition, they must notify the consumer that he may

disconnect following the disclosure without incurring any charge and afford that consumer a reasonable opportunity to do so.

The substitute also prohibits certain types of practices and information services in the State. These include:

- (1) Advertising through the use of an automatic dialing device;
- (2) Access to the service through the use of signals or tones provided directly or indirectly by the provider;
- (3) Services which require the dialing of more than one telephone number for a fee;
- (4) Services which involve contests, raffles, lotteries, or games of chance which are illegal under New Jersey law;
- (5) Services which offer job or employment opportunities in violation of the State's licensing and registration statutes;
- (6) Charitable solicitations where the charity and the provider are not legally registered or in compliance with State law; and
- (7) Services which require the consumer to access a "pay-per-call" number in order to claim or receive information or notice concerning entitlement to a prize, gift, award or other thing of value.

SENATE TRANSPORTATION AND PUBLIC
UTILITIES COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, Nos. 4437 and 4449

STATE OF NEW JERSEY

DATED: SEPTEMBER 23, 1991

The Senate Transportation and Public Utilities Committee favorably reports ACS for Assembly Bill Nos. 4437 and 4449.

The bill supplements the Consumer Fraud Act (P.L.1960, c.39; C.56:8-1 et seq.) to establish a regulatory scheme to protect the State's consumers from deceptive, unconscionable, and unlawful practices by information service providers.

Information service providers are businesses which offer live, pre-recorded or computer-generated communications services to consumers for a fee. The services, which include educational, informational, and a wide variety of entertainment programs, are accessed by telephone. These information services are commonly referred to as "900" programs because they are usually accessed by dialing the 900 code. They are also known as "pay-per-call" services.

It is the committee's understanding that the bill's regulatory scheme does not apply to a telecommunications carrier, local exchange telephone company, or other telephonic or communications company that, subject to federal regulation or to regulation by the Board of Public Utilities pursuant to Title 48 of the Revised Statutes, is simply transmitting or providing access to an information service program, nor to the tariffed utility services, such as regulated announcement services, directory or operator services, such entities may offer.

The bill requires information service providers to register with the Division of Consumer Affairs in the Department of Law and Public Safety. The fee for this registration is to be set at a level sufficient to cover the costs of administering and enforcing the provisions of the bill.

Under the provisions of the bill, a service information provider must clearly and conspicuously disclose (1) an accurate description of the service; (2) the total price of the service; (3) instructions to minors that parental consent is necessary; and (4) the legal name and street address of the provider in all advertisements.

Providers offering an information service which will cost the consumer more than \$5 must disclose (1) a description of the service; (2) the total price of the service; and (3) instructions to minors that parental consent is necessary at the inception of the call. In addition, they must notify the consumer that he may disconnect following the disclosure without incurring any charge and afford that consumer a reasonable opportunity to do so.

The bill also prohibits certain types of practices and information services in the State. These include:

- (1) Advertising through the use of an automatic dialing device;
- (2) Access to the service through the use of signals or tones provided directly or indirectly by the provider;
- (3) Services which require the dialing of more than one telephone number for a fee;
- (4) Services which involve contests, raffles, lotteries, or games of chance which are illegal under New Jersey law;
- (5) Services which offer job or employment opportunities in violation of the State's licensing and registration statutes;
- (6) Charitable solicitations where the charity and the provider are not legally registered or in compliance with State law; and
- (7) Services which require the consumer to access a "pay-per-call" number in order to claim or receive information or notice concerning entitlement to a prize, gift, award or other thing of value.

This bill is identical to S-3271, as amended by the committee and released on the same date.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001
Contact:

Nancy Erickson, Consumer Affairs
201/648-3274

TRENTON, N.J. 08625

Release:

Friday
Jan. 17, 1992

GOVERNOR FLORIO SIGNS BILL PROTECTING CONSUMERS FROM 900-NUMBER SCAMS

In an effort to protect consumers from fraudulent telemarketing schemes, Governor Jim Florio today signed legislation that regulates the 900 telephone line industry in New Jersey.

"This bill will protect New Jersey consumers from one of the newest scams -- 1-900 telephone fraud. Too many of our citizens have been overcharged and misled when they call 1-900 numbers. Unscrupulous con artists can add up large bills by keeping callers on the line," said Governor Florio. "New Jersey has some of the toughest consumer fraud laws in the country and this bill gives us another weapon to protect our citizens."

The law goes into effect April 1. In written advertisements for 900 numbers, the law requires the provider to:

- describe the service,
- provide the total price of the service or the per minute rate
- offer instruction to minors that parental consent is necessary
- list the legal name and street address of the provider

In all 900 number calls costing more than \$5, the law requires a preamble statement to include a description of the service, the total price or per minute rate and to instruct minors that parental consent is necessary. In addition, the provider must tell callers that they can disconnect following the disclosure without incurring any charge and then allow them a reasonable opportunity to do so.

Attorney General Robert Del Tufo, who has taken the lead nationally in addressing the 900-number scams as chairman of the National Association of Attorneys General Telemarketing Task Force, said: "New Jersey has taken an important step today to protect the public from unscrupulous telemarketers who use 900 numbers for the sole purpose of ripping off consumers. This new law will crack down on those who are not operating above board."

The law also prohibits the following practices: advertising the 900-number through the use of an automatic dialing system; providing access to the service through the use of signals or tones broadcast by the provider; services that require the dialing of more than one telephone number for a fee; services that involve contests, raffles, lotteries or games of chance that are illegal under New Jersey law; services that offer job or employment opportunities in violation of the State's licensing and registration statutes; charitable solicitations where the charity and the provider are not legally registered in compliance with state law; services that require the consumer to access a "pay-per-call" number in order to claim or receive information or notice concerning entitlement to a prize, gift, award, or other thing of value.

According to Emma Byrne, Director of the Division of Consumer Affairs, the law will be an effective weapon in protecting consumers from the onslaught of recession-related scams. "There is no question that the current recessionary economy has triggered most of the activity we see," Director Byrne said. "A tight job market spawns 900-number operators who promise 'inside information' on available jobs; a tight credit market triggers promises of easy, low-interest credit approvals; recession-weary consumers trying to stretch every dollar are more vulnerable to 900-number offers that promise 'free' vacations or prizes and jewelry."

Consumer Affairs has shut down eleven 900-number operations in the past year (see attached chart), and received more than 300 consumer complaints over the past year regarding 900 numbers.

The law also allows the Attorney General to seek an injunction to prohibit a 900-number provider from advertising or selling a service, and it authorizes the Director of the Division of Consumer Affairs to adopt regulations requiring 900-number providers to register with the Division.

"Fraud always hurts. But in these hard economic times, it's a heavy blow. All too often, the victims of consumer fraud are the elderly, the young, the uneducated and the poor," said Governor Florio. "With this bill, New Jersey's consumers can now reach for the phone knowing that con artists won't be reaching for their wallets."

The Bill Assembly Committee Substitute for Assembly Bill Nos. 4437 and 4449, was sponsored by former Assemblymen Anthony Cimino and Joseph Mecca, former Assemblywoman Ann Mullen, and former Senator Thomas Paterniti. It received final legislative approval by the Assembly on January 6.

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