



House of Representatives

General Assembly

File No. 219

January Session, 2005

Substitute House Bill No. 5126

House of Representatives, April 7, 2005

The Committee on Energy and Technology reported through REP. FONTANA of the 87th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CELLULAR MOBILE TELEPHONE NUMBER DIRECTORIES AND INFORMATION ON CUSTOMER SERVICE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-247s of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) Each certified telecommunications provider, as defined in section
4 16-1, that provides local exchange service to customers in the state
5 shall provide without charge to a telephone company serving more
6 than one hundred thousand customers for directory assistance
7 purposes all listings for its Connecticut customers other than those
8 listings that are nonpublished. Such telephone company, or its agent or
9 affiliate as applicable, shall, in accordance with the terms and
10 conditions set forth in the federal Telecommunications Act of 1996, as
11 from time to time amended, and any applicable order or regulation
12 adopted by the Federal Communications Commission thereunder,

13 including the availability and timing of updates and applicable rates,
14 compile all such listings and all listings for its own Connecticut
15 customers other than those that are nonpublished in a directory
16 assistance database and make all such listings contained in such
17 database available in electronic format to directory assistance
18 providers. If a customer requests a customer listing from a certified
19 telecommunications provider that does not provide directory
20 assistance, such provider shall connect the customer at no charge with
21 an entity that provides directory assistance to the customer. Each such
22 certified telecommunications provider shall indemnify a telephone
23 company for any damages caused by that certified telecommunications
24 provider's negligence in misidentifying a nonpublished customer.

25 (b) Unless required by other law, no cellular mobile telephone
26 carrier may disclose the cellular telephone number, name or address of
27 a customer to another person unless such customer authorizes such
28 disclosure in accordance with the provisions of subsection (c) of this
29 section.

30 (c) The customer's authorization permitted under subsection (b) of
31 this section shall be obtained through a separate question, given orally,
32 by written record or by electronic means provided such cellular mobile
33 telephone carrier shall maintain a record or copy of such authorization.

34 (d) A customer who gives the authorization permitted under
35 subsection (b) of this section may revoke such authorization at any
36 time. A cellular mobile telephone carrier shall comply with a request to
37 revoke authorization no later than sixty days after receiving such a
38 request.

39 (e) No cellular mobile telephone carrier may charge a fee to a
40 customer or refuse to provide service to a person for declining to give
41 the authorization permitted under subsection (b) of this section.

42 (f) No person may distribute a directory containing the name or
43 cellular mobile telephone number information of a customer of a
44 cellular mobile telephone carrier who has not given an authorization in

45 accordance with the provisions in subsection (c) of this section.

46 (g) The Department of Public Utility Control may adopt regulations,
47 in accordance with chapter 54, to implement the provisions of
48 subsections (b) to (f), inclusive, of this section. Failure to comply with
49 any provisions of subsections (b) to (f), inclusive, of this section or any
50 regulation adopted in accordance with said subsections shall constitute
51 an unfair or deceptive trade practice under section 42-110b.

52 Sec. 2. (NEW) (*Effective from passage*) (a) The Department of Public
53 Utility Control shall receive and administer customer information
54 inquiries and complaints regarding cellular mobile telephone carriers.
55 Upon the receipt of such complaint, the department shall transmit the
56 complaint details to the carrier for resolution with the customer. No
57 later than thirty days after receipt of such complaint from the
58 department, the carrier shall provide a written or electronic mail
59 communications response to the department. Nothing contained in
60 this section shall be construed to restrict the right of any person to
61 pursue any other remedy available to the person under law.

62 (b) Not later than October 1, 2005, the department shall establish a
63 toll-free telephone number and Internet web site at which members of
64 the public can submit to the department their information inquiries
65 and complaints regarding activations, disputed bills, collections,
66 deactivations, equipment problems, network trouble and other service
67 problems. The department shall also accept such inquiries and
68 complaints by mail. Not later that October 1, 2005, and at least
69 annually thereafter, each cellular mobile telephone carrier shall, in a
70 conspicuous manner, notify each of its customers concerning such toll-
71 free telephone number, Internet web site address and the address of
72 the department for submitting such inquiries and complaints.

73 (c) Not later than December 31, 2006, and annually thereafter, the
74 department shall submit a report, in accordance with the provisions of
75 section 11-4a of the general statutes, to the joint standing committee of
76 the General Assembly having cognizance of matters relating to energy
77 and technology on the monthly volume of cellular mobile telephone

78 service carriers customer complaints received by the department
79 regarding activations, disputed bills, collections, deactivations,
80 equipment problems, network trouble and any other service problems.

81 (d) There is established an account to be known as the "quality of
82 cell phone service account", which shall be a separate, nonlapsing
83 account within the General Fund. The Department of Public Utility
84 Control is authorized to use funds in the account only to administer
85 the provisions of this section.

86 (e) The department may, by regulations adopted in accordance with
87 the provisions of chapter 54 of the general statutes, establish
88 procedures to implement the provisions of this section. Any cellular
89 mobile telephone carrier that fails to comply with the provisions of this
90 section shall be subject to civil penalties in accordance with the
91 provisions of section 16-41 of the general statutes, as amended by this
92 act.

93 Sec. 3. Section 16-49 of the general statutes is repealed and the
94 following is substituted in lieu thereof (*Effective from passage*):

95 (a) As used in this section:

96 (1) "Company" means (A) any public service company other than a
97 telephone company, that had more than one hundred thousand dollars
98 of gross revenues in the state in the calendar year preceding the
99 assessment year under this section, except any such company not
100 providing service to retail customers in the state, (B) any telephone
101 company that had more than one hundred thousand dollars of gross
102 revenues in the state from telecommunications services in the calendar
103 year preceding the assessment year under this section, except any such
104 company not providing service to retail customers in the state, (C) any
105 certified telecommunications provider that had more than one
106 hundred thousand dollars of gross revenues in the state from
107 telecommunications services in the calendar year preceding the
108 assessment year under this section, except any such certified
109 telecommunications provider not providing service to retail customers

110 in the state, or (D) any electric supplier that had more than one
111 hundred thousand dollars of gross revenues in the state in the calendar
112 year preceding the assessment year under this section, except any such
113 supplier not providing electric generation services to retail customers
114 in the state;

115 (2) "Telecommunications services" means (A) in the case of
116 telecommunications services provided by a telephone company, any
117 service provided pursuant to a tariff approved by the department
118 other than wholesale services and resold access and interconnections
119 services, and (B) in the case of telecommunications services provided
120 by a certified telecommunications provider other than a telephone
121 company, any service provided pursuant to a tariff approved by the
122 department and pursuant to a certificate of public convenience and
123 necessity; and

124 (3) "Fiscal year" means the period beginning July first and ending
125 June thirtieth.

126 (b) On or before July 15, 1999, and on or before May first, annually
127 thereafter, each company shall report its intrastate gross revenues of
128 the preceding calendar year to the department, which amount shall be
129 subject to audit by the department. For each fiscal year, each company
130 shall pay the Department of Public Utility Control the company's share
131 of all expenses of the department and the Office of Consumer Counsel
132 for such fiscal year. On or before September first, annually, the
133 department shall give to each company a statement which shall
134 include: (1) The amount appropriated to the department and the Office
135 of Consumer Counsel for the fiscal year beginning July first of the
136 same year; (2) the total gross revenues of all companies; and (3) the
137 proposed assessment against the company for the fiscal year beginning
138 on July first of the same year, adjusted to reflect the estimated payment
139 required under subdivision (1) of subsection (c) of this section. Such
140 proposed assessment shall be calculated by multiplying the company's
141 percentage share of the total gross revenues as specified in subdivision
142 (2) of this subsection by the total revenue appropriated to the

143 department and the Office of Consumer Counsel as specified in
144 subdivision (1) of this subsection.

145 (c) Each company shall pay the department: (1) On or before June
146 thirtieth, annually, an estimated payment for the expenses of the
147 following year equal to twenty-five per cent of its assessment for the
148 fiscal year ending on such June thirtieth, (2) on or before September
149 thirtieth, annually, twenty-five per cent of its proposed assessment,
150 adjusted to reflect any credit or amount due under the recalculated
151 assessment for the preceding fiscal year, as determined by the
152 department under subsection (d) of this section, provided if the
153 company files an objection in accordance with subsection (e) of this
154 section, it may withhold the amount stated in its objection, and (3) on
155 or before the following December thirty-first and March thirty-first,
156 annually, the remaining fifty per cent of its proposed assessment in
157 two equal installments.

158 (d) Immediately following the close of each fiscal year, the
159 department shall recalculate the proposed assessment of each
160 company, based on the expenses, as determined by the Comptroller, of
161 the department and the Office of Consumer Counsel for such fiscal
162 year. On or before September first, annually, the department shall give
163 to each company a statement showing the difference between its
164 recalculated assessment and the amount previously paid by the
165 company.

166 (e) Any company may object to a proposed or recalculated
167 assessment by filing with the department, not later than September
168 fifteenth of the year of said assessment, a petition stating the amount of
169 the proposed or recalculated assessment to which it objects and the
170 grounds upon which it claims such assessment is excessive, erroneous,
171 unlawful or invalid. After a company has filed a petition, the
172 department shall hold a hearing. After reviewing the company's
173 petition and testimony, if any, the department shall issue an order in
174 accordance with its findings. The company shall pay the department
175 the amount indicated in the order not later than thirty days after the

176 date of the order.

177 (f) The department shall remit all payments received under this
178 section attributable to such companies to the State Treasurer for
179 deposit in the Consumer Counsel and Public Utility Control Fund
180 established under section 16-48a. [Such funds] Payments attributable
181 to such companies and payments received pursuant to subsection (k)
182 of this section shall be accounted for as expenses recovered from
183 public service companies, [and] certified telecommunications
184 providers and cellular mobile telephone carriers. All payments made
185 under this section shall be in addition to any taxes payable to the state
186 under chapters 211, 212, 212a and 219.

187 (g) Any assessment unpaid on the due date or any portion of an
188 assessment withheld after the due date under [subsection] subsections
189 (c) and (k) of this section shall be subject to interest at the rate of one
190 and one-fourth per cent per month or fraction thereof, or fifty dollars,
191 whichever is greater.

192 (h) Any company or cellular mobile telephone carrier that fails to
193 report in accordance with this section shall be subject to civil penalties
194 in accordance with section 16-41, as amended by this act.

195 (i) On or before July 15, 2005, and on or before May first, annually
196 thereafter, each cellular mobile telephone carrier, described in section
197 16-250b, shall report its intrastate gross revenues of the preceding
198 calendar year to the department, which amount shall be subject to
199 audit by the department. For each fiscal year, each carrier shall pay the
200 Department of Public Utility Control the carrier's share of all expenses
201 of the department to administer the activities set forth in section 2 of
202 this act and the activities with respect to such carrier set forth in this
203 section.

204 (j) On or before September first, annually, the department shall give
205 to each such carrier a statement which shall include (1) the total gross
206 revenues of all carriers, and (2) the proposed assessment against the
207 carrier for the fiscal year beginning on July first of the same year,

208 adjusted to reflect the estimated payment required under subdivision
209 (1) of subsection (c) of this section. Such proposed assessment shall be
210 calculated by multiplying the carrier's percentage share of the total
211 gross revenues as specified in subdivision (1) of this subsection by the
212 estimated expenses of the department for the fiscal year to administer
213 the activities set forth in section 2 of this act and the activities with
214 respect to such carrier set forth in this section.

215 (k) Each carrier shall pay the department estimated expense as
216 provided in subsection (c) of this section and the proposed assessment
217 for each carrier shall be recalculated following the close of the fiscal
218 year as provided in subsection (d) of this section to reflect the expenses
219 of the department for the fiscal year to administer the activities set
220 forth in section 2 of this act and the activities with respect to such
221 carrier set forth in this section. The department shall remit all
222 payments received from such cellular mobile telephone carriers to the
223 State Treasurer for deposit in the quality of cell phone service account
224 established pursuant to subsection (d) of section 2 of this act.

225 Sec. 4. Subsection (a) of section 16-41 of the general statutes is
226 repealed and the following is substituted in lieu thereof (*Effective from*
227 *passage*):

228 (a) Each (1) public service company and its officers, agents and
229 employees, (2) electric supplier or person providing electric generation
230 services without a license in violation of section 16-245, and its officers,
231 agents and employees, (3) certified telecommunications provider or
232 person providing telecommunications services without authorization
233 pursuant to sections 16-247f to 16-247h, inclusive, and its officers,
234 agents and employees, (4) person, public agency or public utility, as
235 such terms are defined in section 16-345, subject to the requirements of
236 chapter 293, (5) person subject to the registration requirements under
237 section 16-258a, [and] (6) each cellular mobile telephone carrier, as
238 described in section 16-250b, and (7) company, as defined in section 16-
239 49, as amended by this act, shall obey, observe and comply with all
240 applicable provisions of this title, section 2 of this act and each

241 applicable order made or applicable regulations adopted by the
 242 Department of Public Utility Control by virtue of this title or section 2
 243 of this act so long as the same remains in force. Any such company,
 244 electric supplier, certified telecommunications provider, cellular
 245 mobile telephone carrier, person, any officer, agent or employee
 246 thereof, public agency or public utility which the department finds has
 247 failed to obey or comply with any such provision of this title, section 2
 248 of this act, order or regulation shall be fined by order of the
 249 department in accordance with the penalty prescribed for the violated
 250 provision of this title or, if no penalty is prescribed, not more than ten
 251 thousand dollars for each offense except that the penalty shall be a fine
 252 of not more than forty thousand dollars for failure to comply with an
 253 order of the department made in accordance with the provisions of
 254 section 16-19 or 16-247k or within thirty days of such order or within
 255 any specific time period for compliance specified in such order. Each
 256 distinct violation of any such provision of this title, section 2 of this act,
 257 order or regulation shall be a separate offense and, in case of a
 258 continued violation, each day thereof shall be deemed a separate
 259 offense. Each such penalty and any interest charged pursuant to
 260 subsection (g) or (h) of section 16-49, as amended by this act, shall be
 261 excluded from operating expenses for purposes of rate-making.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	16-247s
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	16-49
Sec. 4	<i>from passage</i>	16-41(a)

ET *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Consumer Protection, Dept.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Attorney General	GF - Revenue Gain	Less than 50,000	Less than 50,000
Public Utility Control, Dept.	New Revolving Fund - Cost/Revenue	79,064	79,064
Public Utility Control, Dept.	CC&PUCF	288,581	288,581

Note: GF=General Fund; CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact: None

Explanation

The bill prohibits cell phone companies from disclosing certain information to another person unless the customer authorizes or another law requires the disclosure. The bill also requires the Department of Public Utility Control (DPUC) to receive and “administer” cell phone customer complaints along with other various responsibilities.

DPUC Reporting Requirements

The bill requires DPUC to report to the Energy and Technology Committee by December 31 annually, starting in 2006, on the number of complaints it has received each month regarding activations, disputed bills, collections, deactivations, equipment problems, network trouble, and other service problems. It is estimated that DPUC would incur a cost of approximately \$17,500 for a part-time clerical assistant to compile the data for this report.

Cell Phone Inquiries and Complaints

The bill also requires DPUC to establish a toll-free telephone number and Internet website for cellular telephone service customers to submit complaints. In FY 06 and FY 07, it is estimated that DPUC will incur costs of approximately \$40,000, (plus \$21,564 in fringe benefits) for a total of \$61,564, in personal services in order to provide a toll-free telephone service and Internet website for customers.

Under the bill, DPUC must receive and administer customer information complaints and inquiries regarding cellular mobile telephone carriers. When DPUC receives a cell phone complaint, it must transmit it to the company for resolution. The bill also requires, within 30 days of receiving the complaint, the company to provide DPUC with a written or e-mail response. It is estimated that DPUC will receive a significant volume of calls from customers making inquiries or complaints. As a result of the anticipated call volume and potential complexity of certain inquiries, DPUC will incur costs of \$288,581 in FY 06 and FY 07 for an additional staff person in the Telecommunications Division (\$80,803 including fringe benefits) and three additional staff in the Customer Assistance Division (\$69,260 each, including fringe benefits). The three additional staff in the Customer Assistance Division would be responsible for handling the high volume of calls and the one additional staff person in the Telecommunications Division would assist in the complexity of customer inquiries.

Assessment on Cell Phone Companies

The bill also requires cellular mobile telephone carriers to annually report intrastate gross revenues of the preceding year to DPUC for auditing purposes. Under the bill companies must pay DPUC an assessment proportional to its share of the industry's total gross revenue times DPUC's cost in implementing the bill's provisions. Each company must make quarterly estimated payments, each equal to one quarter of its total assessment. Such assessments will go into the "Quality of Cell Phone Service Account", an account established by the bill, within the General Fund. This will result in a revenue gain to the

General Fund. However, under the bill funds within the “Quality of Cell Phone Service Account” may be used by DPUC only to administer Section 1 of the bill.

Connecticut Unfair Trade Practice

The bill makes violations of certain provisions an unfair trade practice. Under the Connecticut Unfair Trade Practices Act (CUTPA), the Department of Consumer Protection (DCP) and the Attorney General can impose CUTPA fines. In FY 04, \$18,789 was deposited in the General Fund as a result of such fines.

In the case of settlements, depending on the negotiation terms, funds are either deposited into the DCP’s Consumer Protection Settlement Account or the General Fund. Funds deposited into the Consumer Protection Settlement Account are used only to enhance activities that further consumer protection. In FY 04, \$86,5000 in CUTPA fines were deposited into the DCP Consumer Protection Settlement Account. Additionally, in FY 04, \$135,212 in CUTPA fines were deposited into the General Fund as a result of settlements negotiated by the Office of the Attorney General (OAG). The state agencies could accommodate the workload associated with enforcement of the bill without requiring additional resources. To the extent that the bill increases the potential for future violations, the bill could result in a minimal revenue gain to the state.

Civil Penalties

The bill subjects cell phone companies to DPUC’s existing civil penalties if they fail to comply with the provisions of the bill. The penalty is a fine of up to \$10,000 per offense, with each violation, and each day of a violation considered a separate offense. This could result in a minimal revenue gain to the state. While there is the potential for the Attorney General to get involved in some cases of violations, it is anticipated that the Office of the Attorney General (OAG) would be able to accommodate the additional workload within available resources.

OLR Bill Analysis

sHB 5126

AN ACT CONCERNING CELLULAR MOBILE TELEPHONE NUMBER DIRECTORIES AND INFORMATION ON CUSTOMER SERVICE**SUMMARY:**

This bill bars cell phone companies from disclosing a customer's cell phone number, name, or address to another person unless the customer authorizes or another law requires the disclosure. It specifies how the authorization can be given and allows a customer to revoke it at any time. A cell phone company may not charge a fee or refuse to serve a customer who declines to give this authorization. The bill bars anyone from distributing a directory containing information about who has not provided the authorization. It makes violations of these provisions an unfair trade practice (CUTPA) and allows the Department of Public Utility Control (DPUC) to adopt implementing regulations.

The bill imposes several responsibilities on DPUC and cell phone companies regarding cell phone complaints and inquiries. It requires cell phone companies to comply with DPUC orders and regulations. A company that fails to comply is subject to DPUC civil penalties of up to \$10,000 per offense, with each violation and each day of a continuing violation considered a separate offense. The bill allows DPUC to adopt regulations to implement these provisions and subjects cell phone companies to an assessment to cover DPUC's costs of implementing these provisions. The assessment procedure is similar to the one that applies to DPUC's existing assessment of companies under its jurisdiction.

EFFECTIVE DATE: Upon passage for the provision regarding cell phone complaints and inquiries; October 1, 2005 for the cell phone disclosure provisions.

DISCLOSURE AUTHORIZATION

Under the bill, a customer can authorize disclosure of his cell phone

number, name, and address:

1. in writing on a separate record unattached to another written record or
2. orally or electronically, so long as the cell phone company confirms with the customer that the authorization was given and receives the customer's acknowledgement of the confirmation.

CELL PHONE INQUIRIES AND COMPLAINTS

The bill also requires DPUC to (1) receive and "administer" cell phone customer inquiries and complaints; (2) establish, by October 1, 2005, a toll-free telephone number and Website where people can submit cell phone complaints and inquiries; and (3) accept such complaints and inquiries by mail. By October 1 annually, each company must notify its customers, in a conspicuous manner, of the telephone number, Website, and DPUC address for receiving inquiries and complaints. The bill requires DPUC to report to the Energy and Technology Committee by December 31 annually, starting in 2006, on the number of complaints it has received each month about activations, disputed bills, collections, deactivations, equipment problems, network trouble, and other service problems.

When DPUC receives a cell phone complaint, it must transmit it to the company for resolution. Within 30 days of receiving the complaint, the company must provide DPUC with a written or email response.

ASSESSMENT ON CELL PHONE COMPANIES

Under the bill, by July 15, 2005, and by each subsequent May 1, each cell phone company must report its intrastate gross revenue for the preceding calendar year to DPUC. This amount is subject to audit.

By September 1 annually, DPUC must give each company a statement that includes (1) the total gross revenue of all cell phone companies and (2) the proposed assessment against the company for the current fiscal year. The company's assessment is proportional to its share of the industry's total gross revenue times DPUC's cost in implementing the bill's provisions regarding complains and inquiries.

By law, companies subject to the existing assessment can object to it, arguing that it is excessive, erroneous, unlawful, or invalid. DPUC must hold a hearing on the petition and issue an order. It appears that these provisions also apply to the cell phone company assessment.

The company must make quarterly estimated payments, each equal to one quarter of its total assessment. DPUC must recalculate the assessment following the close of the fiscal year to reflect its expenses in implementing the bill.

The assessments go into a separate account the bill creates within the General Fund. As is true with the existing assessment, (1) the assessments are in addition to otherwise applicable taxes, (2) unpaid assessments are subject to the greater of 0.25% per month interest or \$50, and (3) failure to pay the assessment is subject to the DPUC's civil penalty.

CIVIL PENALTIES

The bill subjects cell phone companies to DPUC's existing civil penalties if they fail to (1) comply with the service quality notification and reporting requirements, (2) report their intrastate gross revenue or pay their assessments, or (3) comply with DPUC orders or applicable utility laws. The penalty is a fine of up to \$10,000 per offense, with each violation and each day of a violation considered a separate offense. The existing penalties apply to companies under DPUC's jurisdiction; a penalty of up to \$40,000 per offense applies to violations of DPUC rate regulation laws. (Under federal law, cell phone companies are not subject to state rate regulation.)

BACKGROUND

Unfair Trade Practices

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. The act also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil

penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 16 Nay 0